

FOURTH SESSION  
THIRTY-FIRST LEGISLATURE

# ASSEMBLÉE NATIONALE DU QUÉBEC

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## Bill 17

**An Act respecting occupational health and safety**

*(Reprint)*

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First reading .....  
Second reading .....  
Third reading .....

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M. PIERRE MAROIS

Ministre d'État au développement social

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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## EXPLANATORY NOTES

*The object of this bill is to provide mechanisms for the participation of workers and employers in the elimination of the causes of work accidents and occupational diseases.*

*To that end, the bill sets out the rights and obligations of the workers, employers, owners and suppliers who will be subject to the act.*

*The bill recognizes every worker's right to working conditions that respect his health, safety and physical well-being and, in particular, ensures his right to refuse to perform his work if he has good reason to believe it would endanger his health, safety or physical well-being or would expose another person to similar risk, unless his refusal to do the work puts the life, health, safety or physical well-being of another person in imminent danger, or if the conditions under which this work is carried out are ordinary conditions in his kind of work.*

*The bill gives a worker a right to protective re-assignment where exposure to a contaminant is a danger to him, considering that his health shows signs of deterioration.*

*The bill gives a pregnant worker a right to protective re-assignment where her working conditions involve physical danger for her unborn child, or for herself due to her pregnancy. A worker will also have a right of preventive re-assignment if her work endangers the child she is breast feeding.*

*The bill provides for the creation of one or more health and safety committees in certain categories of establishments, determines their composition and specifies the mode of appointment of their members, the nature of their powers and the frequency of their meetings. It provides that a safety representative may be appointed by the workers of certain categories of establishments and determines his functions.*

*The bill allows the creation of joint sector-based associations for the purpose of providing the workers and employers of each*

sector they represent with training, information and counselling services in matters of occupational health and safety.

The public health network will have the responsibility of organizing and dispensing health services at the workplace. The bill specifies the functions of the employer, of the health and safety committee, of the community health department, of a hospital centre, of the *Ministre des affaires sociales* and of the *Commission de la santé et de la sécurité du travail* in connection with the preparation and implementation of health programmes. It also determines the mode of appointment of the physician in charge of health services in an establishment and the content of the specific health programme of an establishment. It provides that existing health services on the date of the tabling of the bill may be recognized by a hospital centre to the extent that they are equivalent to those envisaged by the act.

This bill establishes a new agency, the *Commission de la santé et de la sécurité du travail*, which will replace the *Commission des accidents du travail du Québec* and will assume responsibility for implementing the occupational health and safety plan. The Commission is provided with an executive committee where workers and employers have an equal number of representatives and with the various regulatory powers required for the carrying out of its duties.

The bill provides for the appointment of inspectors charged with ensuring that the act is being complied with. The costs of inspections will be assumed by the Government.

Although the act as a whole applies to the construction sector, special provisions specify the obligations of principal contractors and employers in that sector, assign the duties of the safety representative to the job-site steward, provide for the setting-up, composition and functions of job-site committees and the designation of safety representatives, and ensure a more intensive inspection of major construction sites.

The bill provides recourse to the worker if he is laid off, dismissed, demoted or subjected to a discriminatory or disciplinary measure for exercising his rights or functions under the bill.

In addition, this bill provides for penalties applicable in case of contravention and grants to the Labour Court the power to issue orders.

Finally, the bill provides for the transition from the existing acts and regulations and states that the minister responsible for the application of the act will be designated by the Government.

## Bill 17

An Act respecting occupational health and safety

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

### CHAPTER I

#### DEFINITIONS

**1.** In this act and the regulations, unless otherwise indicated by the context,

“accident” means an accident within the meaning of the Workmen’s Compensation Act (R.S.Q., c. A-3);

“certified association” means a certified association within the meaning of the Labour Code (R.S.Q., c. C-27);

“employers’ association” means an employers’ association within the meaning of the Labour Code;

“sector-based association” means a joint sector-based association on occupational health and safety established pursuant to section 98 or the joint sector-based construction association established pursuant to section 99;

“union association” means a group of employees within the meaning of the Labour Code;

“hospital centre” means a hospital centre within the meaning of the Act respecting health services and social services (R.S.Q., c. S-5);

“local community service centre” means a local community service centre within the meaning of the Act respecting health services and social services;

“construction site” means a place where foundation, erection, maintenance, renovation, repair, alteration or demolition work is carried out in respect of a building or of civil engineering works, on and at the site itself, including the preparatory work of land clearing or earth moving and any other work determined by regulation, and the lodging, eating or recreational facilities put at the disposal of the construction workers by the employer;

“job-site committee” means a committee established pursuant to section 204;

“health and safety committee” means a committee established pursuant to section 68, 69 or 82;

“labour commissioner” means a labour commissioner within the meaning of the Labour Code;

“labour commissioner-general” means the labour commissioner-general within the meaning of the Labour Code;

“Commission” means the Commission de la santé et de la sécurité du travail established pursuant to section 137;

“contaminant” means a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, a radiation, heat or an odor, or any combination of these likely to alter in any way the health or safety of workers;

“agreement” means an individual work contract or a collective agreement within the meaning of paragraph *d* of section 1 of the Labour Code and paragraph *g* of section 1 of the Act respecting labour relations in the construction industry (R.S.Q., c. R-20) or another agreement relating to working conditions, including a government regulation giving effect thereto;

“decree” means a decree within the meaning of paragraph *h* of section 1 of the Act respecting labour relations in the construction industry or a decree adopted pursuant to the Act respecting collective agreement decrees (R.S.Q., c. D-2);

“community health department” means a community health department established in a hospital centre;

“employer” means a person who, under a contract of lease of personal service or a contract of apprenticeship, even without remuneration, retains the services of a worker; an educational institution is deemed to be the employer of a student in cases where, under a regulation, the student is deemed to be a worker or a construction worker;

“establishment” means all the installations and equipment grouped on one site and organized under the authority of one person or of related persons in view of producing or distributing

goods or services, except a construction site; this word includes, in particular, a school, a construction firm and the lodging, eating or recreational facilities put at the disposal of workers by the employer, excepting, however, private lodging facilities;

“inspector” or “regional chief inspector” means a person appointed under section 177;

“workplace” means any place in or at which a person is required to be present out of or in the course of work, including an establishment and a construction site;

“principal contractor” means the owner or any other person who, on a construction site, is responsible for the carrying out of all the work;

“occupational disease” means an occupational disease within the meaning of the Workmen’s Compensation Act;

“dangerous substance” means any substance which, by reason of its characteristics, constitutes a danger to the health, safety or physical well-being of a worker;

“minister” means the minister designated by the Government pursuant to section 336;

“radiation” means any transmission of energy in the form of particles or electromagnetic waves with or without the production of ions when interacting with matter;

“regulation” means a regulation made in conformity with this act;

“safety representative” means a person appointed pursuant to section 87 or 88;

“worker” means a person, including a student in the cases determined by regulation, who, under a contract of lease of personal service or a contract of apprenticeship, even without remuneration, carries out work for an employer, except

(1) a person employed as manager, superintendent, foreman or as the agent of the employer in his relations with his workers;

(2) a director or officer of a corporation, except where a person acts as such in relation to his employer after being designated by the workers or by a certified association;

“Court” means the Labour Court established pursuant to the Labour Code.

## CHAPTER II

## SCOPE

**2.** The object of this act is the elimination, at the source, of dangers to the health, safety and physical well-being of workers.

This act provides mechanisms for the participation of workers, workers' associations, employers and employers' associations in the realization of its object.

**3.** The fact that collective or individual means of protection or safety equipment are put at the disposal of workers where necessary to meet their special needs must in no way reduce the effort expended to eliminate, at the source, dangers to the health, safety and physical well-being of workers.

**4.** This act is of public order and any derogating provision of any agreement or decree is null *pleno jure*.

However, an agreement or decree may provide, in respect of a worker, a person performing functions under this act or a certified association, more favourable provisions for the health, safety and physical well-being of the worker.

**5.** Nothing in this act or in the regulations may be construed as limiting the rights of a worker or certified association under a collective agreement, act, regulation, decree, order in council or other order.

**6.** This act binds the Government, government departments and agencies that are its mandataries.

**7.** Every self-employed natural person who, for another person, and without the assistance of workers, carries out work in a workplace where there are workers is subject to the obligations imposed on a worker pursuant to this act and the regulations.

The person described in the first paragraph must, furthermore, comply with the obligations imposed on an employer in respect of products, processes, equipment, materials, contaminants and dangerous substances.

**8.** The first paragraph of section 7 also applies to an employer or persons contemplated in paragraphs 1 and 2 of the definition of the word "worker", in section 1, who carries out work at a workplace.



## CHAPTER III

## RIGHTS AND OBLIGATIONS

## DIVISION I

## THE WORKER

§ 1.—*General rights*

**9.** Every worker has a right to working conditions that have proper regard for his health, safety and physical well-being.

**10.** In accordance with this act and the regulations, the worker is entitled, in particular,

(1) to training, information and counselling services in matters of occupational health and safety, especially in relation to his work and his work environment, and to receive appropriate instruction, training and supervision;

(2) to receive the preventive and curative health services relating to the risks to which he may be exposed, and his wages for the time spent in undergoing a medical examination during employment prescribed for the application of this act and the regulations.

**11.** Every person contemplated in paragraphs 1 and 2 of the definition of the word “worker”, in section 1, has the rights granted to workers under sections 9, 10, and 32 to 48.

§ 2.—*Right of refusal*

**12.** A worker has a right to refuse to perform particular work if he has reasonable grounds to believe that the performance of that work would expose him to danger to his health, safety or physical well-being, or would expose another person to a similar danger.

**13.** No worker may, however, exercise his right under section 12 if his refusal to perform the work puts the life, health, safety or physical well-being of another person in immediate danger or if the conditions under which the work is to be performed are ordinary conditions in his kind of work.

**14.** Until an executory decision is rendered ordering a worker to resume work, the employer shall not, subject to section 17 and the second paragraph of section 19, have the work performed by another worker or by a person who ordinarily works outside the establishment.

A worker who is exercising his right of refusal is deemed to be at work.

**15.** Where a worker refuses to perform particular work, he must immediately inform his supervisor, his employer or an agent of his employer; if none of these persons is present at the workplace, the worker must take reasonable steps to ensure that one of them is informed as soon as possible.

**16.** On being informed, the supervisor or, as the case may be, the employer or his agent shall convoke the safety representative to examine the matter and the corrective measures he intends to apply.

If there is no safety representative or if he is not available, the safety representative is replaced by a representative of the worker's certified association, if any, and if he is available, or if none is available, by any other worker designated by the worker who refuses to perform his work.

**17.** If the worker maintains his refusal to perform the work when his supervisor or, as the case may be, the employer or his agent and the safety representative or the person replacing him are of opinion that no danger exists to justify the worker's refusal to work or that his refusal to work is based on grounds that are acceptable in the particular case of that worker but do not justify another worker's refusing to perform the work, the employer may, notwithstanding section 14, have the work performed by another worker. That other worker may accept to perform the work after being informed that the right of refusal has been exercised, and of the reasons therefor.

**18.** After the situation has been examined, the intervention of an inspector may be required by

(1) the worker, if he maintains his refusal to perform the work;

(2) the safety representative or the person replacing him if he believes that the performance of the work exposes the worker to danger to his health, safety or physical well-being or exposes another person to similar danger; or

(3) the employer or his agent, if he believes that the performance of the work does not expose the worker to danger to his health, safety or physical well-being or does not expose another person to such danger, or that the corrective measures taken have dissipated the danger.

**19.** The inspector shall determine immediately whether or not a danger exists that would justify the worker's refusal to work. He may require the worker to resume his work. He may also prescribe temporary measures and require that corrective measures be taken within such time as he may determine.

If, in the inspector's opinion, the refusal to work is based on grounds that are acceptable in the particular case of that worker but do not justify another worker's refusing to perform the work, the employer may, notwithstanding section 14, have the work performed by another worker, who may agree to perform it after being informed of the fact that the right of refusal has been exercised, and of the reasons therefor.

The inspector's decision must be substantiated and recorded in writing. It is transmitted by registered or certified mail to the worker, the safety representative or the person replacing him, and to the employer or his agent.

**20.** The inspector's decision is executory until it is revised by the regional chief inspector.

**21.** The worker, the safety representative or the person replacing him, or the employer or his agent, within ten days of the mailing of the inspector's decision, may apply to the regional chief inspector for a review of the decision. The application must be made in writing.

If no application is made within the prescribed time, the inspector's decision is final.

The regional chief inspector's decision must be substantiated and recorded in writing. It is transmitted by registered or certified mail to the worker, the safety representative or the person replacing him and to the employer or his agent.

**22.** The regional chief inspector's decision is executory until it is revised by the Commission.

**23.** The worker, the safety representative or the person replacing him, or the employer or his agent, within ten days of the mailing of the regional chief inspector's decision, may apply to the Commission for a review of the decision. The application must be made in writing.

If no application is made within the prescribed time, the regional chief inspector's decision is final.

The Commission's decision must be substantiated and recorded in writing. It is transmitted by registered or certified mail

to the worker, the safety representative or the person replacing him and to the employer or his agent.

**24.** A final decision applies as long as the circumstances remain unchanged.

**25.** An employer may require a worker who has exercised his right to refuse to work to remain at the workplace and assign him temporarily to other duties that he is reasonably capable of performing.

**26.** In cases where the exercise of the right to refuse to work prevents at least two other workers from working, the inspector must be present on the premises not later than six hours after his intervention has been required.

If the inspector is not present within the prescribed time, the employer may, notwithstanding section 14, have the work performed by another worker who agrees to do the work after being informed that the right of refusal has been exercised, and of the reasons therefor.

**27.** Where several workers refuse to perform particular work by reason of the same danger, their cases are examined jointly and may be the subject of a decision concerning them jointly.

**28.** Where the exercise of the right of refusal results in depriving of work other workers in the undertaking, these other workers are deemed to be at work for the duration of the work stoppage.

The employer may, however, assign the other workers to other duties that they are reasonably capable of performing or require that they remain available at the workplace during the whole period thus remunerated.

**29.** The employer must allow the safety representative or, as the case may be, the person replacing him, to exercise the functions vested in him by sections 16, 18, 21 and 23.

The safety representative or the person replacing him is deemed to be working when he is exercising the functions vested in him referred to in this section.

