



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 78
(1996, chapter 74)

**An Act to amend various legislative provisions
relating to the construction industry**

Introduced 14 November 1996
Passage in principle 10 December 1996
Passage 20 December 1996
Assented to 23 December 1996

Québec Official Publisher
1996

EXPLANATORY NOTES

This bill amends various laws governing the construction industry in order to remove some of the constraints affecting individuals and enterprises.

Requirements in the Building Act relating to the issue of licences and permits are reduced, temporary licences and permits are eliminated, and licences restricted to certain classes of work are authorized. Candidates will be admitted to the examinations of the Régie du bâtiment before applying for a licence, and it will be possible to transmit documents to the Régie du bâtiment by electronic means or via a telecommunications link.

In the field of piping and electrical installation work, contractors will be exempted from the requirement to forward plans and specifications in every case before beginning work. The obligation to obtain a permit for piping work is replaced by an obligation to declare such work, the obligation to obtain a permit for electrical work is eliminated, and the obligation to declare electrical work is limited to work that does not involve a connection to a public power network.

A number of provisions are introduced into various Acts to facilitate, by regulatory measures, the implementation of intergovernmental agreements concerning manpower mobility and the recognition of qualifications, skills and experience. The rules relating to the issue of cards by the Commission de la construction du Québec to individuals who wish to work as employees in the construction industry are also adjusted.

The rules governing the inclusion of expenses in the calculation of a building contractor's contribution toward the development of manpower training are changed for a limited period.

Lastly, the bill contains technical and consequential amendments and a series of provisions to ensure rapid implementation of the deregulatory measures it introduces.

LEGISLATION AMENDED BY THIS BILL :

- Building Act (R.S.Q., chapter B-1.1);
- Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5);
- Act respecting piping installations (R.S.Q., chapter I-12.1);
- Act respecting electrical installations (R.S.Q., chapter I-13.01);
- Master Electricians Act (R.S.Q., chapter M-3);
- Master Pipe-Mechanics Act (R.S.Q., chapter M-4);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Act to foster the development of manpower training (1995, chapter 43).

Bill 78

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS RELATING TO THE CONSTRUCTION INDUSTRY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

BUILDING ACT

1. Section 58 of the Building Act (R.S.Q., chapter B-1.1) is amended by adding, at the end, the following paragraph :

“Subparagraph 2 of the first paragraph does not apply to a natural person who meets one of the conditions set out in subparagraphs 6, 7, 7.1 and 7.2 of the said paragraph.”

2. The said Act is amended by inserting, after section 58, the following section :

“58.1. A natural person, even if not applying for a licence for himself or on behalf of a partnership or legal person, shall be admitted to the examinations or to another method of evaluation referred to in subparagraph 1 of the first paragraph of section 58 if he meets the conditions set out in subparagraphs 3, 4, 5 and 8 of the said paragraph.

The results of the examination he has passed, the exemptions granted or the recognitions or attestations issued remain valid for a period of three years after his application for admission.”

3. Section 60 of the said Act is amended by adding, at the end, the following paragraph :

“Subparagraph 1 of the first paragraph does not apply to a partnership or legal person that meets one of the conditions set out in subparagraphs 4, 5, 5.1 and 5.2 of the said paragraph.”

4. The said Act is amended by inserting, after section 62, the following section :

“62.1. The Board may, by way of exception, issue a licence authorizing the holder to carry out or cause to be carried out building work the object and scope of which coincide with part only of a subclass of licence established by regulation of the Board, where the applicant meets the specific competency

conditions determined by the Board in addition to the other conditions prescribed by this Act and the regulations.”

5. Section 64 of the said Act is repealed.

6. The said Act is amended by inserting, after section 143, the following sections :

“**143.1.** The Board may authorize a person who transmits a notice, report, declaration, estimation or any other document to the Board, a manager referred to in section 81 or a person referred to in section 135, to transmit such document in computerized form or by a telecommunications link, on the conditions it determines by regulation according to the categories of documents indicated in the regulation.

“**143.2.** An intelligible written transcript of the data stored by the Board, the manager referred to in section 81 or the person referred to in section 135 in computerized form forms part of its or his documents and is proof of its content where it has been certified true by a person referred to in section 141 or by a person designated by the manager or the person, as the case may be.

In the case of data communicated to the Board, to a manager or to a person under section 143.1, the transcript must reproduce such data exactly.”

