



Act respecting collective agreement decrees:

A crisis of confidence and legitimacy for small businesses



CANADIAN FEDERATION OF INDEPENDENT BUSINESS

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Introduction and background

For many years now, the Canadian Federation of Independent Business (CFIB) has repeatedly shared the concerns of small and medium-sized business owners in Quebec affected by collective agreement decrees adopted under the *Act respecting collective agreement decrees*¹ (the ARCAD). The ARCAD is enforced by parity committees. As a reminder, a decree is defined as follows:

“A legally extended collective agreement between employers and unionized or non-unionized employees in a specific industry in a given region.[...] It can include provisions about salaries, benefits, and job classification, among other things.

A decree is comparable to labour standards, since it contains minimum working conditions that must be provided to all applicable employees.”² (Translation)

There are currently 15 collective agreement decrees in force in Quebec, covering the following industries: motor vehicles and automotive services, industries (building materials, installation of petroleum equipment in Quebec, metal millwork, and Quebec road signage), and services (public building maintenance, security guards, solid waste removal, trucking).³

The purpose of this report is to present our perspective on the *Act respecting collective agreement decrees*, as enforced by parity committees, based on survey data collected between August and December 2022 from small business owners in the ARCAD sectors. Over 200 business owners responded to the survey, out of a total of 10,240 businesses regulated by ARCAD decrees in 2022.⁴ The survey therefore captured the views of around 2% of all affected small businesses.

We will summarize the opinions of Quebec business owners who are affected by a collective agreement decree, along with their perceptions of the parity committees. Finally, our survey results will illustrate small business owners’ views on amendments that could be made to the ARCAD to reflect the realities of the labour market, thus mitigating potential imbalances.

¹ LégisQuébec: *Act respecting collective agreement decrees*. Online: <https://www.legisquebec.gouv.qc.ca/en/document/cs/D-2>

² Ministère du Travail, June 2023, Décrets de convention collective. Online: <https://www.travail.gouv.qc.ca/faq/decrets-de-convention-collective/#:-:text=Un%20d%C3%A9cret%20est%20une%20convention,on%20ne%20peut%20y%20d%C3%A9roger.>

³ Ministère du Travail, June 2023, Répertoire des comités paritaires et liste par secteurs. Online: <https://www.travail.gouv.qc.ca/publications/liste-par-themes/decrets-de-convention-collective/repertoire-des-comites-paritaires/>

⁴ Ministère du Travail, Access to information request made by CFIB, April 2023. The data comes from the parity committees’ annual reports and was compiled by the Ministère du Travail for 2022.

ARCAD: Echoing labour standards?

The ARCAD, formerly known as the *Act respecting the extension of collective labour agreements*, was adopted in 1934 under particular socio-economic and labour market conditions affected by the 1929 economic crisis. The legislative intent was to correct imbalances in industries where labour relations were considered particularly unstable or inequitable. The ARCAD, as it was named in 1940, decrees the working conditions negotiated by employers and unions. It operates according to distinct rules and procedures that apply only to certain specific industries and regions. It was designed to guarantee minimum standards for pay, working hours, vacations, and other conditions of employment in those sectors.

The ARCAD predates the *Labour Code* (1964) and the *Act respecting labour standards* (1979). The *Labour Code* was enacted to regulate relations between employers and workers by establishing the rights and obligations of each party. It covers a wide range of topics, including labour standards, collective bargaining, vacations, and conditions of employment.⁵ Meanwhile, the *Act respecting labour standards* focuses specifically on minimum labour standards, such as hours of work, wages, annual leave, sick leave, working conditions, and protection against harassment and discrimination.⁶

Over the years, the Quebec government has strengthened these laws with regulatory and legislative measures that reinforce workers' rights and protection and improve their working conditions to make them fair and equitable.

Benefits and impacts of collective agreement decrees

Small business is at the heart of Quebec's economy. Over 99% of companies in Quebec are small businesses, and 72% of them have fewer than 10 employees.⁷ They stimulate our economy, create jobs, and energize our communities. Investing in small and medium-sized businesses means investing in a strong economy, which is why it is important to adopt measures that can help overcome entrepreneurial challenges and foster a business environment conducive to growth and competitiveness.

