



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 79
(1997, chapter 27)

**An Act to establish the Commission des lésions
professionnelles and amending various
legislative provisions**

**Introduced 14 November 1996
Passage in principle 3 December 1996
Passage 6 June 1997
Assented to 12 June 1997**

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EXPLANATORY NOTES

The purpose of this bill is to reform the entire process for contesting decisions made under the Act respecting industrial accidents and occupational diseases and the Act respecting occupational health and safety.

The bill amends the Act respecting industrial accidents and occupational diseases to establish an employment injuries board to be known as the “Commission des lésions professionnelles”, charged with hearing and deciding contestations of decisions made by the Commission de la santé et de la sécurité du travail after an administrative review. The employment injuries board will consist of two divisions, the financial matters division and the employment injuries prevention and compensation division.

The bill provides for the composition of the board and the functions, duties and powers of its members. It also determines the mode of operation of the board, the functions of the president and vice-presidents, the number of sittings, and the rules of evidence and procedure applied to proceedings before the employment injuries board.

The bill amends the procedure for the medical assessment of a worker who has suffered an employment injury to allow the physician in charge of a worker to file an additional medical report if there is a difference of opinion between that physician and the health professional having examined the worker at the request of the employer or at the request of the Commission de la santé et de la sécurité du travail.

The bill abolishes the conciliation services offered as part of the review process at the Commission de la santé et de la sécurité du travail. It also eliminates the review boards established under the Act respecting occupational health and safety and replaces them with an administrative review process carried out on the basis of the record by a civil servant of the Commission.

Lastly, the bill contains transitional and concordance provisions and provisions of a technical nature.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting the Barreau du Québec (R.S.Q., chapter B-1);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

Bill 79

AN ACT TO ESTABLISH THE COMMISSION DES LÉSIONS PROFESSIONNELLES AND AMENDING VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

1. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by striking out the definition of “board of appeal”.

2. Section 43 of the said Act is amended by replacing the words “415 and 415.1” in the second line by the words “429.25, 429.26 and 429.32”.

3. The said Act is amended by inserting, after section 205, the following section:

“205.1. If the report of the health professional designated for the purposes of section 204 calls into question the findings of the physician in charge of the worker regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212, the latter may, within 30 days of the date of receipt of the report of the health professional, provide the Commission, on the form prescribed by the Commission, with an additional report to support his findings and include, where applicable, any consultation report containing reasons. The physician in charge of the worker shall inform the worker as soon as possible of the content of his report.

The Commission may submit the reports including the additional report, if any, to the Bureau d'évaluation médicale established under section 216.”

4. Section 212 of the said Act is amended by striking out the words “, in order that the Commission submit it to the Bureau d'évaluation médicale established by section 216” in the third and fourth lines of the second paragraph.

5. The said Act is amended by inserting, after section 212, the following section:

“212.1. If the report of the health professional obtained under section 212 calls into question the findings of the physician in charge of the worker

regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of that section, the latter may, within 30 days of the date of receipt of the report of the health professional, provide the Commission, on the form prescribed by the Commission, with an additional report to support his findings and include, where applicable, any consultation report containing reasons. The physician in charge of the worker shall inform the worker as soon as possible of the content of his report.

The Commission shall submit the reports including the additional report, if any, to the Bureau d'évaluation médicale established under section 216."

6. Section 217 of the said Act is amended by replacing the words "206 and 212" in the second line by the words "205.1, 206 and 212.1".

7. Section 218 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

"However, the Minister or the person designated by the Minister for that purpose may, if he considers it advisable owing to the complexity of a case, designate more than one member of the Bureau."

8. Section 241 of the said Act is amended by replacing the words "Every application for review and every appeal bearing on" in the first line by the words "An application for review filed under section 358 or a proceeding brought under section 359 in respect of".

9. Section 252 of the said Act is amended by replacing the word "jurisdiction" in the first line of the French text by the word "compétence".

10. Section 262 of the said Act is amended by adding, at the end, the following paragraph:

"Subject to section 263, the decision has effect immediately, even if it is contested before the Commission des lésions professionnelles."

11. The said Act is amended by replacing the words "RIGHT OF APPEAL" in the heading of Chapter XI by the words "PROCEEDING BEFORE THE COMMISSION DES LÉSIONS PROFESSIONNELLES".

12. Section 349 of the said Act is amended by replacing the words "decide any matter or" in the first line by the words "examine and decide any".

13. Section 351 of the said Act is amended by striking out the words "is not bound to follow the ordinary rules of evidence in civil matters ; it" in the first and second lines of the second paragraph.

14. Section 358 of the said Act is amended

(1) by striking out the words “by a review office established under the Act respecting occupational health and safety (chapter S-2.1)” in the third and fourth lines of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“However, a person may not apply for the review of any matter of a medical nature in respect of which the Commission is bound under section 224, for the review of a decision made by the Commission under Division III of Chapter VII or for the review of the refusal of the Commission to reconsider its decision pursuant to the first paragraph of section 365.”

15. The said Act is amended by inserting, after section 358, the following sections:

“358.1. An application for review must be made in writing. The application must state briefly the main grounds on which it is based and the subject of the decision to which it pertains.

“358.2. The Commission may extend the time limit prescribed in section 358 or relieve a person of the consequences of a failure to act within the allotted time, if it is established that the application for review could not reasonably have been made within that time.

“358.3. After giving the parties an opportunity to present observations, the Commission shall make a decision on the basis of the record; it may confirm, quash or amend the initial decision or order and, if appropriate, make the decision or order that should, in its opinion, have been made initially.

Sections 224.1 and 233 apply in such a case to the Commission and it shall decide accordingly.

“358.4. The review shall be carried out by the chairman of the board of directors and chief executive officer of the Commission, or by any person designated by him.

“358.5. The decision shall be in writing and give the reasons on which it is based, be notified to the parties, and state their right to contest the decision before the Commission des lésions professionnelles and the time limit for doing so.”

16. Section 359 of the said Act is replaced by the following section:

“359. A person who believes he has been wronged by a decision made following an application under section 358 may, within 45 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

17. The said Act is amended by inserting, after section 359, the following section:

“359.1. A person who believes he has been wronged by a decision made by the Commission under Division III of Chapter VII may, within 45 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

18. Section 362 of the said Act is amended by replacing the words “of a review office shall have effect immediately, notwithstanding appeal,” in the first and second lines by the words “under section 358.3 shall have effect immediately, even if it is contested before the Commission des lésions professionnelles,”.