7. Section 160 of the said Act, amended by section 72 of chapter 74 of the statutes of 1991, is again amended by inserting the figure “58.1,” after the figure “17.2,” in paragraph 1.

8. Section 165 of the said Act, amended by section 73 of chapter 74 of the statutes of 1991, is again amended by inserting the figure “58.1,” after the figure “17.2,” in paragraph 1.

9. Section 182 of the said Act, amended by section 86 of chapter 2 of the statutes of 1996, is again amended by adding, at the end, the following paragraph :

“A regulation made under subparagraph 1 or 7 of the first paragraph to give effect to an intergovernmental agreement in respect of mobility or the recognition of the qualifications, skills or work experience of building contractors may provide for adjustments to the provisions of this Act and the regulations, including regulations adopted by the Board, and for special management rules applicable to the categories of persons and contractors covered by the regulation. Such a regulation is not subject to the requirements as to publication and the date of coming into force set out in sections 8 and 17 of the Regulations Act (chapter R-18.1).”

10. Section 185 of the said Act, amended by section 8 of chapter 58 of the statutes of 1995, is again amended

(1) by striking out the words “or other method of evaluation” at the end of paragraph 9;

(2) by striking out the words “or temporary licence” and “or a temporary permit” in paragraph 16;

(3) by striking out the words “or temporary licence” in paragraph 18;

(4) by inserting, after paragraph 18, the following paragraph:

“(18.1) determine in what cases it will charge registration, examination or evaluation fees to a natural person referred to in section 58.1 and fix the amount of such fees;”.

11. Section 192 of the said Act is amended by adding, at the end, the following paragraph:

“The contents of the codes and regulations may, in particular, vary to facilitate the recognition of the qualifications, skills or work experience of the building contractors covered by an intergovernmental agreement in respect of mobility or the recognition of such qualifications, skills or work experience.”

ACT RESPECTING MANPOWER VOCATIONAL TRAINING AND QUALIFICATION

12. Section 30 of the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5) is amended

(1) by inserting the words “, including any exceptional provision to facilitate the implementation of intergovernmental agreements in respect of manpower mobility or the recognition of the qualifications, skills or work experience in trades or vocations” after the word “establishes” in the third line of paragraph 1;

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

“Such regulations made to facilitate the implementation of an intergovernmental agreement are not subject to the requirements as to publication and the date of coming into force set out in sections 8 and 17 of the Regulations Act (chapter R-18.1).”

13. Section 31 of the said Act is amended by replacing the words “paragraphs *a, b, c* and *d*” in the first line of the first paragraph by the words “subparagraphs *a, b, c* and *d* of the first paragraph”.

14. Section 42 of the said Act is amended by replacing the words “paragraph *b*” in the third line of the first paragraph by the words “subparagraph *b* of the first paragraph” and by replacing the words “paragraph *b*” in the second line of the second paragraph by the words “subparagraph *b* of the first paragraph”.

ACT RESPECTING PIPING INSTALLATIONS

15. Section 13 of the Act respecting piping installations (R.S.Q., chapter I-12.1) is amended

- (1) by striking out subparagraph *b* of the first paragraph of subsection 1 ;
- (2) by striking out the words “and other fees” in the first line of subsection 3.

16. Section 15 of the said Act is amended

- (1) by striking out paragraphs *a* and *c* ;
- (2) by striking out the words “or other fees” in the first line of paragraph *e*.

17. Sections 20.1 and 20.2 of the said Act are replaced by the following sections :

“20.1. Every contractor must, before beginning work contemplated by this Act or the regulations, declare to the board of examiners the work he intends to carry out.

The declaration shall be transmitted by means of a document approved by the board of examiners.

In case of superior force, the contractor who cannot transmit a declaration before the beginning of the work shall do so as soon as possible.

“20.2. In the cases determined by regulation of the Government, the contractor must, before beginning the work, have in his possession the plans and specifications for a new piping system or for alterations to an existing piping system. A copy of the plans and specifications must be transmitted to the board of examiners at its request.

The plans and specifications must contain the information required by regulation of the Government.”

ACT RESPECTING ELECTRICAL INSTALLATIONS

18. Section 2 of the Act respecting electrical installations (R.S.Q., chapter I-13.01), amended by section 43 of chapter 29 of the statutes of 1996, is again amended by inserting the figure “, 9” after the figure “8.1” in the second line of paragraph 8.

19. Section 3 of the said Act is amended by replacing the words “with the permit application” in the fifth line of the first paragraph by the words “at its request”.