**30.** No employer may lay off, dismiss, suspend or transfer a worker or impose a discriminatory or disciplinary measure on him on the ground that the worker exercised the right contemplated in section 12.

However, the employer may dismiss, suspend or transfer the worker or impose a disciplinary measure on him if the worker abused his right.

**31.** No employer may lay off, dismiss, suspend or transfer a safety representative or the person replacing him or impose a discriminatory or disciplinary measure on him on the ground that the representative or person exercised a function conferred on him by sections 16, 18, 21 and 23.

However, the employer may dismiss, suspend or transfer the representative or person or impose a disciplinary measure on him if the representative or person abused his function.

### § 3.—*Protective re-assignment*

**32.** A worker who furnishes a certificate attesting that his being exposed to a contaminant entails danger to him, in view of the fact that his health shows signs of deterioration, may request to be re-assigned to duties that do not entail exposure to a contaminant and that he is reasonably capable of performing, until the condition of his health allows him to resume his former duties and his working conditions conform to the standards established by regulation for that contaminant.

**33.** The certificate contemplated in section 32 may be issued by the physician in charge of health services in the establishment where the worker is employed, or another physician.

If the certificate is issued by the physician in charge he must, at the worker's request, notify the physician designated by the worker.

If the certificate is issued by another physician, he must, before issuing it, consult with the physician in charge or, if there is no physician in charge, with the head of the community health department of the territory in which the establishment is situated, or the physician designated by him.

**34.** The Commission may, by regulation,

(1) identify the contaminants in relation to which a worker may exercise his right under section 32;

(2) determine the criteria on which a deterioration of health associated with each contaminant identified under paragraph 1 warrants the exercise of the right under section 32;

(3) specify the criteria on which a worker may be re-assigned, or be returned to his regular duties;

(4) determine the form and tenor of the certificate contemplated in section 32.

**35.** If a requested re-assignment is not made immediately, the worker may stop working until he is re-assigned or his health or working conditions allow him to return to his duties in accordance with section 32.

**36.** A worker is entitled, for the first five working days of his work stoppage, to be remunerated at his regular wage rate. Thereafter, he is entitled, for the period of his work stoppage, to the indemnity provided in subparagraph *b* of subsection 1 of section 2 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., c. I-7).

To decide a case under this section, the Commission shall apply, *mutatis mutandis*, subsections 2 and 3 of section 2, and sections 3, 4, 5, 6, 7, 10, 12, 13 and 14 of the act contemplated in the first paragraph, and the Workmen's Compensation Act to the extent that it is consistent with this act.

**37.** If a worker believes he is not reasonably capable of performing duties to which he is re-assigned by the employer, he may request the health and safety committee or, failing such a committee, the safety representative and the employer to examine and decide the question in conjunction with the physician in charge of health services in the establishment, or if there is no physician in charge, the head of the community health department of the territory where the establishment is situated.

The worker or the employer may request the Commission to review the decision. If there is no safety committee or safety representative, the worker may send his request directly to the Commission. The Commission's decision is final and executory.

**38.** The worker re-assigned to other duties retains all the benefits attached to his employment before his re-assignment.

At the end of the period of re-assignment, the employer must return the worker to his regular employment.

The worker continues to receive the social benefits recognized for his workplace, subject to payment of the exigible assessments, part of which is assumed by the employer.

**39.** A worker who has stopped working retains all the benefits relating to his employment before his work stoppage, subject to the first paragraph of section 36.

The second and third paragraphs of section 38 apply, *mutatis mutandis*, to a worker who has stopped working.

A worker retains the benefits contemplated in this section for only one year following the date of the work stoppage, unless his working conditions do not conform to the standards established for the contaminant concerned.

§ 4.—*Re-assignment of a pregnant worker*

**40.** A pregnant worker who furnishes to her employer a certificate attesting that her working conditions may be physically dangerous to her unborn child, or to herself by reason of her pregnancy, may request to be re-assigned to other duties involving no such danger that she is reasonably capable of performing.

The form and tenor of the certificate are determined by regulation, and section 33 applies to its issuance.

**41.** If a requested re-assignment is not made immediately, the pregnant worker may stop working until she is re-assigned or until the date of delivery.

“Delivery” means the natural or the lawfully, medically induced end of a pregnancy by child-birth, whether or not the child is viable.

**42.** Sections 36 and 37 apply, *mutatis mutandis*, where a pregnant worker exercises her rights under sections 40 and 41.

**43.** A worker who exercises her rights under sections 40 and 41 retains all the benefits attached to her regular employment before her re-assignment to other duties or before her work stoppage.

At the end of the worker's period of re-assignment or work stoppage, the employer must return her to her regular employment and grant her the benefits she would have been entitled to had she remained in her employment.

The worker continues to receive the social benefits recognized for her workplace subject to payment of the exigible assessments, part of which is assumed by the employer.

**44.** On receiving an application from a pregnant worker, the Commission may make temporary payments if it is of opinion that it will probably grant the indemnity.

If the Commission concludes that the application should not be granted, the amounts paid as temporary payments are not recoverable.

**45.** The funds required for payment of the indemnity are taken by the Commission out of the special fund established under subsection 2 of section 99 of the Workmen's Compensation Act.

**46.** A worker who furnishes to her employer a certificate attesting that her working conditions involve risks for the child she is breast-feeding may request to be re-assigned to other duties involving no such risks that she is reasonably capable of performing.

The form and tenor of the certificate are determined by regulation, and section 33 applies to its issuance.

**47.** If the requested re-assignment is not made immediately, the worker may stop working until she is re-assigned or the child is weaned.

**48.** Sections 36, 37, 43, 44 and 45 apply, *mutatis mutandis*, where a worker exercises her rights under sections 46 and 47.

#### § 5.—*Obligations*

**49.** A worker must

(1) become familiar with the prevention programme applicable to him;

(2) take the necessary measures to ensure his health, safety or physical well-being;

(3) see that he does not endanger the health, safety or physical well-being of other persons at or near his workplace;

(4) undergo the medical examinations required by this act and the regulations;

(5) participate in the identification and elimination of risks of work accidents or occupational diseases at his workplace;

(6) cooperate with the health and safety committee and, where such is the case, with the job site committee and with any person responsible for the application of this act and the regulations.



## DIVISION II

## THE EMPLOYER

§ 1.—*General rights*

**50.** Every employer is entitled, in particular, in accordance with this act and the regulations, to training, information and counselling services in matters of occupational health and safety.

§ 2.—*General obligations*

**51.** Every employer must take the necessary measures to protect the health and ensure the safety and physical well-being of his worker. He must, in particular,

(1) see that the establishments under his authority are so equipped and laid out as to ensure the protection of the worker;

(2) designate members of his personnel to be responsible for health and safety matters and post their names in a conspicuous place easily accessible to the worker;

(3) ensure that the organization of the work and the working procedures and techniques do not adversely affect the safety or health of the worker;

(4) supervise the maintenance of the workplace, provide sanitary installations, drinking water, adequate lighting, ventilation and heating and see that meals are eaten in sanitary quarters at the workplace;

(5) use methods and techniques intended for the identification, control and elimination of risks to the safety or health of the worker;

(6) take the fire prevention measures prescribed by regulation;

(7) supply safety equipment and see that it is kept in good condition;

(8) see that no contaminant emitted or dangerous substance used adversely affects the health or safety of any person at a workplace;

(9) give the worker adequate information as to the risks connected with his work and provide him with the appropriate training, assistance or supervision to ensure that he possesses the skill and knowledge required to safely perform the work assigned to him;

(10) post up in a conspicuous place easily accessible to the worker all information transmitted by the Commission, the com-

munity health department and the physician in charge, and put that information at the disposal of the workers, the health and safety committee and of the certified association;

(11) provide the worker, free of charge, with all the individual protective health and safety devices or equipment selected by the health and safety committee in accordance with paragraph 4 of section 78 or, as the case may be, the individual or common protective devices or equipment determined by regulation, and require that the worker use these devices and equipment in the course of work;

(12) allow workers to undergo the medical examinations during employment required under this act and the regulations;

(13) give, to the workers, the health and safety committee, the certified association, the head of the community health department and the Commission, the list of the dangerous substances used in the establishment and of the contaminants that may be emitted;

(14) cooperate with the health and safety committee, or as the case may be, the job-site committee and with any person responsible for the application of this act and the regulations and provide them with all necessary information;

(15) put at the disposal of the health and safety committee the equipment, premises and clerical personnel necessary for the carrying out of its functions.

**52.** Every employer shall, in accordance with the regulations, keep and maintain a register of risks connected with certain jobs, identifying, in particular, the contaminants and dangerous substances connected with certain jobs, and a register of the risks connected with the kind of work performed by each worker in his employ.

The employer must put the registers at the disposal of the members of the health and safety committee and of the safety representative.

**53.** No employer may have particular work performed

(1) by a worker who has not reached the age determined by regulation to perform such work;

(2) beyond the daily or weekly maximum number of hours fixed by regulation;

(3) by a person who has not undergone the medical examination or does not hold the health certificate prescribed by regulation to perform such work.

**54.** In the cases determined by regulation, no employer or owner may undertake the construction of an establishment or alter its installations or equipment unless he has previously transmitted to the Commission the plans and specifications of an architect or engineer attesting to their conformity with the regulations, in accordance with the terms and conditions and within the time prescribed by regulation. A copy of the plans and specifications must be transmitted to the health and safety committee.

**55.** When an employer takes possession of an establishment, he must send to the Commission a notice of opening of an establishment within the time and in accordance with the terms and conditions provided by regulation. When he closes an establishment he must, in the same manner, transmit a closing notice.

**56.** Where one building is used by several employers, the owner must see that the necessary measures to protect the health and ensure the safety of workers are taken in those parts of the building not under the authority of an employer.

**57.** In any establishment or construction site considered remote, within the meaning of the regulations, the employer must maintain the living conditions determined by regulation.

### § 3.—*Prevention programme*

**58.** Every employer who has an establishment of a category identified for that purpose by regulation must see that a prevention programme for each establishment under his authority is implemented, taking into account the responsibilities of the health and safety committee, if any.

**59.** The object of a prevention programme is to eliminate, at the source, risks to the health, safety and physical well-being of workers.

Such a programme, in addition to any component prescribed by regulation, must contain, in particular,

(1) programmes for the adaptation of the establishment to the standards prescribed by the regulations respecting the layout of workplaces, work organization, equipment, material, contaminants, dangerous substances, processes and collective safety measures and equipment;

(2) measures of supervision of the quality of the work environment and of preventive maintenance;

(3) the specific standards of sanitation and safety for the establishment;

(4) the terms and conditions of implementation of any other rule relating to health and safety in the establishment, which must include, as a minimum, the contents of the regulations applicable to the establishment;

(5) identification of the individual protective devices and equipment which, while in compliance with the regulations, are best adapted to meet the needs of the workers of the establishment;

(6) training and information programmes, for the workers, in matters of health and safety.

The components contemplated in subparagraphs 5 and 6 of the second paragraph are determined by the health and safety committee, if any, in accordance with paragraphs 3 and 4 of section 78.

**60.** When the health and safety committee has taken cognizance of the prevention programme or of an updating of the programme, a copy of the programme or updating must be transmitted together with the committee's recommendations, if any, to the Commission, in accordance with the terms and conditions and within the time prescribed by regulation.

The Commission may order the content of a programme amended or a new programme transmitted to it within the time it determines. It may also allow an establishment's programme of adaptation to the standards prescribed by regulation to provide a different adaptation period than the implementation period that may be provided by regulation under the second paragraph of section 223.

**61.** The employer shall transmit to the health and safety committee, the certified association, the safety representative, the physician in charge and the sector-based association, a copy of the prevention programme as amended, where that is the case, pursuant to the order of the Commission under the second paragraph of section 60.

#### § 4.—*Accidents*

**62.** Every employer must inform the regional chief inspector of an accident, by the most rapid means of communication, and, within 24 hours, make a written report to him, in the form and with the information prescribed by regulation, if it has caused

(1) the death of a worker;

(2) such serious injury to a worker as probably to prevent him from performing his work for ten consecutive working days;

(3) such serious injuries to several workers as probably to prevent them from performing their work for one working day;  
or

(4) material damage valued at \$50 000 or more.

The employer shall also inform the health and safety committee and the safety representative.

The scene of the accident must remain unchanged until it has been investigated by the inspector, except to prevent an aggravation of the consequences of the accident, or unless the inspector authorizes a change.

Copy of the employer's report must be transmitted to the health and safety committee, the safety representative and the certified association.

### DIVISION III

#### THE SUPPLIER

**63.** No person may manufacture, supply, sell, lease, distribute or instal any product, process, equipment, material, contaminant or dangerous substance unless it is safe and in conformity with the standards prescribed by regulation.

**64.** Except for research purposes in a laboratory affected exclusively to such purposes or on a workplace where it is allowed by the Commission, no person may manufacture, supply, sell, lease, distribute or instal any contaminant or dangerous substance other than those comprised on the list drawn up under paragraph 3 of section 223 unless prior notice of it has been given to the Commission in accordance with the regulations.

The notice must include the information prescribed by regulation for each biological or chemical agent and each combination of them.

**65.** The inspector may obtain an expert opinion on any product, process, equipment, material, contaminant or dangerous substance in order to determine the risks to the health and safety of a worker. The cost of that expert opinion may be claimed from one or more manufacturers, suppliers or users, and they must pay it.

**66.** Where the Commission is of opinion that a product, process, equipment, material, contaminant or dangerous sub-

stance may endanger the health or safety of a worker, it may order the manufacture, supplying or utilization of it, or any activity that might cause the emission of the contaminant, prohibited or restricted on such conditions as it may determine.

**67.** A supplier must see that any dangerous substance supplied by him is labelled in accordance with the regulations; if there is no regulation, the label must indicate at least the composition of the dangerous substance, the risks attached to its utilization and the measures to be taken in case of emergency. There is no obligation to reveal manufacturing secrets.

## CHAPTER IV

### HEALTH AND SAFETY COMMITTEES

**68.** A health and safety committee may be established in any establishment employing more than twenty workers and belonging to a category identified for that purpose by regulation.

**69.** A health and safety committee is established upon a written notice sent to the employer by a certified association or, if there is no certified association, by at least ten per cent of the workers or, in the case of an establishment employing fewer than forty workers, by at least four of these, or upon such a notice sent by the employer to a certified association or, if there is no certified association, to the workers as a whole. A copy of the notice must be sent to the Commission.

