



CHAPTER 50

Fair Wage Act

[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:

Interpretation

1. In this act, unless the context otherwise requires, Interpretation: the following words have the meaning hereunder given to them:

a. "association" means a professional syndicate, a union or federation of syndicates, a group of employees 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;

b. "employer" means any person, partnership or corporation who or which utilizes the services of an employee as defined in this act;

c. "professional employer" designates an employer, as defined in the preceding paragraph, who habitually utilizes the services of employees for a kind of work which constitutes his calling, trade, commerce, profession or occupation;

d. "Minister" means the Minister of Labour;

e. "Board" means the Fair Wage Board created in virtue of section 3 of this act;

f. "ordinance" means an ordinance made by the Fair Wage Board;

- "Wage"; *g.* "wage" includes every salary, remuneration, compensation or benefit of a pecuniary value, agreed to or due in return for the services of an employee;
- "Employee". *h.* "employee" includes every apprentice, workman, artisan, clerk and employee on a salary or wage, male or female, working individually, in a crew or in partnership.

Application of Act

- Application. **2.** This act shall apply:
- a.* to all the employees who have not availed themselves, or who do not desire or are unable legally to avail themselves, of the provisions of the Act respecting workmen's wages (1 George VI, chapter 49);
- b.* in all cases wherein it is shown to the Board's satisfaction that an association of employees cannot agree with an association of employers or with one or more employers contracting personally for the adoption of a collective labour agreement in virtue of the said Act respecting workmen's wages.
- Restriction. However, this act shall not apply to an agriculturist, a settler or a farmhand, nor to a domestic servant working in a private house.

Fair Wage Board

- Fair Wage Board. **3.** An arbitration tribunal in matters of fair wages and working conditions is hereby created under the name of Fair Wage Board.
- Composition. The Board shall consist of not more than five members appointed by the Lieutenant-Governor in Council who shall fix their remuneration and designate one of them as president and another as vice-president.
- Vacancies. The Board shall continue in existence notwithstanding any vacancy in its membership.
- Corporate seat. **4.** The Board shall have its corporate seat in the city of Quebec, but may, with the Minister's authorization, have offices in any other place in the Province.
- Sittings. **5.** The Board shall hold its sittings at its corporate seat or at any other place chosen by it. The quorum shall consist of the absolute majority of the members in function.

6. The president shall preside over the meetings of President.
the Board.

The members of the Board shall decide by the major- Casting-vote.
ity of votes. In the event of a tie, the president shall
have a casting-vote.

The vice-president shall, in the absence or inability Vice-
to act of the president, exercise the powers of the latter. president.

7. The Lieutenant-Governor in Council is author- Appointing
ized to appoint a secretary, and the inspectors, auditors, of secretary,
clerks and any other helpers necessary for the proper etc.
working of the Board, determine their duties and fix
their remuneration.

Powers and Functions of Board

8. The Board shall constitute a corporation, possess Board to
the rights and powers in general of a corporation and constitute a
shall be subject to the obligations resulting therefrom, corporation.
except where inconsistent with this act; the said cor-
poration shall continue to exist even if there be no
member in office.

9. The Board may, with the approval of the Lieute- Conciliation
nant-Governor in Council and upon such conditions as committees.
he may determine, organize conciliation committees
and appoint clerks thereof.

It may, in addition, by ordinance, following upon a Additional
report of a conciliation committee, or of its own ini- powers of
tiative, or when a conciliation committee has not made Board.
a report within a delay deemed reasonable by the
Board, and even in the cases where a conciliation com-
mittee has not been appointed,—

a. determine, for the periods of time fixed by it, for
the territories it may designate and for any category of
employees it may indicate, fair wages and working
hours;

b. make all investigations authorized by the Lieute-
nant-Governor in Council and submit to him its con-
clusions and suggestions respecting the work of minors
under eighteen years of age.

10. The wages contemplated in section 9 may be Basis of
established on a basis of remuneration by the hour, wages.
day, week, month, year, job or piece.

