



CHAPTER 49

An Act respecting workmen's wages

[Assented to, the 27th of May, 1937]

HIS MAJESTY, with the advice and consent of the
Legislative Council and of the Legislative Assembly
of Quebec, enacts as follows :

1. In this act, unless the context requires other-Interpreta-
wise, the following words have the meaning herein-tion:
after given to them;

a. "agriculturist" means: any owner or occupant of "Agricul-
a farm or of an undertaking pertaining to or connected turist";
with agriculture which he develops himself or by means
of servants, and wherefrom he derives at least fifty
per cent of his income;

b. "association" includes: a professional syndicate, "Associa-
a union or federation of syndicates, a group of employees tion";
or employers, *bona fide* or possessing the status of a
civil person, having as object the study, defence and
development of the economic, social and moral interests
of its members with respect for law and constituted
authority;

c. "committee" means: the parity committee com-"Commit-
monly called joint-committee, constituted as a result tee";
of a decree;

d. "collective agreement" or "agreement" means: "Collective
any contract respecting working conditions entered agreement";
into between, on the one hand, the representatives of
an association of employees, and, on the other hand,
the representatives of an association of employers, of
several employers contracting personally or even of a
single employer;

- "Decree"; e. "decree" means: an order-in-council;
- "Employer"; f. "employer" includes: any individual, partnership, firm or corporation who or which contracts for the hire of labour;
- "Professional employer"; g. "professional employer" designates: an employer who habitually has employees in his employ for any kind of work which is the object of an agreement;
- "Minister"; h. "Minister" means: the Minister of Labour in the Government of the Province of Quebec;
- "Wage"; i. "wage" includes: every remuneration, compensation or benefit of a pecuniary value agreed to for labour and as determined in the decree;
- "Employee"; j. "employee" includes: every apprentice, unskilled labourer or workman, skilled workman, journeyman, artisan, clerk and employee working individually, as a crew or in partnership;
- "Permanent employee"; k. "permanent employee" means: the employee entrusted solely with the maintenance of a church, chapel, cemetery, seminary, college, convent, monastery, hospital, orphanage, asylum, foundling hospital, hotel, lodging-house, office building, immoveables or collection of buildings used as a manufacturing or industrial establishment, if the hiring of the work of such employee for such particular immovable is made for a period of at least twelve months.
- "Construction". l. "construction" includes demolition.
- Lt.-Gov. in C. and extension of collective labour agreement. **2.** The Lieutenant-Governor in Council may order that a collective labour agreement respecting any trade, industry, commerce or occupation shall also bind all the employees and employers in a stated region of the Province.

PROCEDURE

- Who may apply for passing of decree. **3.** Any party to an agreement may apply to the Lieutenant-Governor in Council for the passing of the decree contemplated in the preceding section.
- How application made. **4.** A petition to that effect shall be addressed to the Minister. The petition must be accompanied by a true copy of the agreement.
- Petition. The Minister may accept a petition accompanied by several agreements and a single decree may be made upon such petition.

5. The Minister shall give notice of the receipt of Notice of the petition in the *Quebec Official Gazette* and in a news- receipt of paper published in the French language and in a news- petition. paper published in the English language.

The notice shall require that any objection to the Objections. petition must be made within thirty days.

The Minister may, if he deem fit, order the holding Holding of of an inquiry as to whether or not the petition or any inquiry. objection made thereto is well-founded.

6. At the expiration of the delay, or after the hold- Approval of ing of the inquiry contemplated in section 5, the Minis- petition. ter, if he deems that the provisions of the agreement have acquired a preponderant significance and importance for the establishing of conditions of labour, without serious inconvenience resulting from the competition of outside countries or the other provinces, may recommend the approval of the petition by the Lieutenant-Governor in Council with such changes as are deemed expedient and the passing of a decree for such purpose.

The economic conditions peculiar to the various Considera- regions of the Province must be considered. tions.

The decree may authorize and provide for a lower Lower re- remuneration for permanent employees than that fixed muneration. by the agreement.

7. The decree establishing the approval of the peti- Coming into tion shall come into and remain in force from the force, etc., of date of its publication in the *Quebec Official Gazette*. decree.

8. The Lieutenant-Governor in Council may repeal Repealing, the decree or, subject to the formalities and restrictions etc., of de- mentioned in sections 3, 4, 5 and 6, amend it at the cree. request of the parties to the agreement.

The decree containing such repeal or amendment Coming into shall come into force on the day of its publication in force thereof. the *Quebec Official Gazette*.

EFFECTS OF THE DECREE

9. Whenever a decree is made under section 2, the Effect of provisions of the agreement, whether amended or not, decree. which become obligatory are those respecting wages, hours of labour, apprenticeship and the proportion

between the number of skilled workmen and that of apprentices in a given undertaking.