The Commission, where it considers it expedient, may require the establishment of a health and safety committee, regardless of the number of workers in the establishment.

**70.** The number of members of a committee is determined by regulation, taking into account the category to which the establishment belongs.

**71.** At least one-half of the members of a committee shall represent the workers and be designated in accordance with section 72.

The other members of the committee shall be designated by the employer.

**72.** The workers' representatives on a committee shall be designated from among the workers of the establishment.

They shall be designated by the certified association where it represents all the workers of the establishment.

Where several certified associations represent all the workers of the establishment, they may, by agreement, designate the workers' representatives. If they do not agree, the designation of the representatives is determined in accordance with the terms and conditions prescribed by regulation.

In other cases, the designation of representatives is determined in accordance with the terms and conditions prescribed by regulation.

**73.** The workers' representatives as a whole and the employer's representatives as a whole are entitled to only one vote, respectively, on a committee.

**74.** A health and safety committee shall meet at least once every three months, subject to the regulations.

Meetings are held during regular working hours, unless the committee decides otherwise.

If the committee fails to establish its own rules of procedure, it must apply those established by regulation.

**75.** The physician in charge of health services in an establishment may participate, without the right to vote, in the meetings of the committee.

**76.** Workers' representatives are deemed to be at work when they are participating in the meetings and work of the committee.

**77.** Workers' representatives must notify their supervisor, or the employer or his agent, when they take time off work to participate in the meetings and work of the committee.

**78.** The functions of a health and safety committee are

(1) to choose, in accordance with section 118, the physician in charge of health services in the establishment;

(2) to approve the health programme prepared by the physician in charge under section 112;

(3) to establish, within the prevention programme, training and information programmes in matters of occupational health and safety;

(4) to select the individual protective devices and equipment which, while complying with the regulations, are best adapted to the needs of the workers of the establishment;

(5) to take cognizance of the other components of the prevention programme and to make recommendations to the employer;

(6) to participate in the identification and assessment of the risks connected with certain jobs and certain kinds of work, and the identification of contaminants and dangerous substances connected with certain jobs, for the purposes of section 52;

(7) to keep registers of work accidents, occupational diseases and incidents that could have caused them;

(8) to send to the Commission the information required by it and an annual report of activities, in accordance with the regulations;

(9) to receive copy of notices of accident and to inquire into incidents that have caused or could have caused a work accident or an occupational disease and to submit the appropriate recommendations to the employer and the Commission;

(10) to receive suggestions and complaints from the workers, the certified association and the employer relating to occupational health and safety, and to examine, record, and answer these suggestions and complaints;

(11) to receive and study the reports of inspections made in the establishment;

(12) to receive and study the statistical data produced by the physician in charge, the community health department and the Commission;

(13) to carry out any other task the employer and the workers or their certified association entrust to it under an agreement.

**79.** If a health and safety committee fails to reach an agreement on decisions it must make in accordance with paragraphs 1 to 4 of section 78, the workers' representatives shall present their recommendations in writing to the employers' representatives, who must reply in writing, explaining the points of disagreement.

If the dispute continues, it may be submitted by any of the parties to the Commission, whose decision is executory.

**80.** The employer must post up the names of the members of the health and safety committee in as many conspicuous places in the establishment, easily accessible to the workers, as are reasonably necessary for their information.

**81.** The employer shall not lay off, dismiss, suspend or transfer a worker or impose a discriminatory or disciplinary mea-



sure on him on the ground that the worker performed his functions on a health and safety committee.

However, the employer may dismiss, suspend or transfer a worker or impose a disciplinary measure on him if he abused his function.

**82.** In an establishment contemplated in section 68, the employer and the certified association or certified associations may agree on the establishment of several health and safety committees and the number of members of each committee. A copy of the agreement shall be sent to the Commission.

**83.** The health and safety committees referred to in section 82 and their members have the same rights and functions as the committees established under section 68, except to choose the physician in charge of health services and to approve the health programme prepared by the physician in charge.

**84.** Workers' representatives to the health and safety committees shall be designated by the certified association, or if there are several certified associations, on the terms and conditions agreed by them.

**85.** The workers' representatives on each health and safety committee shall designate the workers' representatives to the health and safety committee established for the whole establishment. The functions of the latter committee are to choose the physician in charge of health services in the establishment, approve the health programme prepared by the physician in charge, and exercise the other functions entrusted to it by the health and safety committees of the establishment.

**86.** The specific prevention programme of an establishment, as provided for in section 58, must take into account the responsibilities of each health and safety committee of the establishment.

## CHAPTER V

### SAFETY REPRESENTATIVE

**87.** Where a health and safety committee exists in an establishment, one or more persons shall be designated from among the workers of the establishment as safety representatives.

The persons referred to in the first paragraph are members *ex officio* of the health and safety committee.

**88.** Irrespective of the number of workers in an establishment that belongs to a category of establishments in which health and safety committees may be established in accordance with the regulations under paragraph 22 of section 223, ten per cent of the workers may request that one or more persons be designated from among the workers of that establishment as safety representatives.

**89.** In the case of sections 87 and 88, safety representatives are designated in the same manner as workers' representatives to the health and safety committee.

**90.** The functions of a safety representative are

- (1) to inspect workplaces;
- (2) to receive copies of accident notices and investigate incidents that have caused or could have caused an accident;
- (3) to identify situations that may be a source of danger to workers;
- (4) to make such recommendations to the health and safety committee as he deems appropriate or, if there is no such committee, to the workers or their certified association and the employer;
- (5) to assist workers in the exercise of their rights under this act and the regulations;
- (6) to accompany the inspector on visits of inspection;
- (7) to intervene in the cases where a worker exercises his right of refusal;
- (8) to submit complaints to the regional chief inspector;
- (9) to participate in the identification and assessment of risks connected with certain jobs and with the kinds of work performed by the workers, and the identification of contaminants and dangerous substances connected with certain kinds of work for the purposes of section 52.

**91.** A safety representative may, without loss of pay, take time off work as necessary to participate in training programmes of such content and duration as are approved by the Commission.

Registration, travel and accommodation expenses are borne by the Commission, in accordance with the regulations.

**92.** A safety representative may take time off work as necessary to exercise the functions contemplated in paragraphs 2, 6 and 7 of section 90.

The health and safety committee, taking into account the regulations, shall determine how much time the safety representative may devote to the exercise of his other functions. If the committee fails to agree, the representative may devote the minimum time fixed by regulation to these functions.

**93.** A safety representative must notify his supervisor, his employer or his employer's agent, when he takes time off work to exercise his functions.

**94.** The employer must cooperate with the safety representative, provide him with the instruments or apparatus he may reasonably need and allow him to perform his functions.

**95.** The Commission may, by regulation, determine what instruments or apparatus a safety representative needs to exercise his functions, according to the categories of establishments.

**96.** A safety representative is deemed to be at work when exercising his functions.

**97.** No employer may lay off, dismiss, suspend or transfer a worker or impose a discriminatory or disciplinary measure on him on the ground that the worker performed his functions.

However, the employer may dismiss, suspend or transfer a worker or impose a disciplinary measure on him if he abused his functions.

## CHAPTER VI

### SECTOR-BASED ASSOCIATIONS

**98.** One or several employers' associations and one or several union associations belonging to the same sector of activity may make an agreement establishing a joint sector-based association on occupational health and safety. Only one sector-based association may be established for one sector of activity.

A sector-based association must be administered by a board of directors composed, in equal numbers, of representatives of the employers' associations and representatives of the union associations.

An agreement must contain all the components prescribed by regulation, particularly a procedure for the settlement of disagreements. The agreement comes into force on the approval of the Commission.

**99.** The representative associations within the meaning of the Act respecting labour relations in the construction industry and the Association des entrepreneurs en construction du Québec shall enter into an agreement establishing the joint sector-based construction association.

The joint sector-based construction association must be administered by a board of directors composed, in equal numbers, of representatives of the Association des entrepreneurs en construction du Québec and representatives of the representative associations.

The agreement must contain all the components prescribed by regulation, particularly a procedure for the settlement of disagreements. The agreement comes into force on the approval of the Commission.

Failing an agreement under the first paragraph, the Commission shall establish the terms and conditions and determine the composition of the joint sector-based construction association.

**100.** The Commission shall grant an annual subsidy to every sector-based association, on the conditions and criteria determined by regulation.

The Commission may at any time require the necessary information from a sector-based association on the use made of the amounts granted.

Furthermore, the Commission shall furnish technical assistance, on such conditions and in such manner as it may determine.

**101.** The object of a sector-based association is to provide training, information, research and counselling services to employers and workers in the sector of activities which it represents.

It may, in particular,

(1) assist in the formation and operation of health and safety committees and job-site committees;

(2) prepare and implement training and information programmes for health and safety committees and job-site committees;

(3) make recommendations relating to occupational health and safety standards and regulations;

(4) cooperate with the Commission and the heads of the community health departments in the preparation of records or studies on the health of workers and on the risks to which they are exposed;

(5) prepare specific prevention guides for the activities of establishments;

(6) give its opinion on the qualifications required of inspectors;

(7) adopt by-laws for its internal management;

(8) acquire or lease moveable or immoveable property and the necessary equipment;

(9) make arrangements with private or public bodies for the use or exchange of premises, equipment or services;

(10) from among the members of its board of directors or by calling upon other persons, form such committees as it considers necessary for the pursuit of its objects and the conduct of its affairs, and define their functions;

(11) hire the necessary administrative and skilled personnel for the pursuit of its objects.

**102.** A sector-based association shall send to the Commission the information required by the latter and an annual report of activities, in accordance with the regulations.

**103.** A sector-based association has no right of intervention or consultation at the level of labour relations.

It has no power to levy assessments.

## CHAPTER VII

### UNION ASSOCIATIONS AND EMPLOYERS' ASSOCIATIONS

**104.** The Commission may grant a subsidy to a union association or to an employers' association every year, for the training and information of its members in the fields of occupational health and safety

**105.** The Commission may, in addition, grant a subsidy to a union association or to an employers' association to allow it to participate in the establishment and operation of a sector-based association or in the work of the Commission.

**106.** The Commission may at any time require information from a union association or an employers' association on the use made of the amounts granted.

## CHAPTER VIII

## OCCUPATIONAL HEALTH

## DIVISION I

## HEALTH PROGRAMMES AND THE STANDARD CONTRACT

**107.** The Commission shall prepare

(1) occupational health programmes applicable in such territories or to such establishments or categories of establishments as it determines;

(2) a standard contract indicating the minimum content of contracts to be entered into between the Commission and hospital centres where there are community health departments, for the purposes of the implementation of health programmes.

A draft health programme or a draft standard contract must be submitted to the *Ministre des affaires sociales*, for agreement.

**108.** A health programme or a standard contract contemplated in section 107 comes into force upon government approval.

**109.** The Commission shall enter, with every hospital centre where there is a community health department, into a contract under the terms of which the hospital centre undertakes to provide the services necessary for the implementation of the occupational health programmes in the territory delimited in the contract, or the establishments or categories of establishments identified in the contract.

The contract must comply with the standard contract; it may also provide priorities in matters of occupational health applicable to the territory or establishments or categories of establishments identified in the contract, taking into account the functions of the health and social services regional council within the meaning of the Act respecting health services and social services.

The contract referred to in the first paragraph is valid from the date of its filing with the regional council of the region in which the hospital centre is situated.

**110.** Every year, the Commission shall establish a budget for the application of this chapter. It shall assign a portion of the budget to each hospital centre where there is a community health department, in accordance with the contract entered into with that hospital centre.

Out of the portion of the budget assigned to it, the hospital centre shall remunerate the professional, technical and clerical staff, except health professionals within the meaning of the Health Insurance Act (R.S.Q., c. A-29), and shall defray the costs connected with examinations and analyses and the provision of premises and equipment in accordance with the Act respecting health services and social services.

**111.** The physician in charge of health services in an establishment, chosen in accordance with section 118, and the other physicians who provide services therein within the scope of programmes contemplated in this chapter, shall be remunerated by the Régie de l'assurance-maladie du Québec, by way of fixed fees, of fees for a fixed price, of salary, of fees or of specific fees, according to the agreements entered into under section 19 of the Health Insurance Act.

## DIVISION II

### SPECIFIC HEALTH PROGRAMME FOR AN ESTABLISHMENT

**112.** The physician in charge of health services in an establishment must prepare a specific health programme for that establishment. The programme must be submitted to the health and safety committee for approval.

**113.** The specific health programme for an establishment, taking into account the health programmes contemplated in section 107 applicable to the establishment and the contracts entered into under sections 109 and 116, must particularly contain the following components:

(1) measures designed to identify the risks to his health a worker is exposed to in carrying out his work and to ensure the supervision and assessment of the quality of the work environment;

(2) activities to inform the worker, the employer and, where such is the case, the health and safety committee and the certified association on the nature of the risks in the work environment, and the necessary preventive measures;

(3) measures designed to identify and assess the health characteristics necessary for the carrying out of a job;

(4) measures designed to identify the characteristics of each worker of the establishment, to facilitate his assignment to tasks corresponding to his aptitudes and to prevent harm to his health, safety or physical well-being;

(5) medical supervision of workers for the prevention and early detection of harm to their health that might be caused or aggravated by their work;

(6) pre-employment medical check-ups and medical examinations during employment, as provided by regulation;

(7) the maintenance of adequate first aid service;

(8) the establishment and up-dating of a list of workers exposed to a contaminant, based on the registers kept by the employer.

**114.** A copy of the specific health programme for the establishment must be transmitted to the Commission and to the head of the community health department.

**115.** Health services for workers in an establishment shall be provided in a hospital centre, a local community service centre or in the establishment itself.

The head of a community health department may, however, allow the services to be provided in places other than those contemplated in the first paragraph if the other premises are not available.

**116.** A hospital centre in which there is a community health department may enter into a contract of service with another hospital centre or a local community service centre, under the terms of which the latter undertakes to provide specific health services to an establishment.

The contract referred to in the first paragraph is valid from the date of its filing with the regional council of the region in which the hospital centre or local community service centre entering into the contract is situated.

### DIVISION III

#### PHYSICIAN IN CHARGE OF HEALTH SERVICES IN AN ESTABLISHMENT

**117.** A physician may be placed in charge of health services in an establishment if the hospital centre whose community health department provides these services, has recognized his privilege of practising his profession in the field of occupational medicine under the Act respecting health services and social services.