Varying of wages, etc. Such fair wages and working hours may vary according to the regions, the localities and the kind of work of the employees, and the Board must in determining same take into consideration the conditions created in the industry and commerce of the Province by competition from outside countries and the other provinces of Canada and the economic conditions peculiar to the region concerned.

Approval of ordinances. **11.** All ordinances of the Board rendered in virtue of section 9 must be approved by the Lieutenant-Governor in Council, on the recommendation of the Minister, and they shall come into force on the twenty-first day after their publication in the *Quebec Official Gazette* or on any other date which the Lieutenant-Governor in Council may fix.

Coming into force of ordinances.

Altering, etc., of ordinance. **12.** If, in the opinion of the Board, the conditions which existed at the time of the issuing of an ordinance respecting fair working conditions have changed, it may cancel or alter the said ordinance before the expiry of the period thereof, when it deems it to be in the interest of the trade, industry, commerce, profession or occupation concerned.

Taking effect thereof. Such cancellation or alteration, if approved by the Lieutenant-Governor in Council, shall take effect counting from the thirtieth day after its publication in the *Quebec Official Gazette*.

Conciliation Committees

Composition of conciliation committee. **13.** Every conciliation committee formed under section 9 shall comprise in so far as possible representatives, in equal number, of the employees and of the professional employers, and shall be presided over by a delegate from the Board.

Convening of conference. **14.** The conciliation committee must, within the delay and at the place fixed by the Board, convene a conference of the employees and professional employers of the trade, industry, commerce, profession or occupation in question, receive the representations of the persons interested with a view to arriving at an agreement between them for the determining of fair working conditions, and report its conclusions to the Board.

Effects of the Ordinance

15. When an ordinance respecting fair working conditions has been rendered in virtue of section 9, its provisions shall constitute a matter of public order and be, in the region named, obligatory upon all employees and employers in the same trade, industry, commerce, profession or occupation. Obligatory effect of ordinance.

16. It shall be unlawful to stipulate, in any labour agreement, a lower wage than that fixed by the ordinance. Prohibition.

The employee shall, notwithstanding any such agreement, have a recourse for the full amount of his wages or salary as fixed by the ordinance. Recourse safeguarded.

17. When the conditions of an agreement for the hire of work are more advantageous for the employee than those provided in the ordinance, the former shall have full effect, unless they are expressly prohibited by the provisions of the ordinance. Prevailing agreement.

18. Every professional employer who contracts with a sub-entrepreneur or sub-contractor, directly or through an intermediary, shall be subject to the ordinance and especially be jointly and severally liable with such sub-entrepreneur or sub-contractor and such intermediary, for the payment of the wage fixed by the ordinance. Responsibility of certain professional employer.

19. The publication in the *Quebec Official Gazette* of an order of the Lieutenant-Governor in Council or of any ordinance, regulation, decision, notice or any other act of the Board shall be proof of their authenticity and, in any civil or penal action brought under the authority of this act, it shall be sufficient to refer to the issue of the *Quebec Official Gazette* in which they were respectively published to prove their contents, the court of its own motion being obliged to take cognizance thereof. Authenticity of ordinance, etc.

Sundry provisions

20. The Board, in addition to every other power conferred upon it by this act, may adopt by-laws: Adopting of by-laws by Board.

a. for its internal government and the exercise of the rights and powers conferred upon it by this act; Scope of such by-laws.

b. to define the procedure to be followed for the convening and conducting of a conference by the conciliation committee, for the reports to be made to the Board and generally for any matter of mere procedure respecting the carrying out of this act;

c. to compel any professional employer to keep a register in which are stated the name in full and residence of each employee in his employ, his competency, the duration and nature of the regular and overtime work of each day and the wage paid for such work, mentioning the mode and time of payment;

d. to examine the aforesaid register and the pay-list of the employer or cause them to be examined;

e. to verify or have verified as with any employer and any employee the rates of wages, the hours of work, the system of apprenticeship and any other provisions of the ordinance;

