



CHAPTER 39

Minimum Wage Act

[Assented to, the 22nd of June, 1940]

WHEREAS social justice requires the regulating of labour whenever the economic situation involves unjust conditions for the employee;

Whereas the tolerating of the forced acceptance of insufficient remuneration is to fail to take into account the dignity of work and the necessities of an employee and his family;

Whereas if it is preferable that the necessary regulating be effected by means of collective agreements rendered obligatory, it is however necessary, when this method is not applicable, to provide for the fixing, by a public corporation, of minimum wages required to prevent abuses;

Therefore, His Majesty, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

INTERPRETATION

1. In this act and in its application, unless the context requires otherwise, the following words and expressions have the meaning hereinafter given to them:

- a.* "Agricultural exploitation" means a farm developed by the farmer himself or through employees;
- b.* "Association" includes: a professional syndicate, a union or federation of syndicates, a group of employees or employers, *bona fide*, having as object the study,

defence and development of the economic, social and moral interests of its members, with respect for law and authority;

- “Com-
mission”;
“Employer”;
“Professional
employer”;
“Minister”;
“Ordi-
nance”;
“Wage”;
“Employee”;
“Construc-
tion”;
- c.* “Commission” means: the Minimum Wage Commission hereinafter created;
- d.* “Employer” includes: any individual, partnership, firm or corporation who or which has work done by an employee;
- e.* “Professional employer” means: an employer who habitually has one or more employees in his employ for any kind of work which is the object of an ordinance;
- f.* “Minister” means: the Minister of Labour of the Province of Quebec;
- g.* “Ordinance” means an ordinance of the Commission;
- h.* “Wage” means the remuneration in currency and the compensation or benefit of a pecuniary value due for the labour or services of an employee;
- i.* “Employee” means any person, workman, functionary, clerk or employee whatever, entitled to a wage for work done for an employer;
- j.* “Construction” includes demolition.

APPLICATION

- Application. **2.** This act shall apply to every employee working in the Province whether at his employer’s, at home, or elsewhere, except:
- Exceptions:
Agriculture;
Servants;
Decrees;
Collective agreements.
- a.* employees working at an agricultural exploitation;
- b.* household servants;
- c.* employees governed by a decree rendered under the Collective Agreement Act or any other similar act;
- d.* employees governed by a collective labour agreement made under the Professional Syndicates’ Act, unless the Commission, by a resolution approved by the Minister, declares the said agreement to be less advantageous than the ordinances; in every respect, the Commission may supervise the carrying out of any such agreement, as if it were one of its own ordinances.

CONSTITUTION OF COMMISSION

- Minimum
Wage Com-
mission. **3.** A corporation, of at least five members, with the powers, rights and privileges of an ordinary civil

corporation, is created under the name of: "Minimum Wage Commission". It shall be both a body collaborating with employers and employees in the establishing of minimum wages, and an arbitration council as to disputes between employers and employees, as well as a supervising and controlling body as to working conditions generally.

4. The Lieutenant-Governor shall appoint the president, the vice-president and the other members of the corporation, as well as its functionaries and employees and shall fix each one's remuneration. Appointment of president, etc.

The Commission shall retain its corporate existence notwithstanding any vacancy or deficiency as to its members. Vacancies.

5. The Commission shall have its corporate seat in the city of Quebec, but may, with the Minister's authorization, establish offices in other cities or towns. It shall hold its sittings at the place chosen by it. The president shall preside over its sittings. The majority of the members shall constitute the quorum. Corporate seat. Offices. Sittings. Quorum.

6. The decisions of the Commission shall be taken by the majority of votes cast. In the event of a tie the president shall have a casting vote. The vice-president shall exercise the powers of the president, in the absence or inability to act of the latter. A decision in writing, signed by all the members of the Commission, shall have the same value as a resolution adopted at a regular sitting. Decisions.

7. The minutes of the sittings, approved by the Commission, shall be authentic; copies or extracts therefrom, certified by a member of the Commission, by the secretary or by an assistant-secretary, shall likewise be authentic. Minutes shall be authentic.