**118.** A physician in charge shall be chosen by the health and safety committee. If the employer's representatives and the



workers' representatives on the committee fail to agree, he shall be designated by the Commission after consultation with the head of the community health department.

If there is no committee, the head of the community health department shall designate the physician in charge.

**119.** The appointment of a physician in charge by a committee is valid for four years. An appointment made by the Commission or the head of a community health department is valid for two years.

**120.** The workers' representatives or the employer's representatives on the health and safety committee, the committee itself, or, if there is no committee, a certified association, or the employer, or, if there is no certified association, ten per cent of the workers may apply to the Commission des affaires sociales to dismiss a physician in charge of health services from his duties in an establishment.

Similarly, a physician whose privilege of practising his profession for the purposes of occupational medicine has not been recognized or not been renewed by a hospital centre in which there is a community health department may appeal from the decision before the Commission des affaires sociales.

An application under this section must be based on the lack of qualifications, scientific incompetence, negligence or misconduct of the physician in charge.

**121.** The application and appeal contemplated in section 120 are made in accordance with the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34).

**122.** The physician in charge of health services in an establishment, in cooperation with the head of the community health department, must assess the professional, technical and financial resources required to implement the specific health programme of the establishment.

He shall also see to the implementation of the specific health programme of the establishment.

**123.** While respecting the confidential nature of medical records and industrial processes, the physician in charge must notify the Commission, the employer, the workers, the certified association, the health and safety committee and the head of the community health department of any deficiency in the health, safety or sanitation conditions likely to require a preventive measure. He must send a report of his activities to them on request.

**124.** The physician in charge shall notify a worker of any situation exposing him to a danger to his health, safety or physical well-being and of any deterioration of his health.

**125.** The physician in charge must visit the workplaces regularly and take cognizance of all the information necessary for the performance of his duties.

**126.** The physician in charge or the person designated by him has access, at any reasonable time of the day or night, to any workplace, and he may be accompanied by an expert.

Furthermore, he has access to all the information necessary for the performance of his duties, in particular, to the registers contemplated in section 52. He may use a measuring device on the workplace.

#### DIVISION IV

##### HEAD OF THE COMMUNITY HEALTH DEPARTMENT

**127.** The head of a community health department is responsible for the implementation of the contracts contemplated in sections 109 and 116 in the territory served by it; he must, in particular,

(1) see to the application of the specific health programmes for establishments;

(2) cooperate with the committee on the examination of qualifications of the council of physicians and dentists and with the board of directors of the hospital centre, for the study of applications of physicians wishing to work in the field of occupational medicine, in accordance with this act, the regulations and the Act respecting health services and social services and the regulations thereunder;

(3) coordinate utilization of the resources of the territory to provide the examinations, analyses and expert opinions necessary for the carrying out of the health programmes;

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

(5) ensure the keeping of a worker's medical record for a period of not less than twenty years after the end of his employment or forty years after the beginning of his employment, whichever is longer;

(6) carry out epidemiological studies;

(7) assess specific health programmes for establishments and make the appropriate recommendations to the Commission, to the physicians in charge and to the health and safety committees concerned;

(8) transmit to the Commission statistical data on the workers' state of health and any information the Commission may require in accordance with this act and the regulations;

(9) visit the establishments in the territory and take cognizance of all the information necessary for the performance of his duties.

**128.** The head of a community health department or the person designated by him has all the rights contemplated in section 126.

**129.** Subject to paragraph 5 of section 127, the preservation and confidentiality of a worker's medical record shall be ensured in accordance with the Act respecting health services and social services and the regulations under that act respecting the record of a recipient.

The physician must, on request, communicate a worker's medical record to him or, with his written authorization, to any person designated by the worker.

## DIVISION V

### RECOGNITION OF CERTAIN HEALTH SERVICES

**130.** Within ninety days of the coming into force of the regulation determining the health services that must be provided to workers in an establishment, the employer may make an application for recognition of the health services existing in his establishment on 20 June 1979 that have been maintained until the date on which the application is made.

The application referred to in the first paragraph is made to the hospital centre having a community health department in the territory where the establishment is situated.

No employer may make an application under this section except with the consent of the workers' representatives on the health and safety committee or, if there are several committees, of the committee for the whole establishment, or, if there is no committee, of the certified association or associations, or, if there is no certified association, of the majority of the workers of the establishment.

**131.** If, having examined the situation, the head of the community health department is of opinion that the services offered in the establishment are equivalent to the health services provided by this act and the regulations, he may recommend that the board of directors of the hospital centre recognize these services and, where applicable, the conditions of recognition.

**132.** The head of the community health department shall examine the situation every year, and recommend that the board of directors of the hospital centre cancel its recognition or renew it and, where applicable, the conditions of renewal.

**133.** Excepting physicians, the staff engaged in providing health services recognized by a hospital centre are remunerated by the employer. The employer shall also defray the costs connected with examinations and analyses and the provision of premises and equipment.

**134.** Excepting physicians, the staff engaged in providing health services contemplated in section 130 shall be integrated into a hospital centre or a local community service centre when

(1) the health services in the establishment are not recognized by the hospital centre or recognition is not renewed;

(2) a staff member has been working fifty per cent of his time at tasks directly connected with occupational health; and

(3) it is impossible to replace the staff member adequately in the establishment because of his professional qualifications and the needs of the establishment.

**135.** The Ministre des affaires sociales is responsible for the integration of the staff into a hospital centre or a local community service centre in the cases provided in section 134. He shall use, in particular, the internal resources in the sector of social affairs to promote the best possible integration of the staff.

**136.** An employer who does not intend to make an application for recognition of health services contemplated in section 130 must notify the Ministre des affaires sociales within 90 days after the coming into force of the regulation referred to in section 130.

At any time, after the expiry of 90 days from the coming into force of the regulation referred to in section 130, an employer who no longer intends to maintain health services that have been recognized by a hospital centre must give notice of four months to the Ministre des affaires sociales.

In the cases referred to in the preceding paragraphs, staff engaged in providing health services in an establishment affected

by the decision of an employer shall be integrated into a hospital centre or a local community service centre in accordance with sections 134 and 135.

## CHAPTER IX

### THE COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL

#### DIVISION I

##### ESTABLISHMENT

**137.** A body is hereby established under the name of "Commission de la santé et de la sécurité du travail".

**138.** The Commission is a corporation within the meaning of the Civil Code and has the general powers of such a corporation and the special powers conferred upon it by this act.

**139.** The Commission shall have its corporate seat at the place determined by the Government; a notice of the location or of any change of location of the corporate seat shall be published in the *Gazette officielle du Québec*.

**140.** The Commission shall be administered by a board of directors composed of fifteen members, including a chairman who, in addition, holds the office of director general.

**141.** The members of the board of directors of the Commission shall be appointed by the Government. Except the chairman, they shall be designated in the following manner:

(1) seven members shall be chosen from the lists provided by the most representative union associations;

(2) seven members shall be chosen from the lists provided by the most representative employers' associations.

**142.** In addition, the Government shall appoint vice-chairmen.

**143.** The chairman and the vice-chairmen shall be appointed for not over five years. The terms of office are renewable.

**144.** Members of the board of directors, other than the chairman, shall be appointed for not over two years. Their terms

of office are renewable in accordance with the procedure of appointment provided in section 141.

**145.** The Ministre des affaires sociales shall appoint an observer to the board of directors of the Commission. The observer shall participate in all the meetings of the board of directors, with no voting rights.

**146.** The chairman and vice-chairmen must devote their time exclusively to the duties of their office.

**147.** The members of the board of directors of the Commission and the vice-chairmen remain in office, notwithstanding the expiry of their term, until they are replaced or reappointed.

**148.** Any vacancy occurring during the term of office of a member of the board of directors of the Commission shall be filled by the Government in accordance with sections 141, 143 and 144.

**149.** The Government shall fix the salary and, where necessary, the additional salary, fees and allowances of each member of the board of directors of the Commission and of the vice-chairmen, and the indemnities to which they are entitled.

The salaries, fees, allowances, indemnities and other operating expenses of the Commission shall be charged to the Commission.

**150.** The board of directors of the Commission may hold its sittings at any place in Québec.

**151.** Eight members including the chairman or, in the case provided for in section 155, the person replacing him, constitute a quorum of the board of directors of the Commission.

In the case of a tie-vote, the chairman has a casting vote.

**152.** Neither the chairman nor the vice-chairmen may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking putting their personal interest in conflict with that of the Commission.

However, forfeiture is not incurred if an interest described in the first paragraph devolves to them by succession or gift, provided that they renounce or dispose of it with all possible dispatch.

The other members of the board of directors of the Commission must disclose their direct interest on any question putting their personal interest in conflict with that of the Commission.

**153.** A member must abstain from voting on decisions of the board of directors of the Commission under which a contract or other benefit may be granted to him or to an undertaking in which he has an interest.

**154.** The director general of the Commission is responsible for the administration and direction of the Commission.

**155.** If the chairman or one of the vice-chairmen is temporarily absent or unable to act, the Government may appoint a person to replace him for the time he is temporarily absent or unable to act.

**156.** An executive committee shall be formed, consisting of

- (1) the chairman,
- (2) one person designated by the workers' representatives on the board of directors and chosen from among such representatives, and
- (3) one person designated by the employers' representatives on the board of directors and chosen from among such representatives.

**157.** The secretary and the other officers of the Commission shall be appointed and remunerated in accordance with the Civil Service Act (1978, c. 15).

**158.** The minutes of the sittings of the board of directors of the Commission and of the executive committee, approved by the board of directors or by the committee and certified true by the secretary or by the person designated for that purpose by the internal management by-laws, are authentic, as are copies and documents emanating from the Commission or forming part of its records, when so certified.

Section 2 of the Photographic Proof of Documents Act (R.S.Q., c. P-22) does not apply to the Commission.

**159.** A decision signed by all the members of the board of directors or of the executive committee has the same value as if it had been taken at an ordinary sitting.

**160.** For the exercise of its powers, the Commission or a person designated by it may inquire into any matter within its jurisdiction. The Commission or the designated person is vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., c. C-37), except the power to impose imprisonment.

A person designated to make an inquiry shall not disclose information obtained during the inquiry except in the performance of his duties or with the authorization of the Commission or a tribunal.

**161.** Neither the Commission, the members of its board of directors, its vice-chairmen nor its officers may be sued by reason of official acts done by them in good faith in the exercise of their functions.

**162.** The fiscal period of the Commission ends on 31 December each year.

**163.** Before 1 April each year, the Commission must make a report to the Minister of its activities for the previous fiscal period. The report must contain the information prescribed by the Minister.

The Minister must table the report without delay before the Assemblée nationale if it is in session or, if it is not, within fifteen days after the opening of the next session or resumption.

**164.** Subject to section 174, the Commission must furnish to the Minister any information he may require.

**165.** The books and accounts of the Commission shall be examined by the Auditor General every year, and any other time on government order; the certificate of the Auditor General must accompany the annual report of the Commission.

## DIVISION II

### FUNCTIONS OF THE COMMISSION

**166.** The functions of the Commission are to prepare, propose and implement policies relating to worker health and safety, to ensure a safer work environment.

**167.** In addition to its other functions under this act, the regulations or any other act or regulation, the Commission has the following functions in particular:

(1) to establish priorities for intervention in the matter of worker health and safety;

(2) to grant technical assistance to health and safety committees and technical and financial assistance to joint sector-based associations;



(3) to prepare and implement an assistance programme for the implementation and operation of mechanisms by which employers and workers may participate in matters of occupational health and safety;

(4) to identify research priorities and needs in matters of occupational health and safety;

(5) to conduct or cause others to conduct studies and research in the fields contemplated by the acts and regulations administered by it, in particular to eliminate, at the source, dangers to the health, safety and physical well-being of workers;

(6) to make grants to agencies empowered by law to grant subsidies for research, on the conditions determined by regulation;

(7) to collect information in the fields contemplated in the acts and regulations administered by it;

(8) to maintain an information and management system comprising statistical data in the fields contemplated in the acts and regulations administered by it;

(9) to analyse, in cooperation with the *Ministre des affaires sociales* where applicable, data collected by the various bodies and persons working in the field of occupational health and safety, and compile statistics therefrom;

(10) to maintain and update a toxicological index;

(11) to assess interventions in the field of occupational health and safety;

(12) to plan and conduct information campaigns on the protection of the health, safety and physical well-being of workers, in cooperation with the *Ministre des affaires sociales*, where appropriate;

(13) to devise, in cooperation with the *Ministre de l'éducation*, where appropriate, training and information programmes in the fields of the acts and regulations administered by it, see to their carrying out and participate, if necessary, in their financing;

(14) to submit recommendations to the *Ministre de l'éducation* for the integration of training and information programmes on occupational health and safety into teaching programmes;

(15) to grant financial assistance to an association devoted to the training or information of its members in matters of occupational health and safety or whose function is to promote occupational health and safety;

(16) to submit recommendations to the *Ministre des affaires sociales* in view of his coordinating the implementation of health

programmes and seeing that the personnel employed is properly qualified and that the equipment and premises used for purposes of occupational health and safety are of the proper quality;

(17) to cooperate with bodies pursuing objects similar to its own outside Québec.

**168.** The Commission may, with the written approval of the Ministre des affaires sociales, grant a research contract in the field of occupational health requiring the hiring of additional staff or the installation of new equipment in an establishment within the meaning of the Act respecting health services and social services.

**169.** The Government may, upon the recommendation of the Minister, establish a body whose function is research in occupational health and safety.

The appointment of the members of the body referred to in the first paragraph, their term of office and their salary, fees or allowances shall be determined by the Government.

**170.** The Commission may make agreements with a government department or agency, another government or a department or agency of such a government for the application of the acts and regulations administered by it, in accordance with the Act respecting the Ministère des affaires intergouvernementales (R.S.Q., c. M-21).

Notwithstanding any other legislative or regulatory provision, where an agreement under this section extends benefits arising out of acts or regulations referred to in the first paragraph to any person contemplated in the agreement, the Commission may, by regulation, to make it effective, take the measures necessary for its application.

The regulation and the agreement shall be tabled immediately in the Assemblée nationale if it is in session or, if it not sitting, within fifteen days of the opening of the next session or, as the case may be, resumption.

**171.** The Commission may establish revision offices composed of such of its officers as it may designate, in such number as it may determine.

