

The Commission des relations du travail: A New Beginning!

By Philippe Frère

On November 25, 2002 the main provisions of *An Act to Amend the Labour Code, to Establish the Commission des relations du travail and to Amend Other Legislative Provisions* came into force. The purpose of these provisions is to give effect to the most extensive reform of the *Labour Code* since 1987. The Legislator had tried to set up a new commission at that time but, although it was passed, the statute never came into force. This time it seems that it will; the orders in council for the appointment of the president, vice-presidents and commissioners have been adopted and these officers are already performing their new duties.

What is the Commission des relations du travail?

The Commission is the body taking over the duties previously discharged by the Labour Commissioner. Its decisions are, however, final and unappealable, since the *Act to Amend the Labour Code* abolished the appellate role of the Tribunal du travail. Jurisdiction in first instance of the Tribunal du travail for

penal offences is henceforth assigned to the Court of Québec. The Commission will exercise decision-making power over matters relating to the recognition of associations of employees as well as complaints brought under the *Labour Code* and twenty-three (23) other statutes involving labour law.

What are its new powers?

The Commission is vested with new powers, notably that of issuing safeguard orders or orders to cease performing, not to perform or to perform an act, to accelerate or amend the grievance or arbitration procedure provided for in a collective agreement and to summarily reject any procedure it considers to be improper or dilatory.

The Commission may also, if the parties consent thereto, set up a pre-decision conciliation session. It may furthermore order that a pre-hearing conference be held to circumscribe the matters at issue in the proceedings before it.

More specifically, motions for injunction previously filed with the Superior Court in cases of illegal strikes, lock-outs or slowdowns may henceforth be subject to remedial orders.

Decisions will be made by one commissioner and, in cases deemed appropriate, by a panel of three commissioners. In some cases, a "labour relations officer" will render decisions pertaining to the certification of an association of employees.

Who will be the officers and commissioners?

The president of the Commission is the former chief judge of the Tribunal du travail, Mr. Louis Morin, and the vice-presidents are Mtre. Pierre Flageole and Mtre. Robert Côté. Most of the commissioners are former labour commissioners (see list on page 3).

What will happen to pending matters?

Matters pending before a labour commissioner will be continued without other formality before the Commission. Those pending before the Tribunal du travail will be continued before that court in accordance with the provisions of the *Labour Code* in force before their amendment. Decisions of the Labour Commissioner rendered before November 25, 2002 will, where applicable, still be appealable to the Tribunal du travail, within the delay for appeal provided for under the previous law.

Will delays for hearings be reduced?

The Commission does not currently have additional staff that would allow it to significantly reduce the normal delays for hearing. However, it is invested with new powers requiring that it act diligently in urgent matters to preserve the rights of the parties. In certification matters, the *Labour Code* further provides for new deadlines within which the Commission must render decisions.

Are there other changes to the *Labour Code*?

Yes. Several consequential amendments have been made to reflect the above-described changes. Numerous amendments bring about minor changes, the discussion of which falls beyond the scope of this bulletin.

However, it is important to note the coming into force on November 25, 2002 of the new sections 45.1 and 45.2 of the *Labour Code*. Section 45.1 sets out the deadline to apply for a determination as to the application of section 45 and section 45.2 sets out the date for the expiry of the collective agreement following the transfer of part of an undertaking and provides that the parties may agree to waive the application of section 45 in the case of such a transfer.

November 25, 2002 also saw the coming into force of the new section 20.0.1 of the *Labour Code*, which governs the consequences for employees of changes to the mode of operation of an undertaking which would convert their status to that of a contractor without employee status.

Some things never change however... the lawyers in our firm are always available to advise you and represent your interests in labour relations matters. Do not hesitate to contact us.

Philippe Frère

Philippe Frère has been a
member of the Quebec Bar
since 1984 and specializes in
Labour Law



List of commissioners in office as of November 25, 2002

Montréal

Ms.:

Gilberte Béchara
Louise H. Côté-Desbiolles
Sygne Rouleau
Huguette Vaillancourt

Hélène Bélanger
Suzanne Moro
Andrée St-Georges
Louise Verdone

Messrs.:

André Bussière
Pierre Cloutier
Michel Denis
Michel Marchand
Jean Paquette
Jacques Vignola

Mario Chaumont
Pierre Cyr
Jean Lalonde
Benoît Monette
Alain Turcotte

Québec City

Messrs.:

Roger Barette
Jacques Daigle
Pierre Lefebvre

Pierre Bernier
Louis Garant
Bernard Marceau

The following people were also appointed as full-time commissioners for a term of less than 5 years.

Messrs.:

Jacquelin Couture (Montréal)
Paul Dufault (Montréal)
Claude Gélinas (Québec City)
Paul-E. Bélanger (Québec City)

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