8. The Commission may make regulations:

- a. to regulate the exercise of its powers, its internal management and the duties of its staff; Regulations: Internal management;
- b. to define the mode of convening and the conduct of its sittings, committees and conferences, the procedure at its investigations and the form of reports which must be made to it; Procedure, etc.;

Registration
system;

c. to render it compulsory for any professional employer to have a registration system of all labour governed by it or to keep a register in which are stated the name in full and residence of each employee in his employ, his competency, the precise hour at which the work was begun, interrupted, resumed and finished each day, the nature of and the wage paid for such work, mentioning the mode and time of payment and any other information deemed useful in the application of an ordinance;

Monthly
report;

d. to compel any category of professional employers to transmit a monthly report in writing giving the full name and address of each employee in his employ, his competency, the duration and nature of the regular and overtime work done each week and the wage paid;

Levy;

e. to levy upon the professional employers contemplated by an ordinance a sum not exceeding one per cent of the wages paid to their employees;

Posting up;

f. to compel every professional employer to post up and keep posted up in a conspicuous place of the establishment accessible to employees, all ordinances, regulations or documents which the Commission may transmit for such purpose;

Pay.

g. to compel every employer, unless expressly exempted therefrom by the Commission, to deliver to the employee his wage in a sealed envelope on which shall be written: his surname and Christian names, the date of the week and working period, the number of hours paid for, the wage rate per hour, the category or class to which the employee belongs, and the amount contained in the envelope; this envelope shall be initialed by the person who made up the pay.

Approval
and publica-
tion of
regulations.

The regulations contemplated in paragraphs *a* and *b* shall come into force upon the approval of the Lieutenant-Governor in Council, and those contemplated in paragraphs *c*, *d*, *e*, *f* and *g*, upon their publication in the *Quebec Official Gazette* after such approval.

Commission
may make
any inves-
tigation, etc.

9. The Commission may make any investigation deemed useful by it for the preparing or observance of its ordinances and its other decisions and may summon to appear before it or before one of its functionaries, any person whom it believes to be in a position to furnish it with information, orally or by the production of books or documents.

Any of the Commission's inspectors may, as of right and at any time, examine the registration system, the compulsory register and the pay-list of any employer contemplated by an ordinance, verify as regards any employer and any employee the rate of wage, duration of work and observance of the other provisions of any ordinance applicable, require, even at the place of work, under oath and privately, from any employer or any employee, subject to an ordinance, all information deemed necessary, and, such information having been put into writing, exact the signature of the person concerned.

Com-
mission's
inspectors
may examine
registration
systems, etc.

10. The Lieutenant-Governor in Council may authorize the Provincial Treasurer to pay or advance to the Commission the sums needed for the payment of the remuneration of its members and functionaries, of the wages of its employees and of the other expenses necessary for the carrying out of this act. The Commission must, in order to reimburse such sums, remit to the Provincial Treasurer the sums levied by it from the professional employers.

Payment of
expenses, etc.

Reimburse-
ment to
Provincial
Treasurer.

11. Every three months and, in addition, whenever thereunto required by the Minister, the Commission must transmit to him a detailed report, certified by an accountant of the Provincial Treasurer's Department, of its operations, of its expenses and of all sums received or collected from any source whatsoever and of the employment thereof.

Quarterly
report,
to Minister.

FUNCTIONS OF THE COMMISSION

12. The Commission may lend its services as conciliator to any association which applies for same in the negotiating of a collective labour agreement.

Conciliator.

13. The Commission may, by ordinance, determine, for stated periods of time and for designated territories, the rate of minimum wage payable to any category of employees indicated by it, the terms of payment, working hours, conditions of apprenticeship, the proportion between the number of skilled workmen and that of apprentices in any stated undertaking, the classification of the operations and the other working conditions deemed in conformity with the spirit of the act.

Ordinances.

Rate of
minimum
wage.