**172.** The Commission may delegate generally or specially, to the chairman and director general, the executive committee, its vice-chairmen, its review boards, its officers or a person it may designate, its powers to examine, hear and decide any matter or question declared by the acts and regulations administered by it to be within its jurisdiction.

For the purposes of an inquiry or hearing, the persons, the members of the executive committee and the members of the review boards contemplated in the first paragraph have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions, except the power to impose imprisonment.

At an inquiry or hearing, the Commission, the persons, the members of the executive committee and the members of the review boards contemplated in the first paragraph may order a party to pay certain costs or to charge them to the Commission; the nature and amount of these costs and the cases and circumstances in which they may be awarded shall be determined by regulation.

**173.** The Commission may require from any person the information necessary for the application of the acts and the regulations administered by it.

**174.** The Commission shall see to the confidentiality of information obtained by it; only impersonal analyses of it may be disclosed.

**175.** Notwithstanding section 174, a professional may take cognizance of information held by the Commission for study, teaching or research purposes, with the latter's authorization and on the conditions determined by it, in particular to ensure that the use made of it does not allow the person concerned by the information to be identified.

**176.** The Commission has exclusive jurisdiction to examine, hear and decide any matter or question in respect of which a power, authority or discretion is conferred on it

## CHAPTER X

### INSPECTION

**177.** For the purposes of the application of this act and the regulations, inspectors and regional chief inspectors shall be appointed and remunerated in accordance with the Civil Service Act.

**178.** Sections 160 and 161 apply to an inspector or regional chief inspector appointed under section 177.

**179.** An inspector, in the performance of his duties, may, at any reasonable hour of the day or night, enter a place where activi-

ties are carried on in the fields contemplated in this act and the regulations.

An inspector acting under this section has access to all the books, registers and records of any employer, principal contractor, supplier or other person carrying on an activity in the fields contemplated by this act and the regulations. A person having custody, possession or control of these books, registers or records shall give communication of them to the inspector and facilitate his examination of them.

An inspector shall, on demand, produce a certificate of his office.

If the investigation is to be made in a place wholly or partly used as a dwelling, the inspector must, to carry out his duties, have a search warrant issued under the Summary Convictions Act (R.S.Q., c. P-15) or the written consent of the occupant.

**180.** The inspector may, in addition to his general powers,

(1) investigate any matter within his competence;

(2) require the employer or principal contractor, whichever is the case, to produce the plan of the installations and of the layout of the equipment;

(3) take, free of charge, samples of any kind, particularly of objects used by the workers, for analysis; he must then inform the employer and, if possible, return the samples to him after analysis;

(4) conduct tests and make photographs or recordings at a workplace;

(5) in order to ensure that a building, a structure or civil engineering works are stable, require the employer, principal contractor or owner to produce an attestation of solidity signed by an engineer or architect, or an attestation contemplated in section 54;

(6) in such cases as he may determine, instal a measuring device at a workplace, or cause it to be worn by a worker with the worker's written consent, or order the employer to instal it or cause it to be worn at the time and place the inspector indicates, and require the employer to transmit the data on the terms and conditions the inspector determines;

(7) be accompanied by one or more persons of his choice while performing his duties.

**181.** On arriving at a workplace, and before making an investigation or inspection, an inspector shall take reasonable

steps to advise the employer, the certified association and the prevention officer. On a construction site, he shall advise the principal contractor and the safety representative.

**182.** If he considers it advisable, an inspector may issue a remedial order requiring a person to comply with this act or the regulations, and fix the time in which he must comply.

**183.** The inspector shall communicate the findings of his investigation or inspection to the employer, the certified association, the job-site committee, the health and safety committee, the safety representative and the head of the community health department; he shall send them a copy of any remedial order. If there is no committee, the employer shall post up copies of the remedial order in a sufficient number of conspicuous places easily accessible to the workers to ensure that they are informed.

**184.** A person to whom an inspector has given a remedial order shall carry it out in the appointed time, and inform the certified association, the health and safety committee, the safety representative and the inspector, as soon as possible, of the specific measures he intends to take.

**185.** No person may hinder an inspector in the performance of his duties, mislead or attempt to mislead him by concealment or false or untruthful statements, refuse to give his surname, given names and address to the inspector or neglect to obey an order he may give under this act or the regulations.

**186.** An inspector may order the suspension of work or the complete or partial shut-down of a workplace and, if necessary, affix seals, if he considers a worker's health, safety or physical well-being to be endangered.

The inspector shall substantiate his decision in writing as soon as possible and indicate the steps to be taken to eliminate the danger.

Section 183 applies, *mutatis mutandis*, to the inspector's order.

**187.** During a suspension of work or a shut-down, the workers are deemed to be at work and therefore entitled to the wages and social benefits related to their work.

**188.** No person may be admitted to a workplace shut down by an inspector except, with his authorization, to do the necessary work to eliminate the danger.

However, the application of the first paragraph cannot prevent an employer, principal contractor or owner from taking such conservation measures as are necessary to avoid the destruction or serious deterioration of the moveable or immoveable property in the workplace.

**189.** Work shall not be resumed nor the workplace reopened until authorized by the inspector.

Section 183 applies, *mutatis mutandis*, to the inspector's authorization.

**190.** Where a person contravenes this act or the regulations, an inspector may order him to cease making, supplying, selling, leasing, distributing or installing the product, process, equipment, material, contaminant or dangerous substance concerned, and affix seals or confiscate such objects and order the person to cease every activity that might cause the emission of the contaminant concerned.

The inspector shall substantiate his decision in writing, indicating, where that is the case, the steps to be taken to bring the product, process, equipment, material, contaminant or dangerous substance, or the activity that might cause the emission of the contaminant, into conformity with the act and the regulations.

The person is prohibited from again making, supplying, selling, leasing, distributing or installing the product, process, equipment, material, contaminant or dangerous substance, or resuming the activity that might cause the emission of a contaminant, until authorized by the inspector.

Section 183 applies, *mutatis mutandis*, to the inspector's order or authorization.

**191.** An inspector's order or decision is executory until reviewed by the regional chief inspector.

**192.** A regional chief inspector's order or decision is executory until reviewed by the Commission.

The Commission's decision is final and without appeal.

**193.** The inspectors, regional chief inspectors and personnel required for the application of this chapter and of Division v of Chapter XI are responsible to such member of the Executive Council or such body as the Government may designate.

## CHAPTER XI

SPECIAL PROVISIONS RESPECTING  
CONSTRUCTION SITES

## DIVISION I

## DEFINITIONS AND APPLICATION

**194.** For the purposes of this chapter,

(1) “representative association” means a representative association within the meaning of the Act respecting labour relations in the construction industry;

(2) “employer” means an employer within the meaning of the act referred to in paragraph 1;

(3) “safety representative” means a person designated under section 209;

(4) “construction worker” means an employee within the meaning of the act referred to in paragraph 1, including a student in the cases determined by regulation.

**195.** The other chapters of this act apply, *mutatis mutandis*, to employers and construction workers, except as amended by this chapter.

## DIVISION II

## PRINCIPAL CONTRACTORS AND EMPLOYERS

**196.** A principal contractor is bound to the same extent as an employer to observe the obligations imposed on employers by this act and the regulations, particularly that of taking the necessary steps to protect the health and ensure the safety and physical well-being of construction workers.

**197.** At the beginning and at the end of activities on a construction site, the principal contractor shall send a notice of opening or closing of a construction site, whichever applies, within the time and on the terms and conditions provided by regulation.

**198.** Where it is foreseen that activities on a construction site will occupy at least ten construction workers simultaneously at a particular stage of the work, the principal contractor must, before work begins, see that a prevention programme is prepared. The programme must be prepared in collaboration with the

employers, and a copy of it must be transmitted to the safety representative.

**199.** The object of a prevention programme is to eliminate, at the source, danger to the health, safety and physical well-being of construction workers. Particularly, it must contain every component prescribed by regulation.

**200.** A prevention programme must be transmitted to the Commission before work begins,

(1) if it is foreseen that activities on the construction site will occupy at least twenty-five construction workers simultaneously at a particular stage of the work;

(2) if the total floor space of the building or buildings to be erected on the site is 10 000 square metres or over; or

(3) if the construction site presents a high risk of accident as defined by regulation.

**201.** The Commission may order the content of a prevention programme changed or the submission to it of a new programme within the time it determines.

**202.** A principal contractor shall see that an employer working on a construction site where a prevention programme is implemented undertakes in writing to see that it is complied with.

**203.** If the prevention programmes of the principal contractor and of the employer conflict, the former prevails.

### DIVISION III

#### JOB-SITE COMMITTEE

**204.** Where it is foreseen that activities on a construction site will occupy at least twenty-five construction workers simultaneously at a particular stage of the work, the principal contractor shall form a job-site committee as soon as work begins.

**205.** A job-site committee consists of the following persons, as and when they are on the job-site:

(1) at least one representative of the principal contractor;

(2) one representative of each employer;

(3) one representative of the person in charge of the plans and specifications, and, where that is the case, of supervising the work;



(4) one representative of each representative association having at least one member of a union or association that it represents working on the construction site.

**206.** The functions of a job-site committee are

- (1) to supervise the application of the prevention programme;
- (2) in view of the safety of the construction workers, to supervise the setting up and operation of mechanisms to coordinate the activities of employers who are on the construction site simultaneously;
- (3) to receive suggestions and complaints from the construction workers or their unions or associations, the employers and the principal contractor, regarding occupational health and safety;
- (4) to receive copy of notices of accident and submit appropriate recommendations to the principal contractor, the employer, or the Commission;
- (5) to receive and study the reports of inspections carried out on the construction site;
- (6) to receive and examine the statistical data compiled by the community health department or the Commission;
- (7) to transmit to the Commission such information as it may require, in accordance with the regulations.

**207.** A job-site committee shall meet at least once every two weeks, subject to the regulations.

Meetings must be held during regular working hours, unless the committee decides otherwise.

If the committee fails to establish its own rules of procedure, it must follow those established by regulation.

**208.** Sections 76, 77 and 81 apply, *mutatis mutandis*, to the representatives of representative associations who are members of a job-site committee.

#### DIVISION IV

##### SAFETY REPRESENTATIVE

**209.** A representative association may designate one or more persons to be safety representatives on a construction site where a construction worker who is a member of a union or of an association of employees affiliated to the representative association is working.

Persons designated under this section must be construction workers working on the construction site.

**210.** The functions of a safety representative are

- (1) to inspect workplaces;
- (2) to receive copies of accident notices and investigate incidents that have caused or could have caused an accident;
- (3) to identify situations that may be a source of danger to construction workers;
- (4) to make such recommendations to the job-site committee, or if there is no such committee, to the construction workers or their union or association and the employer, as he deems appropriate;
- (5) to assist construction workers in the exercise of their rights under this act and the regulations;
- (6) to accompany the inspector on visits of inspection;
- (7) to intervene in cases where a worker exercises his right of refusal;
- (8) to submit complaints to the regional chief inspector.

**211.** A safety representative must participate in training programmes of such content and duration as are determined by regulation.

He may, without loss of pay, take time off work as necessary to participate in programmes referred to in the first paragraph.

Registration, travel and accommodation expenses are borne by the Commission, in accordance with the regulations.

**212.** A safety representative may take time off work as necessary to carry out the functions contemplated in paragraphs 2, 6 and 7 of section 210.

The Commission shall determine, by regulation, by category of construction sites, how much time a safety representative may devote to the exercise of his other functions.

**213.** Sections 93, 94, 95 and 97 apply, *mutatis mutandis*, to a safety representative.

**214.** A safety representative is deemed to be at work when exercising his functions.

**215.** Section 26 of the Act respecting labour relations in the construction industry apply, *mutatis mutandis*, to a safety representative.

## DIVISION V

### INSPECTION

**216.** The terms and conditions under which inspectors perform their duties on construction sites shall be established by regulation.

The regulations shall also determine, by category of construction sites, the cases in which one or more inspectors must be present full time.

**217.** Where an inspector finds that a workplace, or a tool, device or machine in use does not comply with the regulations, the prevention programme, if any, or any other safety standard, and that it endangers the health, safety or physical well-being of a construction worker as a result, he shall order the principal contractor to take the appropriate measures.

**218.** An inspector may order a device or machine contemplated in section 217 that he designates stopped, and even the complete stoppage of work. His orders are executory.

**219.** Where a situation is corrected to his satisfaction, an inspector may authorize the resumption of work or the re-operation of a device or machine.

## DIVISION VI

### MAJOR CONSTRUCTION SITES

**220.** No person may open a construction site which to all appearances will be a major construction site within the meaning of the regulations without notifying the Commission of it in writing at least 180 days before the commencement of work.

The Commission, on being informed of an opening, shall convoke and meet the principal contractor and each of the representative associations. The principal contractor shall furnish to the Commission all the information it requests regarding the intended construction site.

**221.** The Commission shall adopt the provisions that are to apply on the construction site during the construction work. These provisions must determine, in particular, the respective

roles, in health and safety matters, of the principal contractor, the employers, the representative associations, the job-site committee, the safety representative, the inspectors and the construction workers.

**222.** The Commission shall communicate the content of the programme to the principal contractor and the representative associations.