CFIB first looked at the benefits (Figure 1) and impacts (Figure 2) of collective agreement decrees for affected companies. More specifically, we looked at the scope of a decree and its repercussions on businesses.

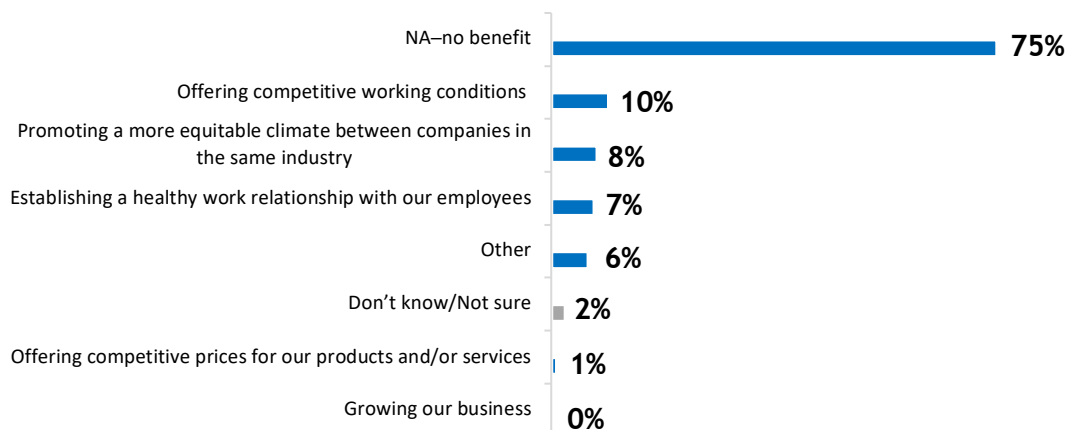
⁵ LégisQuébec, *Labour Code*. Online: <https://www.legisquebec.gouv.qc.ca/en/document/cs/C-27>

⁶ LégisQuébec, *Act respecting labour standards*. Online: <https://www.legisquebec.gouv.qc.ca/en/document/cs/N-1.1>

⁷ Statistics Canada, *Canadian Business Counts, with employees*, June 2022. Online: <https://www150.statcan.gc.ca/t1/tbl1/en/tv.action?pid=3310056801>

Figure 1

Benefits of collective agreement decrees for businesses



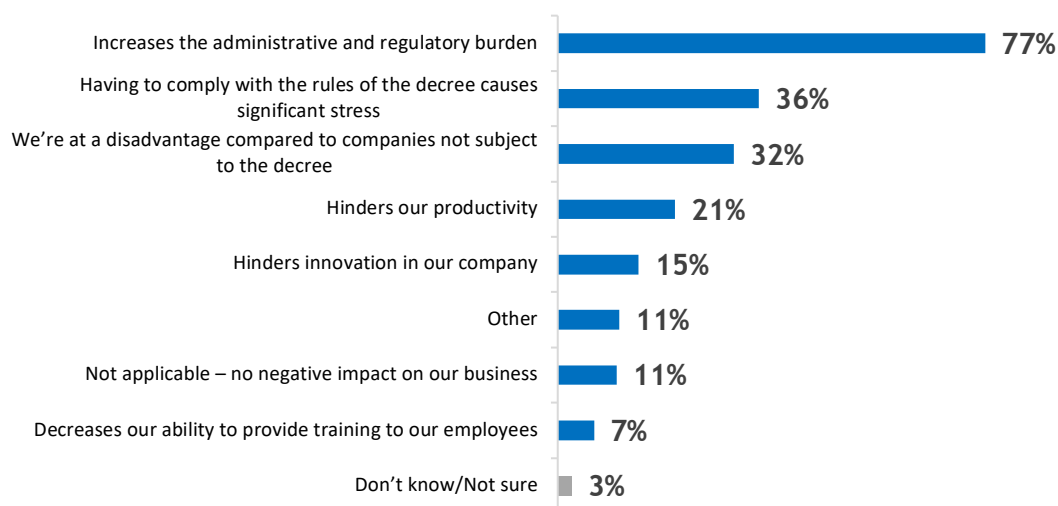
The survey results are clear: 3 out of 4 respondents said the collective agreement decree brought no benefit to their company. Only 10% felt that it improved working conditions for employees, and 8% thought it fostered a more equitable climate between companies in the same industry. Furthermore, only 7% of respondents observed that the decree made for a healthy working relationship with their employees, and just 1% felt that it enabled them to offer competitive prices on products and services.