14. The rate of minimum wage may be established on a basis of remuneration by the hour, day, week, month or year, or by the job or for piece work.

Varying of
wages.

Such minimum rate may vary, according to the region and the kind of work, and the Commission must, in determining same, take into consideration competition from outside countries or from the other provinces and the economic conditions peculiar to the various regions of the Province.

Certificate
of limited
fitness.

15. The Commission may, by resolution, grant, upon proof deemed sufficient, to any employee of limited physical or mental fitness, a certificate authorizing him to work upon conditions differing from those contemplated in any ordinance applicable.

ORDINANCES

Joint
conference.

16. Unless, in the Commission's opinion, special circumstances justify a more expeditious procedure, the Commission may, for the establishing of a minimum wage ordinance, convene a joint conference consisting of a member of the Commission chosen by the latter, who shall be chairman *ex officio*, and of representatives of the employers, of the employees and of the public, selected in equal number for each group by the employers, the employees and the Commission.

Conciliation
board.

17. If the establishing of any particular ordinance be concerned, the Commission may convene a conciliation board presided over by a delegate of the Commission and consisting of representatives of the employers and of the employees concerned, selected in equal number for each group.

Conclusions,
submitted to
Commission.

18. Such conference or board, as the case may be, after hearing the interested parties, shall formulate its conclusions as to wages and the other working conditions to be determined; such decisions shall be submitted to the Commission which may approve, amend or reject them.

Naming by
Commission.

If the employers or the employees fail to name their representatives, the Commission shall name them of its own accord.

19. The ordinances shall be submitted for the approval of the Lieutenant-Governor in Council, who may amend or cancel same. Approval of ordinances.

20. The Commission may, whenever it deems it expedient, before submitting an ordinance for the approval of the Lieutenant-Governor in Council, cause it to be published in the *Quebec Official Gazette*, with a notice that it will receive objections within the delay fixed by it. Prior publication of ordinances. Notice.

21. No ordinance may be amended save by another ordinance submitted for the same approval. The Commission may, however, by resolution, order the suspension of same for a period not exceeding two months. How ordinance amended. Suspension of ordinance.

22. The ordinances, and the resolutions entailing suspension, shall come into force on the twenty-eighth day after the publication thereof in the *Quebec Official Gazette*, or at the date fixed in the publication but not prior to such publication. Coming into force of ordinances and resolutions.

EFFECT OF ORDINANCES

23. The provisions of an ordinance entail a matter of public order and shall govern and rule any work of the same nature or kind as that contemplated by the ordinance, in the jurisdiction determined by it. Obligatory effect of ordinance.

24. Whatever be the employer's occupation, he is forbidden to conclude with the employee an agreement the object of which is to stipulate a wage different from that fixed by the ordinance. Notwithstanding any such stipulation and without it being necessary to demand the nullity thereof, the employee is entitled to recover the wage fixed by the ordinance. Forbidding of different wage. Employee entitled to wage fixed by ordinance.

25. Unless expressly forbidden by the ordinance, the clauses of a lease and hire of work shall be valid and lawful, notwithstanding the provisions of the above sections 23 and 24, in so far as they provide, in favour of the employee, a higher monetary remuneration in currency or more extended compensation or benefits than those fixed by the ordinance. Certain clauses to prevail.

Joint liability
of pro-
fessional
employers
and sub-con-
tractors, etc.

26. Every professional employer contracting with a sub-entrepreneur or a sub-contractor, directly or through an intermediary, shall be jointly and severally responsible with such sub-entrepreneur or sub-contractor and any intermediary, for the payment of the wage fixed by the ordinance.

Powers of
Commission:
To exercise
recourses of
employees;

27. The Commission may, in its corporate name:

To continue
suit;

To effect
settlement,
etc.

Nullity of
wage re-
duction.

Sales, etc.,
prohibited.

Prescription.