19. Section 363 of the said Act is amended by replacing the words “a review office or the board of appeal” in the first line by the words “the Commission, following a decision under section 358.3, or the Commission des lésions professionnelles”.

20. Section 364 of the said Act is amended by replacing the words “of a review office or of the board of appeal” in the first line of the first paragraph by the words “made by the Commission, following an application under section 358, or by the Commission des lésions professionnelles”.

21. Section 365 of the said Act is amended

(1) by replacing the words “of a review office” in the second and third lines of the first paragraph by the words “rendered under section 358.3”;

(2) by adding, after the second paragraph, the following paragraph:

“Before reconsidering a decision, the Commission shall inform the persons to whom it has notified the decision.”

22. Sections 365.1 and 365.2 of the said Act are repealed.

23. Section 366 of the said Act is amended by striking out the words “or 365.2”.

24. Chapter XII of the said Act is replaced by the following chapter:

“CHAPTER XII**“COMMISSION DES LÉSIONS PROFESSIONNELLES****“DIVISION I****“ESTABLISHMENT**

“367. A board, to be known as the “Commission des lésions professionnelles”, is hereby established.

“368. The head office of the board shall be situated at the place determined by the Government ; notice of the address of the head office, and of any change in its address, shall be published in the *Gazette officielle du Québec*.

The board shall have one office at Québec and one office at Montréal. It may also have an office in any other administrative region, if warranted by the number of proceedings in that region. The board may not, however, have an office in an immovable where the Commission already has an office.

“DIVISION II**“JURISDICTION**

“369. The board shall, to the exclusion of any other tribunal, make determinations on

- (1) proceedings brought under section 359, 359.1, 450 or 451 ;
- (2) proceedings brought under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1).

“370. The board shall sit in divisions. The divisions are

- (1) the financial matters division ;
- (2) the employment injuries prevention and compensation division.

“371. Proceedings under section 359 that relate to a decision made pursuant to Chapter IX or Chapter X shall be decided by the financial matters division.

“372. Proceedings under section 37.3 or 193 of the Act respecting occupational health and safety (chapter S-2.1), proceedings under section 359 other than those referred to in section 371, and proceedings under section 359.1, 450 or 451 shall be decided by the employment injuries prevention and compensation division.

“373. Within each division of the board, proceedings shall be heard and decided by one commissioner.

“374. Within the employment injuries prevention and compensation division, two members, one from an employers’ association and one from a union association, shall sit with and advise the commissioner.

The member from an employers’ association shall be appointed in accordance with the fourth paragraph of section 385. The member from a union association shall be appointed in accordance with the fifth paragraph of that section.

“375. Commissioners may sit in either division of the board.

“376. A commissioner has the authority to decide, alone, any application prior to the hearing of a case.

“DIVISION III

“FUNCTIONS, DUTIES AND POWERS

“377. The board has the power to decide any question of law or fact necessary for the exercise of its jurisdiction.

It may confirm, quash or amend a contested decision or order and, if appropriate, make the decision or order that should, in its opinion, have been made initially.

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

They are also vested with all the powers necessary for the performance of their duties ; they may, in particular, make any order they consider appropriate to safeguard the rights of the parties.

No judicial proceedings may be brought against them by reason of an act done in good faith in the performance of their duties.

“379. The members referred to in section 374 may, in order to advise the commissioner, ask questions during the hearing of a case and express their opinion to the commissioner when the case is taken under advisement.

No judicial proceedings may be brought against the members by reason of an act done in good faith in the performance of their duties.

“380. The board may, in a proceeding contesting a decision under section 358.3 that cancels an income replacement indemnity granted by the Commission, order that the execution of the contested decision be postponed

as regards that conclusion and that the effects of the initial decision be maintained for the time it indicates if the beneficiary demonstrates that there is an emergency or that he would suffer serious harm were the initial decision of the Commission to cease to have effect.

The beneficiary's application shall be heard and decided by preference.

“381. The board shall forward to the Minister, not later than 30 June each year, a report on its activities during the preceding fiscal year.

It may, in its annual report, make recommendations in respect of the Acts, regulations, policies, programs and administrative procedures coming under its jurisdiction.

The Minister shall table the annual report before the National Assembly within 30 days of receiving it if the Assembly is sitting, or within 30 days of resumption.

The report shall not designate by name any person concerned by the matters brought before the board.

The board shall provide to the Minister any additional information he requires concerning its activities.

“382. The board shall establish a computerized jurisprudence database and a digitized minute book, and take all necessary steps to ensure that they are accessible to board members, assessors, conciliators and to such other members of its personnel as it designates.

The information contained in the jurisprudence database is public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“383. The board shall publish, periodically, a compilation of the decisions it has made.

It shall omit the names of the persons concerned by a decision when it is of the opinion that the decision contains information of a confidential nature the disclosure of which could be prejudicial to the persons concerned.

The decisions published by the board are public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

“384. The board may enter into an agreement with any person, association, partnership or body and with the Government or with any of its departments or bodies.

It may also, according to law, enter into an agreement with a government inside or outside Canada or any department or body of such a government or with an international organization or a body of such an organization.

“DIVISION IV

“APPOINTMENT OF MEMBERS

“**385.** The board shall be composed of members, some of whom shall be commissioners.

The commissioners shall be advocates or notaries. They shall be appointed by the Government after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

The members other than the commissioners shall be either from employers’ associations or from union associations.

The members from employers’ associations shall be appointed by the Government from among the persons whose names appear on a list drawn up annually by the board of directors of the Commission for each region in which the board has an office.

The members from union associations shall be appointed by the Government from among the persons whose names appear on a list drawn up annually by the said board of directors for each region in which the board has an office.

The Minister may draw up a list under the fourth or fifth paragraph if the board of directors of the Commission has failed to do so.

“**386.** Where a person whose name appears on a list referred to in the fourth, fifth or sixth paragraph of section 385 dies, resigns or is unable to act, the board of directors of the Commission if it entered the person’s name on the list or the Minister, as the case may be, may remove the person’s name from the list and enter another person’s name.

“DIVISION V

“RECRUITMENT AND SELECTION OF MEMBERS

“**387.** Only a person who has the qualifications required by law and at least ten years’ experience pertinent to the exercise of the functions of the board may be a commissioner of the board.