Most concerningly, none of the respondents said the decree was a lever for their company's growth. The survey results speak volumes and raise a number of questions about the soundness of this compulsory scheme.

We therefore decided to study the harmful effects of collective agreement decrees on affected companies.

Figure 2

Negative impacts of collective agreement decrees on businesses



The most significant impact, mentioned by 77% of respondents, is the greater administrative and regulatory burden for their companies. Additionally, 36% reported that the decrees caused considerable stress for business owners, while 32% felt that they put affected companies at a disadvantage compared to their counterparts that are not governed by decrees.

The cost of red tape is a serious issue for small and medium-sized businesses in the province. The administrative and regulatory burden costs \$8.2 billion a year in Quebec, and the total cost of regulation is almost five times higher for businesses with fewer than five employees.⁸

Red tape puts pressure on the business environment and is a barrier to entrepreneurship and business development; hence the importance of reducing this burden on the economy.

Furthermore, many of the respondents felt that the decree hindered productivity (21%) and innovation (15%) in their business. Only 1 in 10 small business owners stated that the decree had no negative impact on their company. Finally, 7% said the decree reduced their company's ability to offer training to its employees.

In CFIB's view, this survey data clearly shows that the benefits of applying the collective agreement decrees are minimal (11% of respondents) compared to the negative impacts.

View on parity committees

Parity committees are responsible for overseeing the application of collective agreement decrees. The decrees are negotiated by employer and union representatives, who are also stakeholders. First of all, the companies sitting on the parity committees—mainly large players—determine and negotiate the collective agreement that will then be extended to, and imposed on, the entire sector and territory concerned.

In this way, the Quebec government delegates the task of monitoring the application of a collective agreement extended by decree or ministerial order to employers and unions. As a result, parity committee members are both umpires and players. And yet the *Public Protector Act* and the *Access to Information Act* do not apply to these committees. This raises concerns, given the considerable power they wield and the resulting perceived conflicts of interest.

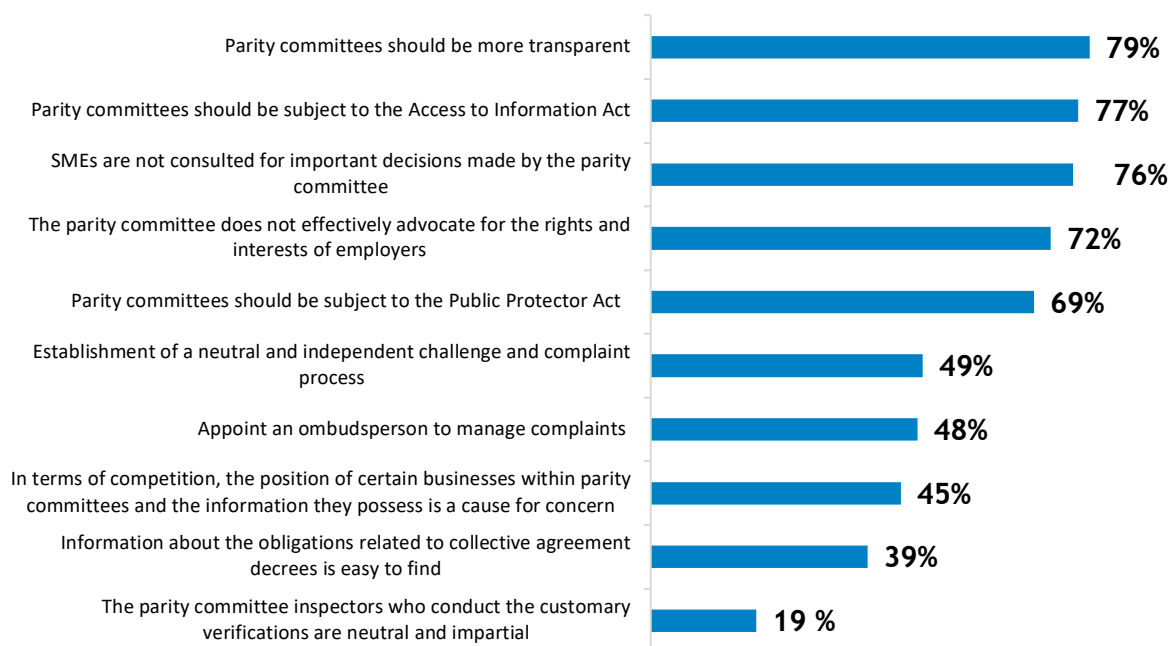
To better explain this reality, this section presents how affected business owners feel about leadership and complaint management in parity committees.