## CHAPTER XII

### REGULATIONS

**223.** The Commission may make regulations

(1) establishing categories of establishments, according to the activities carried on, the number of employees or the frequency and seriousness of accidents and occupational diseases;

(2) determining what other works may be included in the definition of the words "construction site" in section 1;

(3) listing contaminants or dangerous substances, classifying them, identifying the biological or chemical agents and determining for each class or each contaminant a maximum permissible quantity or concentration of emission, deposit, issuance or discharge at a workplace, prohibiting or restricting the use of a contaminant or prohibiting any emission, deposit, issuance or discharge of a contaminant;

(4) defining the properties of a substance that make it a dangerous substance;

(5) determining the cases where a student is deemed to be a worker or a construction worker within the meaning of this act;

(6) identifying the contaminants in respect of which a worker may exercise his rights under section 32, determining the criteria of deterioration of health associated with each contaminant warranting the exercise of that right, specifying the conditions of the protective re-assignment of a worker and his return to his duties, and determining the form and tenor of the certificate contemplated in sections 32, 40 and 46;

(7) prescribing measures for the supervision of the quality of the work environment and standards applicable to every establishment or construction site in view of ensuring the health, safety and physical well-being of workers, particularly with regard to work organization, lighting, heating, sanitary installations, quality of food, noise, ventilation, variations in temperature, quality of

air, access to the establishment, means of transportation used by workers, eating rooms and cleanliness of a workplace, and determining the hygienic and safety standards to be complied with by the employer where he makes premises available to workers for lodging, meal service or leisure activities;

(8) determining the safety measures against fire that must be taken by an employer or principal contractor;

(9) determining, by category of establishments or construction sites, the individual and common protective devices and equipment that the employer must put at the disposal of the workers, free of charge;

(10) determining the content of the registers that the employer must keep and update in conformity with section 52;

(11) fixing the minimum age at which a worker may carry out particular work it specifies;

(12) fixing, in such cases or circumstances as it may indicate, the maximum daily or weekly number of hours that may be devoted to particular work, according to the nature of the work, the place where it is carried out and the physical capacity of the worker, and prescribing the distribution of these hours and a minimum rest period or meal period;

(13) requiring, in such circumstances as it may indicate, a pre-employment medical check-up or medical examinations during employment, determining the content and standards of the examinations, their time or frequency and the form and tenor of the related medical certificate, and requiring a medical certificate for any work it specifies and prescribing its form and tenor;

(14) indicating the cases or circumstances in which new construction or alterations to existing installations must not be undertaken without prior transmission to the Commission of the architect's or engineer's plans and specifications, and indicating the time, terms and conditions of their transmission; prescribing standards of construction, development, maintenance and demolition;

(15) specifying the content and the time, terms and conditions of transmission of a notice of opening or closing of an establishment or construction site;

(16) determining the cases and circumstances where an establishment or construction site must be considered remote, and the living conditions to be maintained there by the employer for the benefit of the workers;

(17) determining the categories of establishments for which a prevention programme must be implemented, the minimum

compulsory content of a prevention programme for each category of establishments or construction sites, and the time, terms and conditions of transmission of a prevention programme and its updating to the Commission;

(18) determining the form and content of the report that an employer must make under section 62;

(19) prescribing standards respecting the safety of such products, processes, equipment, materials, contaminants or dangerous substances as it specifies, indicating the directions for their use, maintenance and repair, and prohibiting or restricting their use;

(20) determining the time, terms and conditions of transmission of a notice contemplated in section 64, and its form and content;

(21) determining the cases and circumstances where a label or a notice must indicate the dangers inherent in a dangerous substance and indicate the safety measures to be taken in handling or using the substance;

(22) determining the categories of establishments in which a health and safety committee may be formed and fixing, by category, the minimum and maximum number of members of a committee; establishing rules of operation for committees and determining the procedure, terms and conditions of appointment of the members representing the workers in the cases provided in section 72;

(23) fixing, for health and safety committees in establishments of such categories as it identifies, a minimum number of meetings different from that provided by this act; indicating what information a committee must transmit to it, and the procedure, terms and conditions of its transmission and of the transmission of the annual report of activities;

(24) determining, by category of establishments, the amount of time that a safety representative may devote to his functions, determining, by category of establishments or construction sites, the instruments or apparatus a safety representative needs to exercise his functions and determining the registration, travel and accommodation expenses borne by it under sections 91 and 211;

(25) delimiting sectors of activities, and indicating which establishments, employers, workers, unions, or categories of any of these, form part of a particular sector of activities within the meaning of section 98;

(26) prescribing the minimum compulsory content of agreements contemplated in sections 98 and 99;

(27) establishing the conditions and criteria according to which subsidies may be granted to sector-based associations in application of section 100, and indicating what information must be transmitted to it by a sector-based association and the procedure, terms and conditions of transmission of the information and annual report of activities;

(28) determining, by category of establishments or construction sites, the cases in which health services must be supplied to workers;

(29) establishing categories of construction sites, according to the foreseen duration of work on a site, how many construction workers it is foreseen will be working on a site at one time and the risks of work accident or occupational disease;

(30) defining what constitutes a high risk construction site;

(31) establishing the rules of operation of job-site committees and fixing, for committees instituted on construction sites of such categories as it identifies, a minimum number of meetings different from that prescribed by this act; indicating what information a committee must transmit to it, and the procedure, terms and conditions of its transmission;

(32) determining, by category of construction sites, the amount of time that a safety representative may devote to the exercise of his functions and determining the content and the duration of the training programmes in which the safety representative contemplated in section 211 must participate;

(33) establishing the conditions and the terms on which inspectors are to perform their duties on a construction site and determining, by category of construction sites, the cases where one or more inspectors must be present full time;

(34) determining what constitutes a major construction site;

(35) determining the cases where a measuring device may be installed at a workplace or caused to be worn by a worker with his written consent;

(36) establishing rules for its internal management;

(37) enacting rules of proof, procedure and practice applicable to the examination, hearing and decision of matters under the authority of an inspector, the regional chief inspector or the Commission itself or matters on which persons, executive committees or review boards have authority pursuant to section 172;

(38) determining the conditions on which a sum of money is granted in accordance with paragraph 6 of section 167;

(39) taking the necessary measures for the implementation of an agreement made pursuant to section 170;

(40) determining the cases or circumstances where a party is entitled to reimbursement of the costs incurred for an investigation or hearing held under section 172, specifying the nature and indicating the amounts thereof;

(41) exempting certain categories of persons, workers, employers, workplaces, establishments or construction sites from the application of this act or certain of its provisions;

(42) generally prescribing any other measure to facilitate the application of this act.

The content of the regulations may vary according to the categories of persons, workers, employers, workplaces, establishments or construction sites to which they apply. The regulations may also provide times within which they are to be applied, and these times may vary according to the object and scope of each regulation.

**224.** The regulations of the Commission shall be published in the *Gazette officielle du Québec* with a notice that they will be submitted to government approval at the expiry of the sixty days following the notice.

**225.** If the Commission fails to make a regulation within a period the Government considers reasonable, the Government itself may make the regulation.

No regulation may be made under this section unless sixty days' prior notice is published in the *Gazette officielle du Québec*, reproducing the text of the regulation.

**226.** The regulations come into force on the date of publication in the *Gazette officielle du Québec* of a notice that they have received government approval or, if amended on approval, of their final text, or on any later date fixed in the notice or final text.

## CHAPTER XIII

### RECOURSES

**227.** Any worker who believes he has been illegally laid off, dismissed, suspended, transferred or subjected to a discriminatory or disciplinary measure for exercising his rights or functions under this act or the regulations may submit his complaint in writing to the labour commissioner-general within thirty days



of the lay-off, dismissal, suspension, transfer or discriminatory or disciplinary measure or mail it to the labour commissioner-general within that time. The labour commissioner-general shall designate a labour commissioner to make an inquiry and dispose of the complaint.

**228.** If it is established to the satisfaction of the labour commissioner seized with a case that the worker exercised his rights or functions under this act or the regulations, a presumption exists in favour of the worker, unless the employer shows that the worker abused his rights or functions, that he was laid off, dismissed, suspended, transferred or subjected to a discriminatory or disciplinary measure for exercising such rights or functions, and the burden of proof is on the employer that he had other fair and sufficient cause.

Sections 18 to 20, 118 to 137, 139, 140, 146.1 and 150 to 152 of the Labour Code apply, *mutatis mutandis*, to this section.

**229.** If the presumption in favour of the worker applies, the labour commissioner may order the employer to reinstate the worker, with all his rights and privileges, and to pay him an indemnity, equal to the wages and other benefits he has been deprived of, within such time as the commissioner prescribes.

He may also order the employer to maintain the worker in his employment with all his rights and privileges, and to pay him an amount equal to his wages and other benefits until a final decision.

**230.** If the presumption in favour of the worker does not apply and the subsequent decision is to the effect that the worker was laid off, dismissed, suspended, transferred or subjected to a discriminatory or disciplinary measure by the employer for exercising a right or a function under this act or the regulations, the labour commissioner may order the employer to reinstate the worker, with all his rights and privileges, within eight days of service of the decision, and to pay him an indemnity equal to the wages and other benefits he has been deprived of.

If the worker has worked elsewhere while the lay-off, dismissal, suspension or measure has been in effect, his wages earned thereby must be deducted from the amount paid to him.

**231.** The decision of the commissioner must be rendered within sixty days following the hearing and be substantiated.

**232.** A worker or his certified association may elect to follow the ordinary grievance procedure rather than file a complaint with the labour commissioner-general.

An arbitration award is without appeal and binds the parties.

**233.** Where both of the recourses provided for in sections 227 and 232 are exercised, the arbitration officer shall refuse to hear the grievance.

## CHAPTER XIV

### OFFENCES

**234.** Subject to the second paragraph of section 160, every person who, in any manner whatever, reveals or divulges a manufacturing or operating secret or process of which he learns in the course of his functions under this act and the regulations is guilty of an offence.

**235.** Every person who makes a false declaration or neglects or refuses to provide the information necessary for the application of this act or the regulations is guilty of an offence.

**236.** Every person who contravenes this act or a regulation or refuses to conform to a decision or order rendered under this act or the regulations or incites a person to do so, is guilty of an offence and liable, on summary proceedings, in addition to the costs, to a fine of not less than \$200 nor more than \$500 in the case of an individual, and to a fine of not less than \$500 nor more than \$1 000 in the case of a corporation.

For any subsequent offence, the fines provided for in the first paragraph are increased to a minimum of \$500 and a maximum of \$1 000 in the case of an individual and to a minimum of \$1 000 and a maximum of \$2 000 in the case of a corporation.

**237.** Every person who acts in such a way as to directly and seriously compromise the health, safety or physical well-being of a worker is liable, on summary proceedings, in addition to the costs, to a fine of not less than \$500 nor more than \$1 000 or to imprisonment for not under two months nor over six months, or both, in the case of an individual, and to a fine of not less than \$5 000 nor more than \$20 000 in the case of a corporation.

For any subsequent offence, the fines and terms of imprisonment provided for in the first paragraph are increased to a minimum of \$1 000 and a maximum of \$2 000 and to a minimum of four months and a maximum of twelve months, in the case of an individual, and to a minimum of \$10 000 and a maximum of \$50 000 in the case of a corporation.

**238.** In addition to the penalties provided for in sections 236 and 237, the court may order the offender to conform to the requirements of the act or the regulations within the time it fixes or to carry out any measure it considers likely to contribute to the prevention of work accidents or occupational disease.

**239.** In proceedings contemplated in this chapter, proof that an offence has been committed by an agent or mandatary of or a worker employed by an employer suffices to establish that it was committed by the employer, unless the employer establishes that the offence was committed without his knowledge or consent and despite provisions made to prevent its being committed.

**240.** Where a worker is being prosecuted for an offence against this act or the regulations, proof that the offence was committed as a result of formal instructions given by his employer and despite the worker's objection suffices to release him from his responsibility.

**241.** Where a corporation has committed an offence, every director, officer, employee or agent of that corporation who has prescribed or authorized the action or the omission that constitutes the offence or who has consented thereto is deemed to have participated in the offence and is liable to the same penalty as an individual, whether or not the corporation has been prosecuted or found guilty.

**242.** Proceedings under this act may be instituted by a regional chief inspector, a certified association, the Commission or a person it designates generally or specially for that purpose, or by any interested person.

**243.** In the cases contemplated in the first paragraph of section 236, proceedings may not be instituted until thirty days after a prior notice has been mailed to the offender describing the offence and specifying the minimum fine, the amount of the costs and the place where payment must be made.

Payment of the required amount within the allotted time precludes penal prosecution.

After payment under this section, an offender is deemed to have been found guilty of the offence.

**244.** Proceedings under this act or the regulations are brought before the court, and sections 121, 123 to 128, 133 to 136 and 147 of the Labour Code apply.

**245.** No proceedings may be instituted under this act or the regulations more than twelve months after the date on which the offence was committed.

**246.** The fines imposed belong to the Commission.

## CHAPTER XV

### FINANCING

**247.** The Commission shall collect from the employers the sums required to defray all the costs arising from the application of this act and the regulations, subject to sections 249 and 250.

The Commission shall reimburse to the Régie de l'assurance-maladie du Québec the expenses incurred for the application of Chapter VIII.

**248.** The Commission has for the purposes of section 247 all the powers and duties vested in it by the Workmen's Compensation Act for the determination and collection of contributions and the management of the funds thus collected.

[[**249.** The sums required for the application of this act and the regulations relative to inspection are taken out of the moneys granted annually for that purpose by the Legislature.]]

[[**250.** The Government may pay to the Commission, out of the moneys granted annually by the Legislature, part of the sums required for the application of this act and the regulations relative to education, information and research.]]

## CHAPTER XVI

### TRANSITIONAL PROVISIONS

**251.** Section 2 of the Workmen's Compensation Act (R.S.Q., c. A-3), amended by section 3 of chapter 57 of the statutes of 1978, is again amended by replacing subparagraph i of paragraph q of subsection 1 by the following subparagraph:

“(i) a skilled tradesman who, for a person operating an industry, performs work connected with that industry, in the cases or circumstances and on the terms and conditions prescribed by regulation;”.

**252.** Section 3 of the said act, amended by section 5 of chapter 57 of the statutes of 1978, is again amended by striking out subsection 2.

**253.** Section 4 of the said act, amended by sections 1 and 6 of chapter 57 of the statutes of 1978, is again amended by striking out subsection 3.

**254.** Section 53 of the said act, amended by sections 1 and 30 of chapter 57 of the statutes of 1978, is again amended:

(1) by striking out subsection 10;

(2) by replacing the first paragraph of subsection 13 by the following paragraph:

“(13) Subject to subsection 11, expenses and disbursements that may be effected for medical aid are paid by the Commission and levied in the manner provided in Division X.”

**255.** Section 55 of the said act, amended by section 1 of chapter 57 of the statutes of 1978, is replaced by the following section:

“**55.** Reports to the Commission made by a physician, practitioner or expert are confidential. No person may give or receive written or verbal communication of a report or otherwise have access to it except for the purposes of the application of this act or purposes of an inquiry held by a review board or the Commission des affaires sociales, except with the express or implied authorization of the beneficiary, or on a court order.

Notwithstanding the first paragraph, the Commission shall, if the employer so requires, communicate, to the physician designated by the employer, every report respecting an accident that he receives from a physician, practitioner or expert.

An establishment within the meaning of the Act respecting health services and social services (R.S.Q., c. S-5) must send to the Commission or to a physician it designates, on request, a copy, extract or abstract of the file of a beneficiary when the beneficiary applies to the Commission for a benefit under this act.