“**388.** Commissioners shall be appointed by the Government from among persons declared to be qualified according to the recruiting and selection procedure established by government regulation. The regulation shall, in particular,

- (1) determine the publicity that must be given to the recruiting procedure and the content of such publicity;
- (2) determine the procedure by which a person may become a candidate;
- (3) authorize the establishment of selection committees to assess the aptitude of candidates and formulate an opinion concerning them;
- (4) fix the composition of the committees and mode of appointment of committee members;
- (5) determine the selection criteria to be taken into account by the committees;
- (6) determine the information a committee may require from a candidate and the consultations it may hold.

“389. The names of the persons declared to be qualified for appointment as commissioners shall be recorded in a register kept at the Ministère du Conseil exécutif.

“390. A declaration of aptitude shall be valid for a period of 18 months or for such period as is determined by government regulation.

“391. Members of a selection committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

“DIVISION VI

“TERM OF OFFICE AND RENEWAL

“392. Subject to the exceptions that follow, the term of office of a commissioner is five years and the term of office of a member other than a commissioner is one year, except for the first two years of existence of the board during which the member's term of office is two years.

“393. The Government may determine a shorter term of office of a fixed duration in the instrument of appointment of a commissioner where the candidate so requests for a valid reason or where required by special circumstances stated in the instrument of appointment.

“394. The term of office of a commissioner shall be renewed for five years, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre,

(1) unless the commissioner is notified otherwise at least three months before the expiry of his term by the agent authorized therefor by the Government; or

(2) unless the commissioner requests otherwise and so notifies the Minister at least three months before the expiry of his term.

A variation of the term of office is valid only for a fixed period of less than five years determined in the instrument of renewal and, except where requested by the commissioner for a valid reason, only where required by special circumstances stated in the instrument of renewal.

“395. The renewal of the term of office of a commissioner shall be examined according to the procedure established by government regulation. The regulation shall, in particular,

- (1) authorize the establishment of committees;
- (2) fix the composition of the committees and the mode of appointment of committee members;
- (3) determine the criteria to be taken into account by the committees;
- (4) determine the information a committee may require from the member and the consultations it may hold.

“396. Members of an examination committee shall receive no remuneration except in such cases, subject to such conditions and to such extent as may be determined by the Government.

They are, however, entitled to the reimbursement of expenses incurred in the performance of their duties, subject to the conditions and to the extent determined by the Government.

“DIVISION VII

“PREMATURE TERMINATION OF OFFICE AND SUSPENSION

“397. The term of office of a member may terminate prematurely only on his retirement or resignation, or on his being dismissed or otherwise removed from office in the circumstances referred to in this division.

“398. To resign, a member must give the Minister reasonable notice in writing and send a copy to the president of the board.

The resignation takes effect on the date it is accepted by the Minister.

“399. The Government may remove a member from office for loss of a qualification required by law for holding the office of member, or if, in the

opinion of the Government, a permanent disability prevents the member from performing the duties of his office satisfactorily. Permanent disability is ascertained by the Conseil de la justice administrative, after an inquiry conducted at the request of the Minister or of the president of the board.

Sections 193 to 197 of the Act respecting administrative justice (1996, chapter 54), adapted as required, apply in such circumstances.

“400. The Government may also dismiss a member if the Conseil de la justice administrative so recommends, after an inquiry following a complaint concerning a failure to observe the code of ethics, to perform the duties imposed by this chapter or to comply with the requirements relating to conflict of interest or incompatible offices. It may also suspend or reprimand the member.

A complaint must be in writing and must set out briefly the grounds on which it is based. The complaint is sent to the seat of the Conseil de la justice administrative.

The provisions of sections 184 to 192 of the Act respecting administrative justice, adapted as required, apply to the examination of the complaint.

“DIVISION VIII

“OTHER PROVISION REGARDING TERMINATION OF DUTIES

“401. Any member may, with the authorization of and for the time determined by the president of the board, continue to perform his duties after the expiry of his term of office in order to conclude the cases he has begun to hear but has yet to determine; he shall be considered to be a supernumerary member for the time required.

The first paragraph does not apply to a member who has been dismissed or otherwise removed from office.

“DIVISION IX

“REMUNERATION AND OTHER CONDITIONS OF OFFICE

“402. The Government shall make regulations determining

(1) the mode of remuneration of the members and the applicable standards and scales;

(2) the conditions subject to which and the extent to which a member may be reimbursed the expenses incurred in the performance of his duties.

The Government may make regulations determining other conditions of office applicable to all or certain members, including benefits other than a pension plan.

The regulatory provisions may vary according to whether they apply to a commissioner or a member other than a commissioner or to a member charged with an administrative office within the board.

The regulations come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“403. The Government shall fix, in accordance with the regulations, the remuneration, benefits and other conditions of office of the members.

“404. Once fixed, a member’s remuneration may not be reduced.

However, additional remuneration attaching to an administrative office within the board shall cease upon termination of such office.

“405. The pension plan of commissioners shall be determined pursuant to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or the Act respecting the Civil Service Superannuation Plan (chapter R-12), as the case may be.

“406. A public servant appointed as a member of the board ceases to be subject to the Public Service Act (chapter F-3.1.1) for all matters concerning such office; for the duration of his term of office, he is on full leave without pay for the purpose of performing his duties of office.

“DIVISION X

“ADMINISTRATIVE OFFICE

“407. The Government shall designate, among the commissioners, a president and at least two vice-presidents.

They shall be designated by the Government after consultation with the Conseil consultatif du travail et de la main-d’oeuvre.

“408. The Minister shall designate a vice-president to replace the president or another vice-president temporarily when required.

If the vice-president so designated is himself absent or unable to act, the Minister shall designate another vice-president as a replacement.

“409. The administrative office of the president or a vice-president is of a fixed duration determined in the instrument of appointment or renewal.

“410. The administrative office of the president or a vice-president may terminate prematurely only on his relinquishing such office, on the premature termination or non-renewal of his term of office as a member of the board, or on his being dismissed or otherwise removed from his administrative office in the circumstances referred to in this division.

“411. The Government may dismiss the president or a vice-president from his administrative office for loss of a qualification required by law for the holding of such office.