20. Section 4 of the said Act is replaced by the following section :

4. Every person, partnership or association wishing to carry out electrical installation work, whether additions, alterations or repairs to an existing electrical installation or a new electrical installation, must, in the case of work not requiring any connection to the network of a public service company or of a municipal service and before beginning the work, declare to the board of examiners the work he or it intends to carry out.

However, the Government may, by regulation, determine the conditions on which a single declaration of work may, during the period it fixes, cover all the work carried out by the holder of a licence.

In case of superior force, a licence holder who cannot transmit a declaration before the beginning of the work shall do so as soon as possible.”

21. Section 8 of the said Act is replaced by the following section :

8. The Government may prescribe the conditions on which the licences provided for in section 20 may be issued as well as the term of the licences and the applicable fees.

The Government may also prescribe the form and conditions of transmission of the declaration of work provided for in section 4, the conditions to be met by the persons referred to in that section and the inspection fees.”

22. Section 9 of the said Act is amended by replacing the word “permit” in the first line of the first paragraph by the word “licence”.

23. Section 19 of the said Act is amended by striking out paragraph 5.

24. Section 24 of the said Act is replaced by the following section :

24. The licences provided for in this Act shall be issued by the board of examiners as prescribed by regulation.”

25. Section 27 of the said Act is amended by striking out the words “and issuing of permits” in the second line.

26. Section 31 of the said Act is amended

(1) by striking out the words “or permit” in the first line of paragraph *a* ;

(2) by striking out the words “or a permit” in paragraph *c*.

27. Section 34 of the said Act is amended by replacing the words “No permit or licence issued under this Act or the regulations may be transferred or conveyed; and every such licence or permit may be suspended or cancelled” in the first, second and third lines of the first paragraph by the words “No licence issued under this Act or the regulations may be transferred or conveyed and any such licence may be suspended or cancelled”.

MASTER ELECTRICIANS ACT

28. Section 12.2 of the Master Electricians Act (R.S.Q., chapter M-3) is amended by replacing the words “the examinations contemplated in section 58 of the Building Act (chapter B-1.1)” in the first and second lines of the first paragraph by the words “, except with regard to persons exempted therefrom by a regulation under section 182 of the Building Act (chapter B-1.1), the examinations referred to in section 58 of that Act”.

MASTER PIPE-MECHANICS ACT

29. Section 11.2 of the Master Pipe-Mechanics Act (R.S.Q., chapter M-4) is amended by replacing the words “the examinations contemplated in section 58 of the Building Act (chapter B-1.1)” in the first and second lines of the first paragraph by the words “, except with regard to persons exempted therefrom by a regulation under section 182 of the Building Act (chapter B-1.1), the examinations referred to in section 58 of that Act”.

ACT RESPECTING LABOUR RELATIONS, VOCATIONAL TRAINING
AND MANPOWER MANAGEMENT IN THE CONSTRUCTION
INDUSTRY

30. The Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) is amended by inserting, after section 7.5, enacted by section 6 of chapter 8 of the statutes of 1995, the following section:

“**7.5.1.** For the purposes of sections 7.3 and 7.5, a person who establishes that he is exempted by virtue of a regulation made under the second paragraph of section 123 is deemed to be the holder of a proof of exemption.”

31. Section 28 of the said Act, amended by section 14 of chapter 61 of the statutes of 1993, is again amended

(1) by replacing the word “(CSD)” in the first line by the words “(CSD-CONSTRUCTION)”;

(2) by replacing the words “Syndicat de la construction Côte Nord de Sept-Îles Inc.” in the fourth and fifth lines by the words “Syndicat de la construction Côte-Nord Inc. (SCCN)”;

(3) by replacing the word “twelfth” in the seventh line by the word “thirteenth”.

32. Section 29 of the said Act, amended by section 14 of chapter 61 of the statutes of 1993, is again amended by replacing the word “twelfth” in the first line by the word “thirteenth”.

33. Section 32 of the said Act, amended by section 17 of chapter 61 of the statutes of 1993, is again amended by replacing the words “which ends on the last Saturday” in the fourth and fifth lines of the second paragraph by the words “ending on a Saturday that is any day from the fourth day to the tenth day”.