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

g. to require the professional employer to have a copy in French and English, printed in type easily read, of the scale of wages which has been made obligatory, or of any decision or by-law of the Board, posted up inside his establishment in four conspicuous places, one of which shall be near the main entrance;

h. to classify the operations and determine the different categories of employees and employers;

i. to fix a special scale of wages for employees under eighteen years of age or engaged in seasonal work;

j. to grant, on proof deemed sufficient, to any employee of limited physical or mental capacity, a certificate authorizing him to work on conditions other than those provided for in the ordinance;

k. to levy upon the professional employers contemplated by an ordinance a sum not exceeding one per cent of the wages paid to their employees; the proceeds from such levy shall be paid to the Board which shall transmit same immediately to the Provincial Treasurer in reimbursement, to the extent thereof, of the sums paid by the latter in virtue of section 32.

Transmis-
sion to
Minister.

Such by-laws shall be transmitted to the Minister and must, to come into force, be approved, with or without amendment, by the Lieutenant-Governor in Council.

Notice of such approval shall be given in the *Quebec Official Gazette* and the by-laws shall come into force on the day of such publication. Notice of approval.

21. The Board may authorize one of its members or any other person it may designate to conduct the investigations contemplated by this act or authorized by the Lieutenant-Governor in Council. Conducting of investigations.

For the purposes of such investigations, the Board, the members thereof and the persons authorized to conduct such investigations shall have the same powers as the Provincial Electricity Board, the controllers and the persons authorized by it to conduct investigations in virtue of the act 1 George VI, chapter 25. Powers of investigators.

22. The claims of several employees against the same employer may be cumulated in a single action. Cumulating of claims.

The defendant cannot set up against the action any grounds by way of cross demand. No cross demand.

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

Such action shall be prescribed by six months. Prescription.

Penalties

23. Whosoever, directly or indirectly, prevents an employee or endeavours to prevent him, by threats of dismissal or other threats, from becoming a member of an association, commits an unlawful act and shall be liable to a fine not exceeding twenty-five dollars and costs for the first offence, and, upon failure to pay the fine, to an imprisonment of fifteen days and, upon failure to pay the costs, to an additional imprisonment of eight days; for the second offence, to a fine of not less than twenty-five dollars nor more than seventy-five dollars and costs and, upon failure to pay the fine, to an imprisonment of not less than one month and, upon failure to pay the costs, to an additional imprisonment of fifteen days; and, for any subsequent offence, to a fine of one hundred dollars and costs and, upon failure to pay the fine, to an imprisonment of two months and, upon failure to pay the costs, to an additional imprisonment of one month. Offence and penalty.

The suit shall be brought by the Minister, by the Board or by any person having a written authorization from the Attorney-General. Bringing of suit.

Offence and
penalty.

24. Every employer who, without good and sufficient reason, proof of which shall lie upon him:

a. dismisses an employee in the event of a complaint respecting an ordinance, a by-law of the Board or a violation of the provisions of this act, or for testifying in a prosecution or investigation contemplated thereunder; or

b. dismisses an employee to reëngage him for any function, position or employment whatsoever inferior to that held by him at the time of dismissal, in order to evade the provisions of an ordinance and to pay to the said employee a wage less than that to which he was entitled at the time of his dismissal; or

c. changes an employee's function, position, rank or occupation, or gives another designation, name or title to his function, position, rank or occupation, in order to evade the provisions of an ordinance and to pay to such employee a salary less than that which he received or was entitled to receive before such change,—

commits an unlawful act and shall be liable, for the first offence, to a fine of not less than two hundred dollars nor more than five hundred dollars and costs and, upon failure to pay the fine, to an imprisonment of one month and, upon failure to pay the costs, to an additional imprisonment of one week; for the second offence, to a fine of not less than three hundred dollars nor more than eight hundred dollars and costs and, upon failure to the fine, to an imprisonment of two months and, upon failure to pay the costs, to an additional imprisonment of one month; and, for any subsequent offence, to an imprisonment of not less than three months nor more than six months and costs and, upon failure to pay the costs, to an additional imprisonment of three months.

Infringe-
ment by cor-
poration.

Whenever an infringement of this section be committed by a corporation, the directors, every manager and every department head shall be answerable for the penalties hereinabove provided.