The Government may also remove them from administrative office if the Conseil de la justice administrative so recommends, after an inquiry conducted at the Minister’s request concerning a lapse pertaining only to administrative duties. Sections 193 to 197 of the Act respecting administrative justice, adapted as required, apply in such circumstances.

“DIVISION XI

“ETHICS AND IMPARTIALITY

“412. Before taking office, every commissioner shall take an oath, solemnly affirming the following: “ I (...) swear that I will exercise the powers and fulfill the duties of my office impartially and honestly and to the best of my knowledge and abilities.”

The oath shall be taken before the president of the board. The president of the board shall take the oath before a judge of the Court of Québec.

The writing evidencing the oath shall be sent to the Minister.

“413. The Government shall, after consulting the president, establish a code of ethics applicable to the members of the board.

The content of the code may vary according to whether it applies to a commissioner or to a member other than a commissioner.

The code shall come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, or on any later date indicated therein.

“414. The code of ethics shall set out the rules of conduct and the duties of the members towards the public, the parties, their witnesses and the persons representing them ; it shall, in particular, define the conduct that is derogatory to the honour, dignity or integrity of the members. It may, in addition, determine the activities or situations that are incompatible with the office they hold, their obligations as regards the disclosure of their interests, and the functions they may exercise gratuitously.

“**415.** A member may not, on pain of forfeiture of office, have a direct or indirect interest in any enterprise that could cause a conflict between his personal interest and his duties of office, unless the interest devolves to him by succession or gift and he renounces it or disposes of it with dispatch.

“**416.** In addition to observing conflict of interest requirements and the rules of conduct and duties imposed by the code of ethics established under this Act, a member must refrain from pursuing an activity or placing himself in a situation incompatible, within the meaning of the code of ethics, with the exercise of his office.

“**417.** Commissioners shall devote themselves exclusively to their office.

They may, however, carry out any other mandate entrusted to them by order of the Government after consultation with the president of the board.

“DIVISION XII

“MANAGEMENT AND ADMINISTRATION

“**418.** In addition to the powers and duties that may otherwise be assigned to him, the president is charged with the administration and general management of the board.

The duties of the president include

(1) fostering the participation of commissioners in the formulation of guiding principles for the board so as to maintain a high level of quality and coherence of decisions;

(2) designating a commissioner with responsibility for the administration of each office of the board;

(3) coordinating, assigning and supervising the work of the members who shall comply with his orders and directives in that regard;

(4) seeing to the observance of standards of ethical conduct;

(5) promoting the professional development of the commissioners as regards the exercise of their functions.

“**419.** Upon the appointment of a commissioner, the president shall assign him to one or more regions in which the board has an office.

The president may change such an assignment for the proper dispatch of the business of the board.

“**420.** The president shall determine which commissioners are to be called upon to sit at the sittings of the board.

“**421.** Where, for the purposes of section 374, two members must sit with a commissioner, the president shall call upon the members appointed under the fourth paragraph of section 385, in the order in which their names are entered on the list drawn up by the Government for the region in which they are appointed, until one declares himself able to act; that person shall then be designated by the president to sit at the hearing he indicates.

The president shall proceed in the same manner to designate a member appointed under the fifth paragraph of section 385, using the list of members drawn up by the Government.

“**422.** The president may, if he considers it expedient, assign one or more assessors appointed under section 423 to a commissioner.

The president may also, if he considers it expedient owing to the complexity or importance of a proceeding, designate three commissioners to hear and decide the case, one of whom shall preside at the proof and hearing.

“**423.** The president shall appoint full-time assessors, whose function is to sit with a commissioner and advise him on any question of a medical, professional or technical nature.

“**424.** The president may, in order to expedite the business of the board, appoint part-time or temporary assessors and determine their fees.

Such assessors are not members of the personnel of the board.

“**425.** The president shall appoint conciliators, whose function is to meet with the parties and endeavour to reach an agreement.

“**426.** The president shall establish a code of ethics applicable to assessors and conciliators, and shall see that it is observed.

The code of ethics may prescribe separate rules for conciliators and assessors.

The code of ethics comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* or on any later date indicated therein.

“**427.** Each year, the president shall present a plan to the Minister in which he shall state his management objectives aimed at ensuring the accessibility of the board and the quality and promptness of its decision-making process and give an account of the results achieved in the preceding year.

“**428.** Each month, the president shall forward, to the Minister, in addition to any information otherwise requested by the Minister:

(1) the number of days on which hearings were held and the average number of hours devoted to them;

(2) the number of postponements granted;

(3) the number of cases in which a conciliation meeting took place, the nature thereof, together with the number of such cases in which an agreement was reached between the parties;

(4) the number of cases heard, the nature thereof and the places and dates of the hearings;

(5) the number of cases taken under advisement, the nature thereof and the time devoted to advisement;

(6) the number of decisions made;

(7) the number of decisions made that have the effect of confirming or quashing an opinion given by a member of the Bureau d'évaluation médicale;

(8) the time devoted to proceedings, from the filing of the introductory application to the beginning of the hearing and the making of the decision.

“429. The president may delegate all or part of his powers and duties to the vice-presidents or to a commissioner responsible for the management of a regional office.

“429.1. In addition to the powers and duties that may otherwise be assigned to them or delegated to them by the president, the vice-presidents shall assist and advise the president in the performance of his duties and perform their administrative duties under the president's authority.

“DIVISION XIII

“SITTINGS

“429.2. The sittings of the board, in both divisions, shall be presided by a commissioner.

“429.3. The board may sit at any place in Québec, even on a holiday. Where a hearing is held in a locality where a court sits, the clerk of the court shall allow the board to use, free of charge, the premises used by the court, unless they are being used for sittings of the court.

“429.4. Where a member who has been called upon to sit at a sitting dies, resigns or is unable to act, the board shall immediately designate a replacement, following the same procedure as for the designation of the member being replaced.

“DIVISION XIV**“PERSONNEL AND MATERIAL AND FINANCIAL RESOURCES**

“429.5. The secretary, the full-time assessors, the conciliators and the other members of the personnel of the board shall be appointed and remunerated in accordance with the Public Service Act.

No judicial proceedings may be brought against them for any act done in good faith in the performance of their duties.

“429.6. The secretary shall have custody of the records of the board.

“429.7. The minutes of a sitting signed by the commissioner who presided are authentic.

The documents emanating from the board are authentic if they are signed, as are copies if they are certified true, by the president, a vice-president or the secretary, or by any person designated by the president for that purpose.