The survey results show that there is strong dissatisfaction, and even a crisis of confidence and representativeness among affected companies and their representatives regarding parity committees.

⁸ CFIB, Canada's Red Tape Report, January 2021. Online: <https://20336445.fs1.hubspotusercontent-na1.net/hubfs/20336445/research/Canadas-Red-Tape-Report-2021.pdf>

Figure 3

Opinions of affected business owners concerning leadership and complaint management in parity committees



Transparency, neutrality, independence, and impartiality

Business owners have clear expectations of parity committees, specifically in terms of transparency and sound governance. For example, 79% of respondents said the committees should show more transparency by making certain documents public each year: reports, financial statements, statistics on complaints and complaint management, meeting agendas and minutes, and the list of committee members.

Overall, 77% of small business owners were of the opinion that parity committees should be governed by the *Access to Information Act*, the purpose of which is “to enhance the accountability and transparency of federal institutions in order to promote an open and democratic society and to enable public debate on the conduct of those institutions.”⁹ In fact, very little recent official information or documentation is available on the website of the Ministère du Travail or some of the parity committees’ websites.¹⁰

Furthermore, 69% of business owners want parity committees to come under the *Public Protector Act*, which mainly aims to protect the rights of citizens when they use public services in Quebec.¹¹

Nearly half (49%) of them would like to see a neutral, independent challenge and complaint process like the one at the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) or the Ministère du Travail, de l'Emploi et de la

⁹ Government of Canada, *Access to Information Act*. Accessed online: <https://laws-lois.justice.gc.ca/eng/acts/a-1/FullText.html>

¹⁰ Ministère du Travail, June 2023, Décrets de convention collective. Online: <https://www.travail.gouv.qc.ca/faq/decrets-de-convention-collective/#:-:text=Un%20d%C3%A9cret%20est%20une%20convention,on%20ne%20peut%20y%20d%C3%A9roger.>

¹¹ LégisQuébec, *Public Protector Act*. Online: <https://www.legisquebec.gouv.qc.ca/en/document/cs/P-32>

Solidarité sociale (MTESS). In addition, 48% were in favour of appointing an ombudsman for managing complaints by business owners against parity committees.¹²

Only 19% of respondents thought the parity committee inspectors who conduct customary verifications were neutral and impartial. It is imperative that inspectors be perceived as objective, impartial, and fair. Their role is to ensure compliance with standards and regulations by making sure employers follow the laws and protect workers' rights. This alarming figure raises serious concerns about the integrity of inspections and business owners' confidence in them.

Communication, employer representation, and competition

The survey results point to certain communication issues. Only 39% of respondents felt that information on employers' obligations under collective agreement decrees was easy to find. There are fines for non-compliance, but it is difficult to comply with a decree when the information you need is hard to find.

Over three quarters of respondents (76%) said businesses were not consulted on important decisions taken by parity committees. In fact, 72% said the committee failed to effectively defend employers' rights and interests. As a result, more than 7 out of 10 owners were completely unaware of the decision-making process and questioned the representativeness of the parity committee.