A worker to whom the Commission refuses access to his medical file or written or verbal communication of it, may by summary motion, apply to a judge of the Superior Court or the Provincial Court to obtain access to his file, or communication of it, as the case may be.

**256.** Sections 57, 58, 59 and 60 of the said act are repealed.

**257.** Section 61 of the said act is amended:

(1) by striking out subsection 1;

(2) by replacing subsections 2 and 3 by the following subsections:

“(2) When the Commission, or any person designated by it, holds an inquiry at the chief-place of a judicial district, the sheriff shall supply premises for the holding of the inquiry.

“(3) When an inquiry is held in a place where there is a Provincial Court, the clerk of the court shall allow the Commission, or the person designated by the Commission, to use the premises intended for the Provincial Court, unless the court is then sitting therein.”

**258.** Section 62 of the said act is repealed.

**259.** Section 63 of the said act, amended by section 33 of chapter 57 of the statutes of 1978, is again amended:

(1) by replacing paragraph *c* of subsection 2 by the following paragraph:

“(c) any matter or question relating to the classification of industries, employers’ assessment, medical aid or rehabilitation.”;

(2) by replacing subsection 5 by the following subsection:

“(5) The Commission may delegate generally to a review board established pursuant to section 171 of the Act respecting occupational health and safety (1979, *c. insert here the chapter number of Bill 17*) its powers to examine, hear and decide, in second instance, all matters and questions respecting any matter in subsection 4.”;

(3) by replacing subsection 6 by the following subsection:

“(6) Decisions rendered by persons and boards under subsection 5 are governed by subsection 8 and are valid as decisions of the Commission.”;

(4) by striking out subsections 7 and 9.

**260.** Sections 66, 67, 68 and 69 of the said act are repealed.

**261.** Section 70 of the said act is amended by replacing subsection 1 by the following subsection:

“**70.** (1) Upon deposit in the office of the prothonotary of the Superior Court of the district of Québec, or of the district in which the debtor has his domicile or place of business, of an authentic copy of a decision of the Commission, the Court may, upon a

summary petition of the Commission or of any interested party, homologate the decision, with costs against the debtor; the decision becomes executory as any other judgment. During judicial holidays or out of term, the judge of the Superior Court has the same jurisdiction as the Court for the purposes of this section.

The petition for homologation shall be served upon the party against whom the decision was rendered, in the same manner and time as an ordinary writ of summons in the Superior Court.

Whenever, within the allotted time, the respondent files an appearance accompanied with an affidavit establishing that he has a *bona fide* contestation to offer, the petition, on application to that effect, shall be referred for hearing and adjudication to the Superior Court of the district of his domicile or place of business, as the case may be."

**262.** Sections 73, 74 and 78 of the said act are repealed.

**263.** Section 88 of the said act, amended by sections 1 and 44 of chapter 57 of the statutes of 1978, is again amended:

(1) by replacing the first paragraph of subsection 1 by the following paragraph:

**"88.** (1) Every employer shall yearly, on or before the date prescribed by the regulations of the Commission, prepare and transmit to the Commission a statement of the amount of the wages earned by all his employees during the twelve months preceding the date fixed by the Commission or any part thereof specified by the Commission and of the amount which he estimates he will expend for wages during the then current year or any part thereof specified by the Commission, the number of employees contemplated in each case and such additional information as the Commission may require.";

(2) by replacing subsection 3 by the following subsection:

**"(3)** Where the undertaking of the employer embraces more than one branch of business or more than one establishment within the meaning of the Act respecting occupational health and safety, the Commission may require separate statements from such employer for each branch of business and each establishment, and such statements shall be made, examined and transmitted as provided in subsection 1."

**264.** Section 91 of the said act, replaced by section 47 of chapter 57 of the statutes of 1978, is again replaced by the following section:

**“91.** The Commission, or any person designated by it, has the right to examine, at any time, the books, documents, files and accounts of any employer and to make such other inquiry as the Commission may consider expedient for the purpose of making any verification necessary for the application of the acts administered by it and, in particular, to ascertain whether any report furnished to it under section 88 is an accurate statement of the matters which are required to be stated therein, of ascertaining the amount of the pay-roll of any employer, of determining in what proportion an employer must contribute to the accident fund, or whether an employer is in conformity with section 22 of the act.”

**265.** Sections 93 and 94 of the said act are repealed.

**266.** Section 111 of the said act, amended by sections 1 and 61 of chapter 57 of the statutes of 1978, is again amended:

(1) by replacing subsections 1 to 6 by the following subsections:

**“111.** (1) Where an occupational disease disables a worker or causes his death, the beneficiary is entitled to the benefits provided for under this act, as if the disease were a bodily injury by accident and the disablement were the happening of an accident, subject to the following provisions: no benefit may be paid if the worker, at the time of entering into the employment, had wilfully and falsely represented himself in writing as not having previously suffered from the disease. The beneficiary’s claim must be presented within six months of the date when it is medically established and brought to his attention that he is suffering from an occupational disease, or of the date of his death therefrom, as the case may be.

“(2) Where a benefit for an occupational disease is payable by an employer individually, it is payable by the employer who last employed the worker in the employment during which the disease began.

“(3) The beneficiary, if so required, shall furnish the employer mentioned in subsection 2 with such information as he possesses with respect to the names and addresses of the other employers for whom he worked in the employment to the nature of which the disease was due; if such information is not furnished or is not sufficient to enable that employer to take the proceedings mentioned in subsection 4, that employer, upon proving that the disease was not contracted while the worker was in his employ, is not liable to pay any benefit.

“(4) If the last employer alleges that the disease was in fact contracted while the worker was in the employ of some other



employer, he may bring such employer before the Commission, or a person designated by it, and if the allegation is proved, the Commission may order the latter employer to pay the benefit.

“(5) If the disease is such as to be contracted and to develop gradually, all the other employers who employed the worker in employment of the nature to produce the disease are liable to pay to the employer by whom the benefit is payable such proportion or contribution as the Commission may determine to be just.

“(6) The amount of the indemnity shall be fixed with reference to the income of the worker under the employer by whom the indemnity is payable, and the notice provided for by section 21 shall be given to the last employer of the worker who gave him work of a nature to produce the disease.

The notice in a case under this subsection may be given notwithstanding that the worker has voluntarily left the employment.

If a worker has left an employment during which his disease had begun more than one year previously, the amount of the indemnity is fixed in accordance with the second paragraph of subsection 2 of section 46.”;

(2) by replacing subsections 8 and 9 by the following subsections:

“(8) If the worker, at or immediately before the date of the disablement, was employed in any process mentioned in the second column of Schedule D or in the regulations, and the disease contracted is the disease in the first column of the schedule or of the regulations opposite the description of such process, the disease is deemed to have been due to the nature of that process unless the contrary is proved. In other cases, it must be established to the satisfaction of the Commission that the disease was caused by the nature of the process in which the worker was employed.

But no benefit is payable under this act unless the worker has been a resident of Québec for the three years preceding his claim, except where the Commission is satisfied that the disease is not due to any other cause than his employment within Québec.

“(9) In the case of a disease not provided for in Schedule D or the regulations, this section applies if the beneficiary establishes, to the satisfaction of the Commission, that the disease was contracted out of or in the course of work done by the worker for an employer and that it is characteristic of that work or directly linked to the particular risks thereof.

“(10) In the case of a disease not provided for by Schedule D or the regulations, subsection 1 applies if the worker’s disease is

caused by an injury resulting from an accident which gives him the right to a benefit under this act.”

**267.** Section 114*i* of the said act, enacted by section 68 of chapter 57 of the statutes of 1978, is replaced by the following section:

“**114*i*.** Any person who omits to file a declaration required by the Commission or makes or files a false or incorrect declaration to or with the Commission, or is a party to an agreement contrary to this act, or who infringes a prescription of this act or a regulation in respect of which no penalty is specially provided, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than one hundred dollars, in the case of an individual;

(b) to a fine of not less than three hundred dollars, in the case of an artificial person.”

**268.** Division XII of the said act, including sections 115 and 116, is repealed.

**269.** Section 119 of the said act, enacted by section 69 of chapter 57 of the statutes of 1978, is amended:

(1) by replacing paragraph *f* by the following paragraph:

“(f) determining the cases or circumstances and the terms and conditions whereby a skilled tradesman is a worker within the meaning of subparagraph i of paragraph *q* of subsection 1 of section 2 and prescribing the content of the notice that a skilled tradesman must send to the Commission under section 13 and setting out the terms and conditions thereof;”;

(2) by replacing paragraph *m* by the following paragraph:

“(m) establishing, with a view to evaluating the reduction in a worker’s capacity to work, a scale of anatomical and physiological deficiencies and determining the criteria and methods for evaluating a worker’s fitness to return to the work in the course of which he was injured and for his adaptation to some other appropriate occupation;”.

**270.** The said act is amended by adding, after section 120, the following division and section:

## "DIVISION XVII

## "FINAL PROVISIONS

**"121.** The Government shall designate a minister to be responsible for the application of this act."

**271.** Schedule C to the said act, amended by section 1 of chapter 57 of the statutes of 1978, is again amended by replacing subsection 1 by the following subsection:

"(1) The industry or business contemplated in paragraph *e* of subsection 2 of section 2."

**272.** Schedule E to the said act, enacted by section 73 of chapter 57 of the statutes of 1978, is amended by replacing, in the column entitled "Value", the values corresponding to ages 22 and 23, by 164.95 and 164.31, respectively.

**273.** Section 3 of the Health Insurance Act (R.S.Q., c. A-29), replaced by section 2 of chapter 1 of the statutes of 1979, is amended by adding, at the end, the following paragraph:

"Notwithstanding the foregoing, the services contemplated in the first paragraph remain insured services even if they constitute services rendered pursuant to the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*)."

**274.** Section 128 of the Act respecting the Barreau du Québec (R.S.Q., c. B-1), amended by section 74 of chapter 57 of the statutes of 1978 and by section 127 of chapter 48 of the statutes of 1979, is again amended by replacing subparagraph 4 of paragraph *a* of subsection 2 by the following subparagraph:

"(4) the Commission de la santé et de la sécurité du travail, a review board established pursuant to the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*), or the workmen's compensation division of the Commission des affaires sociales established pursuant to the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34)."

**275.** Section 46 of the Charter of human rights and freedoms (R.S.Q., c. C-12) is replaced by the following section:

**"46.** Every person who works has a right, in accordance with the law, to fair and reasonable conditions of employment which have proper regard for his health, safety and physical well-being."

**276.** Section 3 of the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34) is amended by replacing the first paragraph by the following paragraph:

**“3.** The Commission shall consist of members appointed for a term not exceeding ten years by the Government, which shall determine their number and shall choose a president and a vice-president among them and fix the fees, allowances or salaries or, as the case may be, the additional salaries of each of them.”

**277.** Section 7 of the said act is amended by replacing the second paragraph by the following paragraph:

“In making each appointment, the Government shall identify the divisions to which the assessor is attached. The number of assessors shall be determined by the Government.”

**278.** Section 21 of the said act, amended by section 106 of chapter 7 and section 32 of chapter 16 of the statutes of 1978 and by section 59 of chapter 1 of the statutes of 1979, is again amended by adding, at the end, the following paragraphs:

“(z) the applications made pursuant to section 120 of the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*);

“(aa) the appeals brought pursuant to section 120 of the Act respecting occupational health and safety.”

**279.** Section 28 of the said act, replaced by section 108 of chapter 7 of the statutes of 1978, is again replaced by the following section:

**“28.** The requests and applications contemplated in paragraphs *d*, *e*, *f* and *z* of section 21 and the appeals contemplated in paragraphs *g*, *h*, *i*, *j*, *l*, *r*, *s*, *t* and *aa* of the said section 21 shall be heard by the health services and social services division.”

**280.** Section 29 of the said act, amended by section 109 of chapter 7 of the statutes of 1978, is again amended by replacing the third paragraph by the following paragraph:

“In the case of an appeal contemplated in paragraphs *g*, *l* or *aa* of section 21 and of an application contemplated in paragraph *z*, three members, including one assessor who is a physician, constitute a quorum.”

**281.** The said act is amended by inserting, after section 32, the following section:

**“32.1** The applications contemplated in paragraph *z* of section 21 are made by means of a declaration in writing filed with the Commission or mailed to its address and may be presented at any time.

Appeals contemplated in paragraph *aa* of section 21 are made by means of a declaration in writing filed with the Commission or mailed to its address within ninety days following the date of the decision, or within one hundred and eighty days of the appeal if no decision has been transmitted.

The third paragraph of section 32 applies to this section.”

**282.** Section 33 of the said act, replaced by section 111 of chapter 7 of the statutes of 1978, is replaced by the following section:

**“33.** Where the Commission is seized of a request, application or appeal contemplated in paragraphs *e*, *f*, *h*, *i* and *j* of section 21, the secretary or the assistant-secretary shall issue forthwith a copy of the declaration to the Ministre des affaires sociales; where the Commission is seized of an appeal contemplated in paragraph *k* of the said section 21, a copy must be issued forthwith to the Ministre du revenu; where the Commission is seized of an appeal contemplated in paragraphs *m*, *n* and *o* of the said section 21, a copy must be issued forthwith to the Commission de la santé et de la sécurité du travail; where the Commission is seized of an appeal contemplated in paragraph *p* of the said section 21, a copy must be issued forthwith to the Commission administrative du régime de retraite; where the Commission is seized of an appeal contemplated in paragraph *q* of the said section 21, a copy must be issued forthwith to the Régie de l'assurance automobile du Québec; where the Commission is seized of an appeal contemplated in paragraphs *r* to *v* of the said section 21, a copy must be issued forthwith to the Office des personnes handicapées du Québec; where the Commission is seized of an application contemplated in paragraph *z* of the said section 21, a copy must be issued forthwith to the interested parties contemplated in the first paragraph of section 120 of the Act respecting occupational health and safety; where the Commission is seized of an appeal contemplated in paragraph *aa* of the said section 21, a copy must be issued forthwith to the hospital centre contemplated in the second paragraph of section 120 of the Act respecting occupational health and safety.

A minister, the Commission de la santé et de la sécurité du travail, the Commission administrative du régime de retraite, the Régie de l'assurance automobile du Québec, the Office des personnes handicapées du Québec, the interested parties or the

hospital centre contemplated in section 120 of the Act respecting occupational health and safety to whom copy of a declaration was forwarded in accordance with this section may intervene at any stage of the proceedings.”