Id., in case of
fraud.

a. Exercise all recourses arising out of the ordinance in favour of employees who have not caused a suit to be served within a period of fifteen days from the due date, and may do so, notwithstanding any law to the contrary, any opposition, or any express or implied renunciation by the employee, and without being obliged to establish an assignment of claim by the interested party, to put him in default, to inform him of the suit, or to allege and prove the absence of suit within such delay of fifteen days;

b. On the same conditions, continue suit in the place and stead of any employee who, having caused such a suit to be served, has neglected to proceed for fifteen days;

c. Effect any settlement, compromise or transaction deemed expedient in the cases contemplated in the two foregoing paragraphs.

28. Every settlement of account between employer and employee entailing a wage reduction shall be null unless it be approved by the Commission.

29. Any sale or cession of any interest, share or bond to an employee in an industry or a business carried on by his employer is prohibited unless it be authorized by the Commission upon such conditions as the latter may determine.

30. Any civil action arising out of an ordinance or out of this act is prescribed by six months, from the due date in each case. In the case of a false entry in the compulsory register, the system of registration or the pay-list, or of secret rebate, or of any other fraud, prescription shall run as against the Commission's recourse, only from the date when the Commission was aware of the fraud.

SUPERVISION

31. The Commission shall be charged with supervising and seeing to the carrying out of its ordinances and decisions. Carrying out, etc., of ordinances.

32. Every employer who, without good and sufficient reason, proof of which shall lie upon him, dismisses an employee: (a) for giving any information to the Commission's representatives respecting an ordinance, a resolution or a violation of the provisions of this act; (b) by reason of a complaint or accusation respecting the same, or of testifying in a prosecution or investigation relating thereto; (c) with intent to re-engage him in an inferior employment and so evade the provisions of the ordinance by paying a smaller wage,—commits an unlawful act and shall be liable to a fine not exceeding fifty dollars and costs for the first offence, and to a fine of not less than twenty-five dollars but not exceeding one hundred dollars and costs, for any subsequent offence. Unlawful dismissal. Penalties.

33. Every professional employer who does not keep the compulsory registration system, register or pay-list, every employer or employee who refuses or neglects to furnish the Commission's representatives with the information contemplated in section 9, in the manner therein prescribed, or does not grant them on request, or delays to grant them, access to the place where the work is being done, to the register, to the system of registration or to the pay-list or other documents, as provided in said section, or molests or hinders or insults the said representatives in the performance of their duties, or otherwise obstructs such performance,—commits an unlawful act and shall be liable to a fine of twenty-five dollars and costs for the first offence, and to a fine of not less than twenty-five dollars but not exceeding one hundred dollars and costs, for the second offence, and, for any subsequent offence, to the penalties provided in the following section for a first offence. Obstruction to inspection, etc. Penalties.

34. Whosoever, knowingly, destroys, alters or falsifies any register, pay-list, registration system or any document dealing with the carrying out of an ordinance, or knowingly forwards any false or inexact information or report to the Commission, or gives a false Fraud.

Penalties. designation to the attribution of any wage in order to pay a lower wage, commits an unlawful act and shall be liable to a fine of not less than two hundred dollars but not exceeding five hundred dollars and costs for the first offence, and to a fine of not less than five hundred dollars but not exceeding one thousand dollars and costs, for any subsequent offence.

Imprisonment. In default of immediate payment of the above-mentioned fine and costs, such person shall be sentenced to imprisonment for a term of not less than one month but not exceeding three months for the first offence, and for a term of three months for any subsequent offence.

Unlawful rebate. **35.** Whosoever, by means of benefits having a pecuniary value, grants or accepts any rebate reducing the minimum wage or participates in such a rebate, commits an unlawful act and shall be liable to a fine of not less than ten dollars but not exceeding one hundred dollars and costs for the first offence, and to a fine of not less than fifty dollars but not exceeding two hundred dollars and costs, for any subsequent offence.

Penalties.

Other offences. **36.** Whosoever infringes an ordinance, a regulation rendered obligatory or a provision of this act, in cases not provided for in the preceding sections, commits an unlawful act and shall be liable to a fine not exceeding ten dollars and costs.