Other provisions which may be rendered obligatory.

10. The decree may also render obligatory, with or without amendment, the provisions of the agreement respecting the classification of operations and the determining of the various classes of employees and employers, and also such provisions as the Lieutenant-Governor in Council may deem in conformity with the spirit of this act.

Matter of public order.

11. The provisions of the decree entail a matter of public order and shall govern and rule any hire of work of the same nature or kind as that contemplated by the agreement, in the region of the Province determined by the decree.

Forbidding of certain stipulation.

12. Whatever method of remuneration be agreed to between the parties, whether the latter be natural or ideal persons, and whatever be the employer's occupation, it is forbidden to stipulate a remuneration equivalent to a wage below that fixed by the decree.

Certain clauses to prevail.

13. Notwithstanding the provisions of sections 9, 10, 11 and 12 of this act, the clauses of an individual hire of work contract, when they are to the advantage of the employee shall be effective, unless expressly forbidden by the provisions of the decree.

Responsibility of professional employer.

14. Every professional employer contracting with a sub-entrepreneur or a sub-contractor, directly or through an intermediary, shall be subject to the decree and, particularly, 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 decree.

Effect of publication of decree.

15. The publication of the decree in the *Quebec Official Gazette* shall bar any contestation alleging the incapacity of the parties to the agreement, the invalidity thereof, the insufficiency of notices and in all other respects; generally, it shall create a presumption, *juris et de jure*, establishing the legality of all proceedings relating to its adoption.

THE JOINT-COMMITTEE

Its rights, privileges and obligations

16. The parties to a collective agreement rendered obligatory must form a joint-committee to supervise and ensure the carrying out of the decree, its amendments and renewals. Forming of joint-committee.

Notwithstanding the provisions of the previous paragraph, an already-existing committee may consent to supervise and ensure the carrying out of a distinct collective agreement, if the parties to the latter apply therefor and the decree enjoins same. Already-existing committee.

17. The Minister may, at any time, add to the committee such members, not exceeding four, as are submitted to him in equal number by the employers and employees who are not parties to the agreement. Adding to committee.

18. The committee shall make by-laws for its formation, the number of its members, their admission, their replacing and the administration of funds; fix its corporate seat; determine the name under which it shall be designated and, generally, draw up by-laws for its internal management and the exercise of the rights conferred upon it by law. Making of by-laws.

19. The by-laws contemplated in the previous section shall be transmitted to the Minister and are approved, with or without amendment, by the Lieutenant-Governor in Council; and notice of such approval shall be published in the *Quebec Official Gazette*. Approval, etc., of such by-laws.

Such notice shall state the name under which the committee is to be designated and the place where its corporate seat is situated. Contents of notice.

Such publication shall be sufficient evidence of the formation and existence of the committee and of the name under which it is to be designated. Publication deemed evidence.

20. From and after the publication, the committee shall constitute a corporation and shall have the powers, rights and privileges appertaining to ordinary civil corporations. Constitution of committee as corporation.

It may, moreover:

a. Compel any professional employer to keep a register indicating the surname, Christian names and re-

Powers, etc., of committee.

sidence of each employee in his employ, his competency, the regular and extra hours of daily labour and its nature, as well as the wage paid for such labour, with mention of the method and time of payment;

b. Examine the aforesaid register and the pay-list;

c. Verify, as with any employer and any employee, the rates of wages, the hours of labour, the system of apprenticeship and any other provisions of the decree;

d. Require under oath from any employer or from any employee, and even at the place where the latter does his work, such information as it deems necessary;

e. Require the professional employer to have a copy of the scale of wages which has been made obligatory, or of any decision or by-law, posted up in a suitable place;

f. Levy upon the professional employer alone or upon both the professional employer and the employee, the sums required for the carrying out of the decree; such levying to be made subject to the following conditions:

1. The mode and rate of the levy and the estimate of the receipts and expenses must be approved by the Lieutenant-Governor in Council;

The latter may, at any time, repeal such approval and stop the levy;

2. Such levy shall not exceed one-half of one per cent of the employee's remuneration, and one-half of one per cent of the professional employer's pay-list;

3. In the case of an artisan, the levy shall be based upon the wage established for the least remunerated employee;

g. Require the collection by the professional employer of the levy upon the employee out of the wages which he has to pay to the latter;

h. Create a board of examiners charged with determining the competency of employees;

i. Grant, on proof deemed sufficient, to any employee of limited physical or mental fitness, a certificate authorizing him to work upon conditions other than those contemplated in the decree;

The refusal of such certificate by the committee shall be subject to appeal to the Minister, whose decision shall be final;

j. Demand from any employer and any employee violating the provisions of a decree respecting wages

an amount equal to twenty per cent of the difference between the wage made obligatory and that actually paid.