In addition, 45% of respondents said they were concerned about the role played by certain companies on parity committees and the information available to them. This signals that respondents perceive potentially unfair competition and practices that could affect wages. Companies that are on parity committees could take advantage of their privileged position to influence the decisions and information shared within these committees, to the detriment of other market players. This raises concerns about the fairness and transparency of the decision-making process within the committees.

Some defenders of the status quo argue that the committees are necessary to prevent unfair competition and keep wages at a fair level. However, the survey results challenge this idea by showing that the very existence of parity committees might undermine competition.

In the next section, we outline some employer suggestions to make the ARCAD more in tune with the realities of the labour market, thereby reducing imbalances.

Changes business owners would like to see in the ARCAD

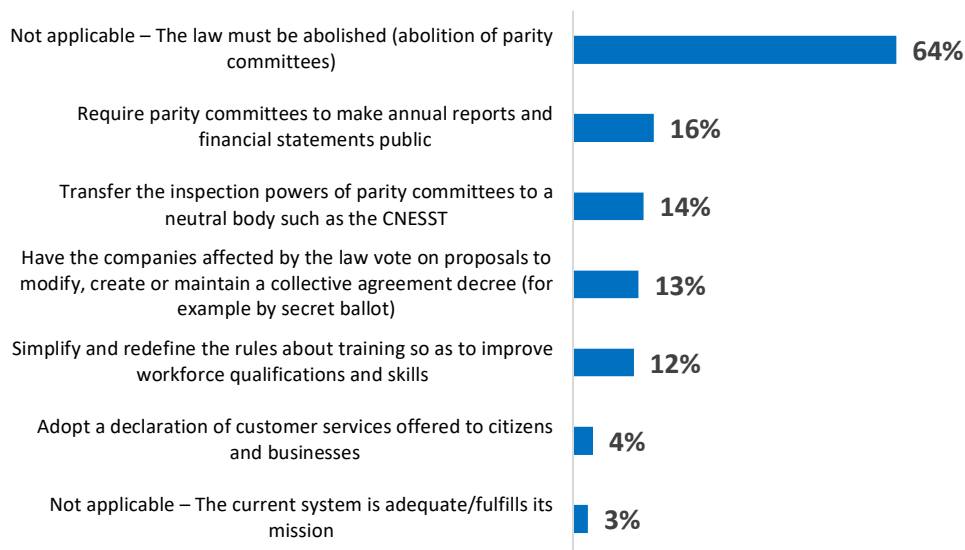
For almost two thirds (64%) of business owners, the priority is to abolish the ARCAD and, by extension, parity committees (Figure 4). This significant number clearly demonstrates the importance of reflection and strong government action. A closer look at the survey results shows that companies with fewer than five employees (71%) were keener to see the ARCAD

¹² Gouvernement du Québec, Justice and civil status, Prevent or resolve a dispute, Ombudsmen. Online: <https://www.quebec.ca/en/justice-and-civil-status/dispute-prevention-resolution-processes/ombudsmen>
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abolished than those with five to 19 employees (63%). It would therefore appear that smaller companies are more affected.

Figure 4

Which of the following potential changes to the *Act respecting collective agreement decrees* do you most support?



Next, 16% of respondents were in favour of requiring parity committees to make their annual reports and financial statements public, 14% supported the transfer of inspection powers from parity committees to a neutral body, and 13% advocated a vote by affected companies on any proposal to amend, create, or maintain a collective agreement decree.

Finally, 12% of respondents think it is necessary to simplify and redefine the rules about training so as to improve workforce qualifications and skills.

The Quebec government has various measures at its disposal to address this issue. We urge it to consider all the data from this survey, which sheds light on the situation and can help the Minister assess whether the ARCAD has any relevance or added value.

Conclusion

Collective agreement decrees governed by the ARCAD and applied by parity committees seem to have more disadvantages than advantages. According to our results, collective agreement decrees offer few to no benefits. In fact, 75% of survey respondents indicated that applying these decrees brought no benefit to their business. Negative repercussions outweighed the benefits for affected companies and included more administrative work, greater pressure, and a competitive disadvantage in relation to non-affected companies.