“429.8. Once proceedings have been completed, the parties shall reclaim the exhibits they produced and the documents they filed.

The exhibits or documents not reclaimed by the parties may be destroyed after the expiry of one year from the date of the final decision of the board or of the proceeding terminating the proceedings, unless the president decides otherwise and, in particular, decides to transmit the exhibits or documents to the Commission so that it may complete its file.

“429.9. The financial year of the board shall end on 31 March.

“429.10. Each year, the president shall submit the budgetary estimates of the board for the following financial year to the Minister according to the form, tenor and schedule determined by the Minister.

The estimates shall be submitted to the Government for approval.

“429.11. The books and accounts of the board shall be audited by the Auditor General each year and whenever ordered by the Government.

“429.12. The sums required for the application of this chapter shall be taken out of the fund of the board.

The fund shall consist of the sums paid into it annually by the board for the purposes of this chapter, in the amount and on the terms and conditions determined by the Government.

“DIVISION XV**“RULES OF EVIDENCE AND PROCEDURE**

“429.13. Before making a decision, the board shall give the parties an opportunity to be heard.

“429.14. The board may proceed on the record if it considers it appropriate and if the parties consent thereto.

“429.15. If a duly summoned party does not appear at the time fixed for the hearing without having provided a valid excuse for his absence, or chooses not to be heard, the board may nonetheless proceed with the hearing of the matter and make a decision.

“429.16. The Commission may intervene before the board at any time until the end of the proof and hearing.

Where the Commission wishes to intervene, it shall send a notice to that effect to each of the parties and to the board; it is then considered to be a party to the proceeding.

The same applies to the worker concerned by a proceeding relating to the application of section 329.

“429.17. The parties may be represented by the person of their choice.

“429.18. The board may accept a written proceeding despite a defect of form or an irregularity.

“429.19. The board may extend a time limit or relieve a person of the consequences of a failure to act within the allotted time if it is established that the person could not reasonably have acted within that time and if, in the opinion of the board, no other party suffers serious harm therefrom.

“429.20. In the absence of provisions applicable to a particular case, the board may remedy the inadequacy by any procedure consistent with this Act or with its rules of procedure.

“429.21. The board may, by way of a by-law passed by a majority of the commissioners, make rules of evidence, procedure and practice specifying the manner in which the rules established under this division are to be applied. The rules shall, in particular, provide for the preparation of a hearing role.

The by-law shall be submitted to the Government for approval.

“429.22. A proceeding is brought by means of an application filed in the office of the board of the region in which the domicile of the worker is located or, if the worker is domiciled outside Québec, of a region in which the employer has an establishment.

Where no worker is party to the proceeding, the proceeding is brought at the office of the board of a region in which the employer has an establishment.

If a proceeding is brought in a region where the board does not have an office, the application is filed at the head office of the board.

“429.23. The application shall

(1) identify the decision or order in respect of which the proceeding is brought;

(2) contain a short statement of the grounds invoked in support of the proceeding;

(3) set out the conclusion sought;

(4) contain any other information required by the rules of evidence, procedure and practice of the board.

“429.24. The rules pertaining to the notice provided for in article 95 of the Code of Civil Procedure (chapter C-25), adapted as required, apply in every case in which a party alleges that a provision referred to in the said article is inapplicable constitutionally or is invalid or inoperative, including in respect of the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 of the 1982 volume of the Acts of the Parliament of the United Kingdom) or of the Charter of human rights and freedoms (chapter C-12).

“429.25. Upon receipt of an application, the board shall forward a copy to the other parties and to the Commission.

“429.26. Within 20 days of receipt of a copy of the application, the Commission shall send to the board and to every party a copy of the record in its possession respecting the contested decision.

“429.27. The board may, on an application, dismiss a proceeding it considers improper or dilatory or subject it to certain conditions.

“429.28. Where, on examining the application and the contested decision, the board ascertains that the Commission failed to rule upon certain questions although it was required to do so by law, it may, if the date of the hearing has not been fixed, suspend the case for the time it fixes so that the Commission may act.

If, at the expiry of the allotted time, the proceeding is maintained, the board shall hear it as though it were a proceeding in respect of the original decision.

“429.29. Cases in which the subject-matter in dispute is substantially the same or which could suitably be combined, whether or not the same

parties are involved, may be joined by order of the president or of a person designated by the president on the conditions he fixes.

An order made under the first paragraph may be revoked by the board upon hearing the matter if, of its own initiative or at the request of a party, it comes to the conclusion that the interest of justice will be better served by doing so.

“429.30. A proceeding must be heard and decided by preference

(1) if it is made under section 359 and its object is the reduction or suspension of an indemnity established under subparagraph *e* of paragraph 2 of section 142;

(2) if it is made under section 37.3 of the Act respecting occupational health and safety (chapter S-2.1) and its object is to determine whether a worker can be reassigned to other duties;

(3) if it is made under section 193 of that Act and its object is the closing of the whole or part of a place of employment or the exercise of a right of refusal;

(4) in any other case, if the president considers it appropriate.

“429.31. A proceeding must be heard and decided by preference

(1) if it is made under section 359 in respect of the existence of an employment injury other than a recurrence, relapse or aggravation, or the fact that the person is a worker or is considered to be a worker;

(2) if it is made under section 359 and its object is the date or the foreseeable period of consolidation of the worker's employment injury, or the existence or the assessment of the worker's functional disability;

(3) in any other case, if the president considers it appropriate.

“429.32. The board shall have access to the record in the possession of the Commission respecting the contested decision.

“429.33. The president or the commissioner designated by him may, if he considers it useful and if the circumstances of the case allow it, call the parties to a pre-hearing conference.

“429.34. The pre-hearing conference is held by a commissioner. The purpose of the pre-hearing conference is

(1) to define the questions to be dealt with at the hearing;

(2) to assess the advisability of clarifying and specifying the pretensions of the parties and the conclusions sought;

- (3) to ensure that all documentary evidence is exchanged by the parties ;
- (4) to plan the conduct of the proceedings and proof at the hearing ;
- (5) to examine the possibility for the parties of admitting certain facts or of proving them by means of sworn statements ;
- (6) to examine any other question likely to simplify or accelerate the conduct of the hearing.

In the employment injuries prevention and compensation division, the members referred to in section 374 may participate in the conference if they are available to do so.