Such amount shall be accorded as liquidated damages;

k. Notwithstanding any law to the contrary, institute, for the benefit of the employee who has not taken action and caused same to be served within one month from the due date of his salary or wages or who having taken action does not proceed with all possible diligence, any action in his favour arising out of the decree, without having to establish an assignment of claim from the person concerned and in spite of any express or implied renunciation by the latter.

The claims of several employees against the same employer may be joined in the same suit. Joining of claims.

No employer sued by the committee may set up any grounds by way of cross demand. No cross demand.

The amount claimed as liquidated damages may be added to the amount of the claim. Liquidated damages.

The claim shall be deemed a summary matter and be prosecuted as such. Summary matter.

21. The committee shall transmit a quarterly report to the Minister, certified by a public accountant resident in the Province of Quebec, of all sums collected and of the employment thereof. Transmitting of quarterly report.

22. The committee shall hear and consider any written complaint from an employer or from an employee respecting the carrying out of the decree. Complaints to be heard.

23. After a decree has ceased to be in force and has not been replaced, the committee shall continue to exist and shall retain its powers for the accomplishing of the objects for which it was formed. Continued existence of committee.

24. When the committee becomes extinct, its property shall be delivered to the Minister who may devote it to a similar work designated by the Lieutenant-Governor in Council. Disposal of property upon extinction.

COMPETENCY AND CLAIMS OF EMPLOYEES

25. The committee may decide, by by-law, that in every municipality having over five thousand souls, Obligatory certificates of competen-

cy by by-law.

according to the last census of Canada, a certificate of competency shall be obligatory for the employees of the trade, industry, commerce or occupation contemplated by the decree.

Coming into force of by-law.

26. Such by-law shall be subject to the provisions of section 19 and come into force from and after its publication in the *Quebec Official Gazette*.

Issuing of certificate.

27. The certificate of competency shall be issued by the board of examiners.

Fee therefor.

28. The board of examiners may charge, as a fee, not more than two dollars for the examination of a skilled workman, nor more than one dollar for the examination of an apprentice. Such fees shall be payable to the committee.

Apprentice's certificate.
Skilled workman's certificate.

29. The certificate issued to an apprentice shall be valid for the period of his apprenticeship, and that issued to a skilled workman shall be permanent and shall not require to be renewed.

What it establishes.

It shall establish competency, except in the case contemplated in sub-paragraph *i* of section 20 of this act.

Issuing of certificate by certain associations.

30. Notwithstanding the provisions of section 27, the committee may, with the approval of the Lieutenant-Governor in Council, allow an association of employees to issue certificates of competency to its members, if such association requires them to undergo an examination.

Appeal if permission to issue certificates refused.

31. If the committee refuses to grant an association the privilege sought by the latter in virtue of the provisions of the preceding section, an appeal shall lie to the Lieutenant-Governor in Council whose decision shall be final.

Sending of monthly report.

32. The association so authorized shall send a monthly report to the committee mentioning the surnames, Christian names and residence of the members to whom it has granted a certificate of competency.

Appeal re examination.

33. In the case of a dispute between an employer and an employee respecting the examination, an appeal

shall lie to the committee and thereafter to the Minister whose decision shall be final.

34. In municipalities where a certificate of competency is obligatory, no employer may utilise the services of an employee subject to the decree who has not obtained a certificate, and no such workman may, without such certificate, carry on his trade, industry, commerce or occupation, nor avail himself of any recourse provided under this act or under the decree, but every recourse at common law is open to him. Where certificate of competency obligatory.

35. In municipalities wherein the certificate of competency is not obligatory, the employee shall have the right to bring any civil action by establishing, by his sworn declaration, that he is, according to the custom of the trade, industry, business or occupation, a skilled workman or in the apprenticeship stage. Where certificate of competency not obligatory.

For the purposes of this section, the maximum duration of apprenticeship shall be four years. Apprenticeship.

The declaration shall be produced with the fiat. Declaration.

36. The provisions of sections 25 to 35 shall not apply to: Application restricted.

- a. labourers or workmen who do not specialize; nor
- b. to employees holding a license under any act of the Legislature or of the Parliament of Canada, which employees are not bound to hold a certificate of competency nor to produce a sworn declaration.

37. Any suit arising out of the decree is prescribed by six months. Prescription of suits.

GENERAL PROVISIONS AND PENALTIES

38. This act shall not apply to:

- a. Agriculturists;
- b. The blind;
- c. Any railway company in so far as the latter is subject to the jurisdiction of the Parliament of Canada.

Application restricted.