Some 64% of Quebec small businesses that come under the ARCAD are calling for its abolition and the abolition of parity committees, mainly because they do not see the point of this compulsory scheme and do not feel adequately represented. Business owners are clear that the ARCAD limits the scope for adaptation and innovation by subjecting companies to uniform rules that take no account of their specific context or particular needs. This undermines their competitiveness in the marketplace and prevents them from achieving their full potential.

It would seem that the Quebec government's ad hoc efforts and recent draft regulations, aimed primarily at providing a better framework for parity committees, have not only been inadequate but have actually legitimized the ARCAD's continued existence.

The ARCAD and the collective agreement decrees significantly increase the administrative burden and considerably hamper the growth and development of small and medium-sized companies in the affected sectors and regions. This scheme is one of a kind in North America, and yet it clearly is not the answer for small and medium-sized businesses.

Comments from business owners affected by the ARCAD

“Our wages, vacations and working conditions are higher than what the parity committee requires. Parity committees would have been useful decades ago, but not today.”

Small business owner
Pers./Misc. Services, Laurentides

“It’s unfair because companies not affected by the decree have lower fixed costs than we do. In terms of wages, we’re already paying more than what’s required.”

Small business owner
Manufacturing, Centre-du-Québec

“The monthly report is time-consuming, plus there’s a lot of staff turnover due to labour shortages, so that requires even more management. And in the end, it doesn’t do much for the employee...”

Small business owner
Retail, Mauricie

“We’d like to see our region’s parity committee abolished because we feel it serves no purpose other than asking for money.”

Small business owner
Retail, Chaudière-Appalaches

“It’s an unnecessary expense for both employees and employers.”

Small business owner
Pers./Misc. Services, Laurentides

“I don’t see the point of my parity committee. Quite the opposite: it’s a huge waste of time. Even if the contributions are ‘minimal,’ I don’t see any advantage. It makes no difference to my business, except to increase paperwork and waste my time.”

Small business owner
Pers./Misc. Services, Mauricie

“A law that dates back to the Jurassic period, a relic that favours a small group of individuals. This law should be buried alive as soon as possible. Some regions are not subject to any of the decrees, and no one complains.”

Small business owner
Pers./Misc. Services, Estrie

Methodology

The survey on parity committees (December 2022) was conducted online from August 24 to December 12, 2022, among owners of Quebec small businesses affected by the collective agreement decrees adopted under the *Act respecting collective agreement decrees* (ARCAD). Final results, n=211 respondents. Considering that 10,240 Quebec businesses were subject to a decree in 2022 (cf. footnote 9), this study gathered the perspectives of around 2% of all the small businesses affected. We therefore believe the survey data offers a sufficiently relevant perspective for it to be included in this report.

Note: Respondents could choose more than one answer in certain cases, so the total may exceed 100%.

About CFIB

CFIB is a non-partisan organization exclusively representing the interests of 97,000 small and medium-sized businesses in Canada, including 21,000 in Quebec. CFIB's research capacity is second-to-none because it is able to gather timely and concrete information from members about business issues that affect their day-to-day operation and bottom line. In this capacity, CFIB is an excellent source of up-to-date information for governments to consider when developing policies impacting Canada's small business community.

To learn more, visit cfib.ca.



Clémence Joly
Senior Policy Analyst

Clémence Joly analyzes and comments on bills affecting companies, and writes and creates content (briefs, reports, letters, etc.). She makes political representations on small business issues and sits on various committees and working groups. She works to raise awareness among the various levels of government in the development of public policy, and acts as a Francophone spokesperson in the media. Since joining CFIB, she has worked on a range of reports on issues such as labour shortages and inflation.



François Vincent
Vice-president, Quebec

As Vice President, Quebec, François Vincent leads a team that advocates for the interests of small and medium-sized enterprises (SMEs) in the province. He meets with policy makers at the municipal, provincial, and federal levels to ensure that the actual experience of SMEs is taken into account in public policy development. He also reviews legislative bills that will have an impact on businesses and is active in the media on behalf of SMEs. François holds a Bachelor's Degree in Communications and Politics and a Certificate in Law from the Université de Montréal, as well as a post-graduate degree in Management from HEC Montréal.



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