“429.35. Minutes of the pre-hearing conference shall be drawn up and signed by the parties and by the commissioner who called the parties to the conference.

Agreements and decisions recorded in the minutes shall, as far as they may apply, govern the conduct of the proceeding, unless the board, when hearing the matter, permits a derogation therefrom to prevent an injustice.

“429.36. The board shall, so far as possible, facilitate the holding of a hearing at a date and time when the parties and their witnesses, if any, are able to attend without unduly disrupting their usual occupations.

“429.37. Notice shall be sent to the parties within reasonable time before the hearing, stating

- (1) the purpose, date, time and place of the hearing ;
- (2) that the parties have the right to be assisted or represented ;
- (3) that the board has the authority to proceed, without further delay or notice, despite the failure of a party to appear at the time and place fixed if no valid excuse is provided.

“429.38. The board may hear the parties by any means provided for in its rules of evidence, procedure and practice.

“429.39. A party who wishes to cause witnesses to be heard and to produce documents shall proceed in the manner prescribed in the rules of evidence, procedure and practice of the board.

“429.40. A commissioner may visit premises or order an expert appraisal by a qualified person he designates to examine and assess the facts of a case.

In the employment injuries prevention and compensation division, the commissioner shall be accompanied by the members referred to in section 374.

The owner, lessee or occupant of premises that the commissioner wishes to visit must facilitate their access thereto.

“429.41. Where a commissioner is unable to continue a hearing, another member designated by the president may, with the consent of the parties, continue the hearing and, in the case of oral evidence already produced, rely on the notes and minutes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing.

The same applies where a hearing is continued after the member sitting at the hearing ceases to exercise his functions.

“429.42. A member who has knowledge of a valid cause for his recusation must declare that cause in a writing filed in the record and must advise the parties of it.

“429.43. A party may, at any time before the decision and provided he acts with dispatch, apply for the recusation of a member seized of the case if he has good reason to believe that a cause for recusation exists.

The application for recusation shall be addressed to the president. Unless the member removes himself from the case, the application shall be decided by the president or by a member designated by the president.

“DIVISION XVI

“CONCILIATION

“429.44. If the parties to a proceeding consent thereto, the board may appoint a conciliator who shall meet with the parties and endeavour to reach an agreement.

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

“429.46. Every agreement shall be recorded in writing, and any document to which it refers shall be attached thereto. The agreement must be signed by the conciliator and by the parties, and is binding on the parties.

The agreement shall be confirmed by a commissioner to the extent that it is in accordance with law ; in such a case, the agreement constitutes a decision of the board which terminates the proceedings.

The decision is mandatory and binding on the parties.

“429.47. Where no agreement has been reached or the board refuses to confirm an agreement, the latter shall hold a hearing as soon as possible.

“429.48. Conciliators shall not disclose anything revealed to them or learned by them in the exercise of their functions, or produce personal notes or any document made or obtained in the course of their duties before a court or before a body or person exercising judicial or quasi-judicial functions.

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no person shall have access to such a document, unless the document is used as the basis for an agreement and for the decision confirming an agreement.

“DIVISION XVII

“DECISIONS

“429.49. The decision of the board shall be made, in each division, by the commissioner alone.

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

The decision of the board is final, may not be appealed from and must be complied with without delay by every person to whom it applies.

“429.50. Every decision by the board must be in writing, give the reasons on which it is based, be signed and be notified to the parties and to the Commission.

Within the employment injuries prevention and compensation division, the decision of the commissioner shall set out the opinion expressed by the members referred to in section 374 sitting with him and the reasons on which the opinion is based.

“429.51. The board must make its decision within nine months after the application is filed and within three months after the matter is taken under advisement.

However, in the case of a proceeding under section 429.31, the board must make its decision within 90 days after the application is filed and within 60 days after the matter is taken under advisement.

Failure by the board to observe these time limits shall not cause the matter to be withdrawn from the commissioner, or invalidate a decision or order made by the commissioner after the expiry of the time limit.

“429.52. A matter heard by a commissioner and on which he has not made a determination at the time he ceases to exercise his functions shall be heard again; if such a matter was heard by more than one commissioner, it shall be decided by the other commissioners.

Where opinions are equally divided on a question, it shall be referred to the president who shall decide according to law.

“429.53. A president or a commissioner called upon to hear a matter pursuant to section 429.52 may, with the consent of the parties, rely, as regards oral evidence, on the notes and minutes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing. If the president or commissioner finds them insufficient, he may recall a witness or require any other evidence.

“429.54. Any member referred to in section 374 who has ceased to exercise his functions when a matter is taken under advisement shall be replaced.

The member shall, in that case, rely, as regards evidence, on the stenographer’s notes of the hearing or, as the case may be, on the stenographer’s notes or on the recording of the hearing.

“429.55. A decision or order containing an error in writing or in calculation or any other clerical error may be corrected, on the record and without further formality, by the commissioner who made the decision or order.

Where a commissioner is unable to act or has ceased to hold office, another commissioner designated by the president may correct the decision.

“429.56. The board, on an application, may review or revoke any decision or order it has made

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

(2) where a party, owing to reasons considered sufficient, could not be heard;

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

In the case described in subparagraph 3 of the first paragraph, the decision or order may not be reviewed or revoked by the commissioner who made the decision or order.

“429.57. A proceeding for review or revocation is brought by means of an application filed with the employment injuries division within a reasonable time after the decision concerned or after a new fact likely to warrant a different decision is discovered. The application shall refer to the decision concerned and state the grounds invoked in support of the application. It shall contain any other information required by the rules of evidence, procedure and practice.

The board shall forward a copy of the application to the other parties who may respond, in writing, within 30 days of receipt.

The board shall examine the case on the record, except where a party asks to be heard or the board determines, of its own initiative, that a hearing is appropriate.

“429.58. A decision of the board is mandatory according to the terms and conditions stated therein, provided it has been notified to the parties.

Compulsory execution of decisions is effected by deposit at the office of the clerk of the Superior Court in the district in which the proceeding was brought.

Upon the deposit, the decision of the board becomes executory as if it were a final and unappealable judgment of the Superior Court and has all the effects thereof.

“429.59. Except on a question of jurisdiction, none of the recourses provided in articles 33 and 834 to 846 of the Code of Civil Procedure may be exercised, and no injunction may be granted against the board or against any of its members acting in their official capacity.