39. Whosoever, directly or indirectly, prevents an employee from becoming a member of an association, commits an unlawful act and shall be liable, on sum- Offence and penalty.

mary conviction, to a fine not exceeding twenty-five dollars and costs for the first offence, and to a fine of not less than twenty-five dollars but not exceeding fifty dollars and costs, for the second offence or for any subsequent offence.

Bringing of
suit.

The suit may be brought by the Minister, by the committee or by any person having a written authorization from the Attorney-General.

Offence and
penalty.

40. Every employer who, without good and sufficient reason, proof of which shall lie upon him, dismisses an employee in the event of a complaint respecting an agreement, a decree, a by-law or a violation of the provisions of this act, or due to testifying in a prosecution or investigation contemplated thereunder, commits an unlawful act and shall be liable to a fine not exceeding twenty-five dollars and costs for the first offence, and to a fine of not less than twenty-five dollars but not exceeding fifty dollars and costs, for the second offence or for any subsequent offence.

Idem.

41. Any member of the committee who refuses or neglects to fulfil the duties of his office commits an unlawful act and shall be liable, on summary conviction, to a fine not exceeding twenty-five dollars and costs.

Idem.

42. Every professional employer who does not keep the register made compulsory under the provisions of sub-paragraph *a* of section 20, or who refuses to allow examination of such register or of the pay-list, commits an unlawful act and shall be liable, upon summary conviction, to a fine not exceeding twenty-five dollars and costs for the first offence, and to a fine of not less than twenty-five dollars but not exceeding fifty dollars and costs, for the second offence or for any subsequent offence.

Idem.

43. Every professional employer who refuses or neglects to make the posting contemplated in sub-paragraph *e* of section 20, commits an unlawful act and shall be liable to a fine not exceeding ten dollars and costs.

Idem.

44. Every employer who refuses or neglects to furnish the committee or its employees with the information necessary for the carrying out of a decree or

hinders the accomplishing of the rights, privileges and obligations of such committee, commits an unlawful act and shall be liable, upon summary conviction, 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 fifty dollars and costs, for the second offence or for any subsequent offence.

45. Whosoever, knowingly, destroys, alters or falsifies any register, pay-list or any document dealing with the carrying out of a decree, or knowingly forwards any false or inexact information or report, commits an unlawful act and shall be liable, upon summary conviction, 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 the second offence or for any subsequent offence. Offence and penalty.

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 the second offence or for any subsequent offence. Penalty in default of payment.

46. Every employer or employee violating the by-law making the certificate of competency obligatory commits an unlawful act and shall be liable, on summary conviction, to a fine not exceeding five dollars and costs for the first offence, and to a fine of not less than five dollars but not exceeding twenty-five dollars and costs, for the second offence or for any subsequent offence. Offence and penalty.

47. Whosoever, by means of benefits having a pecuniary value, grants or accepts any rebate reducing the wage made obligatory, or participates in such a rebate, commits an unlawful act and shall be liable, upon summary conviction, to a fine of not less than ten dollars but not exceeding twenty-five dollars and costs for the first offence, and to a fine of fifty dollars and costs, for the second offence or any subsequent offence. Idem.

48. Any person violating any decree, any by-law made obligatory, or any provision of this act, in cases Idem.

not provided for in the preceding sections, commits an unlawful act and shall be liable, on summary conviction, to a fine not exceeding ten dollars and costs.

Suits to be brought by committee.

49. Every suit for the recovery of a fine, except that contemplated under section 39 and that under sub-paragraph *k* of section 20 of this act, must be brought by the committee.

Recovery of fines.

50. The fines shall be recoverable with costs by summary procedure, either before the Superior Court or the Circuit Court or any other court of competent jurisdiction, according to the amount claimed. The action must be taken, under penalty of forfeiture, within a delay of six months counting from the infringement.

PROOF

Authenticity of decrees, etc.

51. In any civil or penal action brought in virtue of this act, all decrees making obligatory a collective agreement, all amending or repealing decrees and all by-laws, notices and provisions 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 motion, shall be obliged to take cognizance.

INTERPRETATION

Precedence of decrees.

52. Any decree in so far as it is to the advantage of the employee shall have precedence over any order rendered according to the provisions of the Women's Minimum Wage Act (Revised Statutes, 1925, chapter 100) and the amendments thereto.

24 Geo. V, c. 56, repealed.

53. The act 24 George V, chapter 56, as amended by the acts 25-26 George V, chapter 64, and 1 Edward VIII (2nd Session), chapter 24, is repealed.

Effect of repeal.

This repeal shall not affect the decrees, regulations and proceedings adopted by virtue of the laws repealed by this clause, which shall continue to be in effect until the expiration of the term for which they had been adopted, nor does it affect the existence of committees constituted by virtue of the said laws.

Coming into force.

54. This act shall come into force on the day of its sanction.