Penalties.

Attempts and accomplices. **37.** Whosoever attempts to commit any of the illegal acts above provided, or aids or incites any person to commit or attempt to commit such an act, shall be liable to the penalty provided for such act.

Damages for unlawful dismissal. **38.** Every employee dismissed in violation of section 32, or with the object of obliging him to accept a classification calling for a wage less than that which he is receiving, has the right to claim, from the person who employed him, as damages, the equivalent of one month's wages. Proof that the employee does not come within the requisite conditions to claim such right shall devolve upon the person who employed him.

Onus of proof.

PROOF

Authenticity of ordinances, etc. **39.** In any civil or penal action brought in virtue of this act, all ordinances and all regulations and notices are authentic and shall be proof of their contents if they

have been published in the *Quebec Official Gazette* to which it shall be sufficient to refer, and whereof the court, of its own accord, shall be obliged to take cognizance.

40. No evidence shall be permitted with a view to Informer. establish that any action or suit contemplated by this act was brought following upon the complaint of an informer or to discover the identity of the latter.

PROCEDURE

41. Every suit taken in virtue of this act before the Summary civil courts shall be summary and be brought as such. matter.

42. The recourses of several employees against the Cumulation same employer may be cumulated in a single demand of claims. whether emanating from the employees or from the Commission, and the total claimed shall determine the competency of the court of original jurisdiction as well as of appeal.

43. After receiving a claim from the Commission, Payment to the employer cannot validly pay the sums which are Commission. the object of such claim save by handing them over to the Commission.

44. The Commission shall remit to the employees Amount the net amount realized in exercising their recourses. remitted to employees by Commission.

45. The Commission may, if need be, join to its Joining of suit a demand for the cancellation of any contract or demand for arrangement, intended to infringe or evade the provi- cancellation sions of this act or of an ordinance, effected between the of fraudulent employees whose recourses it is exercising and the contract. employer or third persons, and this, before the court having jurisdiction by reason of the amount claimed by the Commission and without being obliged to bring the employees into the suit.

46. The provisions of the second paragraph of Leading article 339 of the Code of Civil Procedure shall not questions. apply to the examination of an employee produced as a witness by the Commission if such employee is in the employ of the opposite party.

Penal action brought by Commission. How penalties imposed.

47. Every penal action must be brought by the Commission. The penalties provided may, at its option, be imposed on summary proceeding, or by a penal action before a civil court of competent jurisdiction according to the amount of the condemnation sought.

Prescription of penal action.

48. Every penal action must, under pain of forfeiture, be brought within six months from the date of the offence.

REPEAL

1 Geo. VI, cc. 30 and 50, repealed.

49. The act 1 George VI, chapter 50, as amended by the acts 2 George VI, chapter 53, and 3 George VI, chapter 62, is repealed, as well as the act 1 George VI, chapter 30.

Repeal not to affect ordinances, etc.

This repeal shall not affect the ordinances, regulations and proceedings adopted under the authority of the acts repealed by this section, which, until the expiration of the period for which they were adopted, shall have the effect of ordinances, regulations and proceedings adopted under the present act.

Id., rights acquired and offences.

Furthermore, this repeal shall not affect the rights acquired and penalties incurred or offences committed under the authority of the said acts, all of which may be exercised, executed and prosecuted in the manner provided in the present act.

Succession to Fair Wage Board.

50. The Commission shall succeed to and be vested with all the rights of the Fair Wage Board, subject to all its obligations, saving the restrictions which this act may effect therein. The members, functionaries and employees of the Board shall become the Commission's members, officers and employees on the same conditions.

Members, etc., of Board.

Carrying out of act.

51. The Minister of Labour shall have charge of the carrying out of this act.

Coming into force.

52. This act shall come into force, as to the provision of section 49 entailing the repeal of the act 1 George VI, chapter 30, on the day fixed for such purpose by proclamation of the Lieutenant-Governor in Council, and, as to all the other provisions of the said act, on the day of its sanction.