**283.** Section 38 of the said act is amended by adding, at the end, the following paragraph:

“At the proof and hearing before the workmen’s compensation division, each party is entitled to be assisted by the person of his choice.”

**284.** Section 2 of the Electricians and Electrical Installations Act (R.S.Q., c. E-4), amended by section 1 of chapter 54 of the statutes of 1978 and by section 39 of chapter (*insert here the chapter number of Bill 61*) of the statutes of 1979, is again amended by replacing paragraph 1 by the following paragraph:

“(1) The words “public buildings” have the meaning given to them in the Public Buildings Safety Act (R.S.Q., c. S-3), and include, in addition, the establishments and construction sites contemplated by the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*), garages having a floor space in excess of six thousand square feet, transformer rooms and all installations of transformers on posts or other supports set up on any private property;”.

**285.** This act replaces the Industrial and Commercial Establishments Act (R.S.Q., c. E-15).

**286.** Regulations made under the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made under this act.

The regulations are then regulations made under this act.

**287.** Section 2 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., c. I-7) is amended by replacing that part of subsection 1 that precedes paragraph *a* by the following:

“**2.** (1) A worker suffering from permanent disability resulting from silicosis or asbestosis medically established by diagnosis is entitled:”.

**288.** The said act is amended by adding at the end the following section:

**“15.** The Government shall designate a minister to be responsible for the application of this act.”

**289.** The Scaffolding Inspection Act (R.S.Q., c. I-12), is repealed.

**290.** Section 1 of the Master Pipe-Mechanics Act (R.S.Q., c. M-4) is amended:

(1) by replacing paragraph 12 by the following paragraph:

“(12) “owners of public buildings” means persons, companies and corporations who are owners, tenants or occupants, under any title, of any public building within the meaning of section 2 of the Public Buildings Safety Act (R.S.Q., c. S-3) or of any industrial establishment, and their agents;”;

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

“(13) “industrial establishment” includes manufactories, works, workshops, workyards including construction and demolition workyards and forestry worksites, mills of all kinds and dependencies of each of those establishments. A camp is deemed a dependency. No property or place is excluded from this definition for the sole reason that such property or place is outdoors.”

**291.** Section 2 of the Stationary Enginemen Act (R.S.Q., c. M-6), amended by section 2 of chapter 56 of the statutes of 1978, is again amended by replacing paragraph 1 by the following paragraph:

“(1) The words “stationary engine” include the following apparatus when used in a public building contemplated in the Public Buildings Safety Act (R.S.Q., c. S-3) or in an establishment or on a construction site contemplated in the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*):

(a) boilers or generators operated by steam, hot water or any other fluid substance;

(b) steam engines or turbines;

(c) refrigerating plants;

(d) internal combustion engines;

(e) any other apparatus determined by regulation of the Government;

(f) the piping and accessories used for operating the apparatus contemplated in subparagraphs *a* to *e*.”

**292.** Division XXIX of the Mining Act (R.S.Q., c. M-13), including sections 285 to 295, is repealed.

**293.** Section 296 of the said act is amended by striking out paragraphs *m* and *o*.

**294.** Regulations made pursuant to section 289 and paragraphs *m* and *o* of section 296 of the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

The regulations are then regulations made under this act.

**295.** Section 2 of the Act respecting the Ministère du travail et de la main d'oeuvre (R.S.Q., c. M-33) is replaced by the following section:

**"2.** The Minister shall have charge of the carrying out of the laws respecting labour relations between employers and employees, conditions of employment of employees, associations of employees, manpower, and safety in public buildings, except those laws the carrying out of which is entrusted by law to another minister and subject to the functions conferred upon other ministers."

**296.** Section 3 of the said act is amended by replacing paragraph *d* by the following paragraph:

**"(d)** to compile, analyse and publish available information respecting wages and other conditions of employment, strikes and lock-outs, collective labour agreements and decrees, employment, safety in public buildings and various other sectors of the field of labour, and the activities of the branches of his department and of the bodies under its jurisdiction."

**297.** Section 1 of the Public Health Protection Act (R.S.Q., c. P-35) is amended by replacing paragraph *b* by the following paragraph:

**"(b)** "laboratory" means a place outside an establishment equipped for manufacturing or repairing orthoses or prosthetic devices, making medical biology examinations, particularly in the fields of biochemistry, haematology, bacteriology, immunology, histopathology and virology, for making radioisotope or radiology examinations for purposes of prevention, diagnosis and treatment of disease in humans, or for making examinations in the fields of toxicology, audiology and the physiology of respiration;"

**298.** Section 66 of the said act is amended by replacing the second paragraph by the following paragraph:

**"He** may enter a filtration plant to verify the functioning and operation of the fluoration device."



**299.** Section 69 of the said act is amended by striking out subparagraphs *o*, *p*, *q* and *r* of the first paragraph.

**300.** Regulations made pursuant to subparagraphs *o*, *p*, *q* and *r* of the first paragraph of section 69 of the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

The regulations are then regulations made under this act.

**301.** Section 43 of the Act respecting building contractors vocational qualifications (R.S.Q., c. Q-1) is amended by replacing subparagraph *vi* of paragraph *b* by the following subparagraph:

“*vi.* has been convicted more than once of offences against the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*) or against the regulations adopted under the said act. Such suspension or cancellation shall be imposed only in accordance with the regulations that the board, in collaboration with the Commission de la santé et de la sécurité du travail, established by the Act respecting occupational health and safety, may make to determine the number or the seriousness of such offences justifying such suspension or cancellation.”

**302.** The said act is amended by inserting, after section 58, the following section:

“**58.1** The board shall obtain the opinion of the Commission de la santé et de la sécurité du travail in making any regulation respecting the knowledge or pertinent experience in the field of occupational health and safety that a natural person must demonstrate to obtain a licence, or to empower a partnership or a corporation for that purpose.”

**303.** Sections 72, 73, 74 and 75 of the Environment Quality Act (R.S.Q., c. Q-2) are repealed.

**304.** Section 87 of the said act, amended by section 29 of chapter 64 of the statutes of 1978, is again amended by replacing paragraph *a* by the following paragraph:

“(a) to prescribe the sanitary and hygienic standards applicable to any class of immoveables already occupied or intended to be occupied for residential, commercial, industrial, agricultural, municipal or school purposes and the use of all apparatus, equipment or vehicles intended for any of such purposes, except sanitary and hygienic standards for the protection of workers prescribed pursuant to the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*);”.

**305.** Sections 88 and 89 of the said act are repealed.

**306.** Section 91 of the said act is replaced by the following section:

**“91.** Whoever owns or uses any source of radiation or other energy vector must use it in accordance with the terms, conditions and standards determined by regulation of the Government.”

**307.** Section 92 of the said act is amended by striking out paragraph *c*.

**308.** Section 106 of the said act, replaced by section 2 of chapter 94 and section 35 of chapter 64 of the statutes of 1978, is amended by replacing that part of the first paragraph that precedes subparagraph *a* by the following:

**“106.** A natural person who contravenes one or the other of sections 20, 21, 22, 25, 26, 27, 28, 29, 31*a*, 49, 68, 91, 114*a*, 123*a*, 189 or 224 of this act is guilty of an offence and is liable, upon summary proceeding, to a fine”.

**309.** The said act is amended by inserting, after section 126, the following section:

**“126.1** Divisions IX and X of this act do not apply to an establishment contemplated in the Act respecting occupational health and safety where only the health, safety and physical well-being of the workers are concerned.”

**310.** Regulations made pursuant to sections 72, 73, 74 and 88 of the said act remain in force, to the extent that they are consistent with this act, until they are amended, replaced or repealed by a regulation made pursuant to this act.

The regulations are then regulations made under this act.

**311.** Section 2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), amended by section 105 of chapter 7, section 31 of chapter 38, section 25 of chapter 18, section 31 of chapter 24 and section 53 of chapter 64 of the statutes of 1978 and by section 34 of chapter 10 of the statutes of 1979, is again amended by adding after paragraph 29 of the first paragraph, the following paragraph:

**“(30)** the chairman and director general and the vice-chairmen of the Commission de la santé et de la sécurité du travail.”

**312.** Section 55 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., c. R-12), amended by section 28 of

chapter 38 of the statutes of 1978 and by section 13 of chapter 49 of the statutes of 1979, is again amended by striking out subparagraph *m* of paragraph 5.

**313.** Section 57 of the Act respecting labour relations in the construction industry (R.S.Q., c. R-20) is amended by adding, at the end, the following paragraph:

“The fact that an association of employees, an officer, steward, business agent or representative of such an association exercises a right or a function contemplated in the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*) does not constitute an order to, the encouragement or support of or the participation in a strike or slowdown of work contemplated in the first paragraph.”

**314.** Section 79 of the said act is repealed.

**315.** Section 80 of the said act is amended by replacing subsection 2 by the following subsection:

“(2) Any regulation made by the board under section 78 or 80 shall be submitted to government approval.”

**316.** Section 87 of the said act is amended by replacing the first paragraph by the following paragraph:

“**87.** Any clause relating to the functions of job-site steward in a collective agreement or in a decree is deemed not written, except a clause concerning the function of job-site delegate in matters of occupational health and safety.”

**317.** Section 88 of the said act is amended by replacing the first paragraph by the following paragraph:

“**88.** Subject to the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*) and to the application of a clause of a collective agreement or of a decree relating to work under hazardous conditions.”

**318.** Section 89 of the said act is replaced by the following section:

“**89.** Every clause of a collective agreement or of a decree relating to the matters contemplated in paragraphs *a* and *b* of section 88 is deemed not written, except a clause concerning occupational health and safety.”

**319.** Section 7 of the Public Buildings Safety Act (R.S.Q., c. S-3) is replaced by the following section:

**“7.** Inspectors shall be appointed and remunerated in accordance with the Civil Service Act (1978, c. 15) to ensure the application of this act and the regulations.”

**320.** Section 8 of the said act is repealed.

**321.** Section 10 of the said act is amended by adding, at the end, the following subsections:

“(6) They may take samples of material, free of charge, for analysis; they must then inform the owner of the public building and, if possible, return the samples after analysis.

“(7) They may make photographs of public buildings.

“(8) The Government may, by regulation, specify the powers granted to inspectors and provide for other powers to allow them to see to the application of this act and the regulations.”

**322.** The said act is amended by inserting, between sections 10 and 11, the following section:

**“10.1** The Minister may grant to other civil servants the powers granted to inspectors under this act and the regulations.”

**323.** Section 31 of the said act is amended by replacing the fifth paragraph by the following paragraph:

“Owners of hotels that can accommodate at least fifteen boarders shall have their houses inspected, and obtain a certificate attesting that all the precautions for the safety of the boarders have been taken, as required by law and the regulations. Such certificate shall be given by the inspector free of charge. The owner shall post it in a conspicuous place in the house.”

**324.** Section 39 of the said act is amended:

- (1) by striking out paragraph c of subsection 1;
- (2) by adding, at the end, the following subsection:

“(4) Any regulation made under this section applies to an establishment contemplated in the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*) but which is not contemplated in section 2, to the extent that the safety of the public must be ensured.”

**325.** Section 70 of the Act respecting health services and (R.S.Q., c. S-5), replaced by section 12 of chapter 72 of the statutes of 1978, is amended by adding, at the end, the following paragraph:

“In addition, the organization plan of a hospital centre designated by the Government must provide for the organization of a community health department.”

**326.** Section 3 of the Act respecting pressure vessels, and other legislation (1979, c. *insert here the chapter number of Bill 61*) is amended by replacing the second paragraph by the following paragraph:

“It also applies to the installation and use of a pressure vessel on a vehicle, in a public building within the meaning of the Public Buildings Safety Act (R.S.Q., c. S-3) and in an establishment or on a construction site contemplated in the Act respecting occupational health and safety (1979, c. *insert here the chapter number of Bill 17*).”

**327.** A joint health and safety committee, or the equivalent, formed pursuant to the Industrial and Commercial Establishments Act or to a collective agreement becomes, from (*insert here the date of the coming into force of section 327 of Bill 17*), a health and safety committee established pursuant to this act where

(1) the establishment in which it was formed employs more than twenty workers;

(2) the establishment belongs to a category of establishments identified by regulation pursuant to paragraph 22 of section 223 as establishments where a health and safety committee may be formed; and

(3) application is made in accordance with section 69.

Such a committee from that date enjoys the same rights and is subject to the same obligations as a health and safety committee established pursuant to this act, in addition to any right, power or obligation, provided for in the collective agreement, that is more advantageous to the health, safety and physical well-being of the workers.

**328.** The Commission is substituted for the Commission des accidents du travail du Québec and, in that capacity, it assumes all the powers and obligations and acquires all the rights thereof.

The Commission becomes, without continuance of suit, a party to any suit brought by or against the Commission des accidents du travail du Québec.

Matters pending before a review board established pursuant to subsection 5 of section 63 of the Workmen's Compensation Act are continued and decided by a review board established pursuant to section 171.

**329.** In any act, regulation, proclamation, order in council, contract or document, the words “La Commission des accidents du travail du Québec” are replaced by the words “La Commission de la santé et de la sécurité du travail”.

**330.** Officers of the Commission des accidents du travail du Québec in office on *(insert here the date of the coming into force of section 330 of Bill 17)* become officers of the Commission de la santé et de la sécurité du travail.

**331.** The Government may appoint any commissioner of the Commission des accidents du travail du Québec in office on *(insert here the date of the coming into force of section 137 of Bill 17)* to a position on the Commission and give him an appropriate classification.

On the date the commissioner is appointed, the Civil Service Act becomes applicable to him without further formality. His rights and privileges under the Act respecting the Civil Service Superannuation Plan are maintained.

**332.** The files and records of the Commission des accidents du travail du Québec become the files and records of the Commission de la santé et de la sécurité du travail.

**333.** In any act, regulation, proclamation, order in council, contract or document, a reference to the Industrial and Commercial Establishments Act is a reference to the corresponding provisions of this act.

**334.** The body that may be designated by the Government pursuant to section 193 is deemed a department for purposes of the application of section 9 of the Executive Power Act (R.S.Q., c. E-18).

[[**335.** The sums required for the application of this act are taken, until 31 December 1980, out of the consolidated revenue fund.]]

## CHAPTER XVII

### FINAL PROVISIONS

**336.** The Government shall designate a minister to be responsible for the application of this act.

**337.** This act will come into force on the date to be fixed by proclamation of the Government, except the sections excluded

by such proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.