A judge of the Court of Appeal may, on a motion, quash by summary procedure any judgment, order or injunction granted contrary to this section.”

25. Section 433 of the said Act is replaced by the following section:

“433. The amount due is payable upon the expiry of the time for filing an application for review under section 358 or the time for bringing a proceeding under section 359 or, if the application has been filed or the proceeding brought, on the day of the final decision confirming the decision of the Commission.”

26. Section 436 of the said Act is amended by replacing the words “board of appeal” in the second line by the word “board”.

27. Section 450 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision”;

(2) by replacing the third paragraph by the following paragraph:

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds both agencies.”

28. Section 451 of the said Act is amended

(1) by replacing the words “bring an appeal” in the second line of the second paragraph by the words “contest the decision”;

(2) by replacing the third paragraph by the following paragraph:

“A proceeding brought under any of the said Acts precludes any proceeding under any other of them and the decision made binds the Commission for the purposes of each of the said Acts.”

29. Section 570.1 of the said Act is amended by replacing the words “appealed from” in the third line of the first paragraph by the words “contested before the board”, by replacing the word “appeal” in the second line of the second paragraph by the word “contestation” and by replacing the words “of, or appeal from,” in the first and second lines of the third paragraph by the words “contestation of”.

30. Section 590 of the said Act is replaced by the following section:

“**590.** The Minister of Labour is responsible for the administration of this Act.”

31. Schedules VI and VII to the said Act are repealed.

FINAL PROVISIONS

ACT RESPECTING THE BARREAU DU QUÉBEC

32. Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended by replacing the words “or the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001)” in the sixth, seventh and eighth lines of paragraph 3 of paragraph *a* of subsection 2 by the words “, the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001) or the Commission des lésions professionnelles established under the said Act”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

33. Schedule I to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by adding the words “the Commission des lésions professionnelles if they are commissioners” after the words “the Commission d’appel en matière de lésions professionnelles if they are employed full-time” in paragraph 3.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

34. Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended

(1) by striking out the definition of “ “review office” ”;

(2) by replacing the definition of “ “board of appeal” ” by the following definition:

“ “Commission des lésions professionnelles” means the Commission des lésions professionnelles established by the Act respecting industrial accidents and occupational diseases (chapter A-3.001);”.

35. Section 20 of the said Act is amended by replacing the words “an appeal” in the second line of the first paragraph by the words “a contestation before the Commission des lésions professionnelles”.

36. Section 36 of the said Act is amended by replacing the word “appeal” in the fourth line of the third paragraph by the words “contestation before the Commission des lésions professionnelles”.

37. Section 37.1 of the said Act is amended by replacing the words “thereof by a review office” in the third line by the words “to the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.

38. Section 37.2 of the said Act is replaced by the following section:

“37.2. The Commission shall proceed by preference with an application for review under section 37.1.

The decision made by the Commission on the application has effect immediately, even if it is contested before the Commission des lésions professionnelles.”

39. Section 37.3 of the said Act is replaced by the following section:

“37.3. Any person who believes he has been wronged by a decision made by the Commission following an application under section 37.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

40. Section 172 of the said Act is amended

(1) by replacing the words “hear and decide any matter or question” in the fourth line of the first paragraph by the words “and decide any question”;

(2) by replacing the words “an inquiry or hearing” in the first line of the second paragraph by the words “the examination of a question”;

(3) by replacing the words “an inquiry or hearing” in the first line of the third paragraph by the words “the examination of a question”.

41. Section 176 of the said Act is amended by replacing the words “, hear and decide any matter or” in the first and second lines by the words “and decide any”.

42. Chapter IX.1 of the said Act is repealed.

43. Section 191.1 of the said Act is amended by replacing the words “a review office” in the second line by the words “the Commission in accordance with sections 358.1 to 358.5 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001)”.

44. Section 191.2 of the said Act is amended by replacing the words “review office” in the second line by the word “Commission”.

45. Section 192 of the said Act is replaced by the following section :

“**192.** A decision made by the Commission following an application under section 191.1 has effect immediately, notwithstanding any contestation before the Commission des lésions professionnelles.”

46. Section 193 of the said Act is replaced by the following section :

“**193.** Any person who believes he has been wronged by a decision made by the Commission following an application under section 191.1, may, within 10 days of being notified of the decision, contest it before the Commission des lésions professionnelles.”

47. Section 223 of the said Act is amended

(1) by replacing subparagraph 37 of the first paragraph by the following subparagraph :

“(37) establishing rules applicable to the examination and decision of questions over which an inspector or the Commission has jurisdiction or over which certain persons or the executive committee have jurisdiction pursuant to section 172;”;

(2) by replacing the words “an investigation or hearing held under section 172 or held by a revision office” in the second and third lines of subparagraph 40 of the first paragraph by the words “the examination of a question under section 172”;

(3) by striking out subparagraph 40.1 of the first paragraph.

48. Section 223.1 of the said Act is amended

(1) by replacing the words “an appeal” in the second line of paragraph 1 by the words “a contestation”;

(2) by replacing the words “an appeal” in the second line of paragraph 4 by the words “a contestation”.

49. Section 228 of the said Act is amended

(1) by striking out the words “and sections 358 and 359” in the first line;

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

“A decision of the Commission may be contested before the Commission des lésions professionnelles in accordance with section 359.1 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).”

TRANSITIONAL PROVISIONS

50. All matters pending before a review office on the date of coming into force of section 42 of this Act shall be continued and decided in accordance with sections 358.2 to 358.5 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 15 of this Act, unless the hearing of the matter was commenced before that date, in which case the matter shall be continued before the review office which was seized of the matter.

Sections 359 and 362 to 364 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by sections 16 and 18 to 20 of this Act and adapted as required, shall apply to the decision of the review office.

51. Notwithstanding section 42 of this Act, a review office established under Chapter IX.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) shall continue to exist and shall retain its jurisdiction to hear and decide any matter pending before it on the date of coming into force of section 42, the hearing of which was commenced before that date.

52. All matters pending before the Commission d’appel en matière de lésions professionnelles on the date of coming into force of section 24 of this Act shall be continued and decided by the Commission des lésions professionnelles established under section 367 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

However, all matters the hearing of which was commenced before that date shall be continued before the commissioner who was seized of the matter; that commissioner shall exercise his jurisdiction in the capacity of commissioner of the Commission des lésions professionnelles.