Offence and
penalty.

25. Every professional employer who does not keep the register made compulsory under the provisions of sub-paragraph *c* of section 20 or who refuses to allow examination of such register or of his pay-list, 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 any subsequent offence.

26. Every professional employer who refuses or neglects to make the posting contemplated in sub-paragraph *g* of section 20, commits an unlawful act and shall be liable, for the first offence, to a fine of ten dollars and costs and, upon failure to pay the fine, to an imprisonment of fifteen days and, upon failure to pay the costs, to an additional imprisonment of eight days; for the second offence, to a fine of twenty-five dollars and costs, and upon failure to pay the fine, to an imprisonment of one month and, upon failure to pay the costs, to an imprisonment of fifteen days; and, for any subsequent offence, to a fine of one hundred dollars and costs and, upon failure to pay the fine, to an imprisonment of two months and, upon failure to pay the costs, to an additional one month's imprisonment. Offence and penalty.

27. Every employer who refuses or neglects to furnish the Board or its employees with the information necessary for the carrying out of an ordinance or hinders the accomplishing of the duties and obligations of the Board or of a conciliation committee, 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 nor more than fifty dollars and costs for any subsequent offence. Idem.

28. 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 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 any subsequent offence. Idem.

29. Any person violating any ordinance, any law made obligatory, or any 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; and, in default of payment of the fine and costs, to imprisonment not exceeding fifteen days. Idem.

30. Saving the provisions of the second paragraph of section 23, suits for the recovery of fines must be Suits for recovery of fines.

brought by the Board and shall be prescribed by six months.

Provisions
applicable.

The provisions of Parts I and II of the Quebec Summary Convictions Act (Revised Statutes, 1925, chapter 165) shall govern such suits.

Disposal
of fines.

The fines shall be payable to the Provincial Treasurer to be paid into the consolidated revenue fund.

Name of
informer to
be kept
secret.

31. The name of the informer shall be kept secret and no witness examined in the course of a suit brought in virtue of this act may be compelled to state that he is the informer in such suit. Nor may any question be put to him with the object of showing whether the suit was taken on a complaint by an informer, or of revealing the name of the informer.

Final Provisions

Payment of
expenses,
etc.

32. The remuneration of the members and employees of the Board and all the expenses which the Lieutenant-Governor in Council decrees useful for the carrying out of this act shall be paid out of the consolidated revenue fund; and the Lieutenant-Governor in Council, on the recommendation of the Minister, may authorize the Provincial Treasurer to pay or to advance to the Board such sums as he may allot for such purposes.

Loans au-
thorized.

The Lieutenant-Governor in Council may, however, order the entire or partial payment of such remuneration and expenses by means of loans for a period not exceeding thirty years and bearing interest at rates not exceeding four per cent per annum.

Transmis-
sion of
reports.

33. Every three months and whenever thereunto required by the Minister, the Board must transmit to him a detailed report, certified by a public accountant resident in the Province of Quebec, of its operations, its expenses and of all sums received or collected from any source whatsoever and of the employment thereof.

Certain sale,
etc., deemed
null.

34. Any sale or cession, after the 23rd of May, 1937, of any interest, share or bond to an employee in an industry or a business carried on by his employer is prohibited and is null unless it be authorized by the Board upon such conditions as the latter may determine.

The provisions of this section shall apply to all the employees, notwithstanding the provisions of section 2.

35. This act shall not affect the collective labour agreements in force at its coming into force or which may become in force thereafter. Provisions safeguarded.

36. Chapter 100 of the Revised Statutes, 1925, and the acts amending the same are repealed. R.S., c. 100, repealed.

The decrees, regulations and proceedings adopted under the authority of the said acts shall not be affected by such repeal and shall continue to have their effect until the expiration of the period for which they were adopted, except as provided in the following paragraph. Decrees, etc., continued in effect.

Such decrees, regulations and proceedings may be amended or replaced by ordinances adopted under the authority of the present act. Amending, etc., of such decrees, etc.

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

38. This act shall come into force on the 1st of September, 1937. Coming into force.