If the commissioner who was seized of the matter ceases to be a commissioner, section 401 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, applies to him.

In the cases described in the second and third paragraphs, the commissioner shall sit alone.

53. Where a review or appeal proceeding before a review office or before the Commission d'appel en matière de lésions professionnelles was provided for by the law as it read before being amended by this Act, the review or appeal proceeding shall be maintained before the authorities that replace them, with respect to any decision made before the coming into force of sections 24 and 42 of this Act, if the time for bringing the proceeding prescribed by the law as it read before being amended by this Act has not expired.

54. Where this Act shortens a prescribed period, the new period applies, but begins to run upon the coming into force of this Act. However, the period prescribed by the law as it read before being amended by this Act is maintained where it would in fact be extended if the new period was applied.

55. The rules of evidence, procedure and practice applicable before the Commission des lésions professionnelles, including the provisions governing introductory procedures, conciliation, pre-hearing conferences and hearings, shall apply, according to the state of the record, to all matters that were pending on the date of coming into force of section 24 and are to be continued before the Commission des lésions professionnelles. However, the Commission des lésions professionnelles may set aside those rules and apply the former rules if it considers that the application of the provisions as amended by this Act would cause prejudice to a party.

The former rules of evidence, procedure and practice shall remain applicable to matters pending the hearing of which was commenced before the coming into force of section 24 of this Act.

56. Until a by-law containing rules of evidence, procedure and practice is made under section 429.21 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the rules that applied before the Commission d'appel en matière de lésions professionnelles shall continue to apply as suppletive provisions, but only insofar as such rules are compatible with the rules introduced by this Act.

57. Notwithstanding section 385 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles whose terms of office have not expired on (*insert here the date preceding the date of coming into force of this section*) shall

become commissioners of the Commission des lésions professionnelles, without administrative duties, for the unexpired portion of their terms.

Upon the expiry of their terms of office, such persons shall become subject to the appointment renewal procedure set out in sections 394 and 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

58. Notwithstanding section 385 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, the commissioners of the Commission d'appel en matière de lésions professionnelles who, on (*insert here the date preceding the date of coming into force of this section*), hold office as commissioners of the said commission, despite the expiry of their term, shall become commissioners of the Commission des lésions professionnelles and shall be subject to the appointment renewal procedure set out in sections 394 and 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act; however, in such a case, the time limit of three months provided in section 394 shall be calculated from the date occurring six months after the coming into force of this section.

59. Notwithstanding section 42 of this Act, the persons who are chairmen of the review offices established under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) on (*insert here the date preceding the date of coming into force of this section*) are declared to be qualified for appointment as commissioners of the Commission des lésions professionnelles, and their names shall be recorded in the register provided for in section 389 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act; the candidacy of such persons shall be examined by the committee charged with examining renewals of terms of office, which may, after consulting the Conseil consultatif du travail et de la main-d'oeuvre, recommend to the Government that they be appointed.

60. The qualifications required by law, including the 10 years of experience pertinent to the exercise of the functions of the Commission des lésions professionnelles, shall not be required of persons who become commissioners of the said commission pursuant to sections 57 and 58, even upon a subsequent renewal of appointment, as long as they remain members.

The same applies to persons declared to be qualified pursuant to section 59.

61. Persons who become commissioners of the Commission des lésions professionnelles pursuant to sections 57 and 58 shall, within 60 days, take the oath prescribed by section 412 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

62. Until the code of ethics applicable to the members of the Commission des lésions professionnelles has been established in accordance with section

413 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act, and has come into force, the members of the Commission des lésions professionnelles are bound to comply with the following obligations, and any failure by a member to comply with them may be grounds for a complaint against the member.

The members must perform their duties honestly, and must avoid placing themselves in situations that hinder the honest performance of their duties; their behaviour must be fully compatible with the requirements of honour, dignity and integrity inherent in their office.

63. Until the coming into force of section 165 of the Act respecting administrative justice (1996, chapter 54), the Government may determine the authority responsible for receiving and examining a complaint and for instituting an inquiry in accordance with section 399, 400 or 411 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as replaced by section 24 of this Act.

64. The persons who become commissioners of the Commission des lésions professionnelles pursuant to sections 57 and 58 shall continue to receive the remuneration they received before the coming into force of this Act; notwithstanding the coming into force of a regulation respecting remuneration and other conditions of employment, if the remuneration they receive is greater than that prescribed regulation, they shall continue to receive their former remuneration until parity is reached.

If the commissioner held administrative office prior to the coming into force of this Act, any additional remuneration attached to such office shall cease upon the commissioner ceasing, pursuant to this Act, to hold administrative office; such additional remuneration shall correspond to the difference between the annual salary of the commissioner holding administrative office and the maximum on the salary scale applicable to a commissioner of the Commission d'appel en matière de lésions professionnelles.

65. Any benefits other than the pension plan and the other conditions of employment of the commissioners, as they existed before the coming into force of this Act, shall continue to apply to them until the coming into force of a regulation respecting remuneration and other conditions of employment.

66. The members of the personnel of the Commission de la santé et de la sécurité du travail who, on (*insert here the date of the day preceding the coming into force of section 42 of this Act*), are assigned to the administration of Chapter IX.1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) shall become, as determined by the Government after agreement between the bodies concerned, members of the personnel of the Commission des lésions professionnelles established by section 24 of this Act.

67. The Commission des lésions professionnelles shall succeed to the Commission d'appel en matière de lésions professionnelles; persons who are

members of the personnel of the Commission d'appel en matière de lésions professionnelles on (*insert here the date preceding the coming into force of section 24 of this Act*) become, as determined by the Government, members of the personnel of the Commission des lésions professionnelles established by section 24 of this Act.

The records, documents and archives of the Commission d'appel en matière de lésions professionnelles shall become the records, documents and archives of the Commission des lésions professionnelles.

68. The Minister must forward to the Government his assessment of the Bureau d'évaluation médicale established under section 216 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001).

The assessment must indicate, in particular, the results obtained by the Bureau following the implementation of the measures taken since the coming into force of this Act to improve the operation of the Bureau.

The assessment shall be tabled by the Minister in the National Assembly within 15 days of receipt or, if the Assembly is not sitting, within 15 days of resumption.

The competent committee of the National Assembly shall examine the assessment.

69. This Act comes into force on the date or dates to be fixed by the Government.