34. The said Act is amended by inserting, before section 36, the following sections :

“35.2. An employee whose name does not appear on the list prepared under section 30 may, during the month referred to in the first paragraph of section 32, make known to the Commission, according to the procedure it establishes by regulation, his election respecting one of the associations whose name is published pursuant to section 29. For the purposes of section 38, an employee who does not avail himself of that right is deemed to maintain his last election respecting one of the said associations.

“35.3. The presumptions as to an election or the maintenance of an election respecting an association of employees which are established by the third paragraph of section 32 and by section 35.2 are applicable, with respect to an association referred to in section 28 whose name has not been published pursuant to section 29 for the purposes of the most recent ballot held pursuant to the second paragraph of section 32, only until the last day of the ninth month preceding the date of expiry of a collective agreement provided for in section 47.

An employee who, until that date, is deemed to have made an election respecting an association whose name has not been so published or to maintain his election respecting such an association must, in accordance with the procedure established by regulation of the Commission, make known to the Commission, during the month referred to in the first paragraph of section 32 or at any other time determined in the regulation, his election respecting one of the associations whose name has been published pursuant to section 29.

“35.4. The Commission shall inform the representative association concerned of any election made in its respect by an employee under section 35.2 or 35.3.”

35. Section 36 of the said Act, amended by section 20 of chapter 61 of the statutes of 1993, is again amended

(1) by inserting the words “ or who has made his election known to the Commission pursuant to section 35.2 or 35.3” after the figure “33” in the second line of the first paragraph ;

(2) by replacing the words “he has elected for in accordance with section 32” in the first and second lines of subparagraph *c* of the first paragraph by the words “respecting which the employee has made an election” ;

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

“In the case of an employee holding a competency certificate or an exemption issued by the Commission, the Commission may, rather than send the employee the card referred to in the first paragraph, issue to him, if necessary, a new certificate or exemption containing the information that would have appeared on the card. In such a case, the name of the representative association respecting which the employee has made an election, as it appears on the certificate or exemption, has effect from the day mentioned in the second paragraph.”

36. The said Act is amended by inserting, after section 36, the following section :

“36.1. The Commission may, at any time, issue a card under section 36 to a person who wishes to begin working as an employee in the construction industry and who makes known to the Commission, according to the procedure established by regulation of the Commission, his election respecting one of the associations whose name has been published pursuant to section 29.

In such a case, the document issued to the person by the Commission indicating the person’s election has effect from the day of issue, and the Commission shall inform the representative association concerned accordingly.”

37. Section 37 of the said Act is replaced by the following section :

“37. Subject to the first paragraph of section 35.3, the name of the representative association respecting which an employee has made or is deemed to have made an election pursuant to this chapter, as it appears on a certificate, exemption or card referred to in section 36, is deemed to correspond to the last election respecting a representative association actually made by the employee, until such time as the document concerned is replaced to indicate a new election made by the employee.”

38. Section 38 of the said Act is amended by replacing the words “section 32” in the second line of the first paragraph by the words “this chapter”.

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

“39. No employer may, as regards construction work, use the services of a person subject to this Act as an employee, or assign such a person to construction work as an employee, unless the person holds a document referred to in section 36 validly bearing in accordance with this chapter the name of one of the associations referred to in section 28.”

40. Section 43.7 of the said Act, amended by section 21 of chapter 8 of the statutes of 1995, is again amended by inserting the word “sector-based” before the words “employers’ association” in the second line of the first paragraph.

41. Section 80.1 of the said Act, amended by section 37 of chapter 8 of the statutes of 1995, is again amended by inserting, after subparagraph 6 of the first paragraph, the following subparagraph :

“(7) refusing to issue to an employee a card referred to in section 36.”

42. Section 81 of the said Act, amended by section 38 of chapter 8 of the statutes of 1995, is again amended by inserting the words “or the recipient of an exemption” after the word “certificate” in the third line of subparagraph c.1 of the first paragraph.

43. Section 85.5 of the said Act is amended by replacing the words “or be the grantee of an exemption issued by the Commission” in the fourth and fifth lines by the words “issued by the Commission or be the recipient of an exemption”.

44. Section 85.6 of the said Act is amended by replacing the words “or be the grantee of an exemption issued by the Commission” in the third and fourth lines by the words “issued by the Commission or be the recipient of an exemption”.

45. Section 92 of the said Act, amended by section 42 of chapter 8 of the statutes of 1995, is again amended by adding, after subsection 5, the following subsection :

“(6) With the exception of sections 15 and 20, the Regulations Act (chapter R-18.1) does not apply to a regulation made under this section.”

46. Section 119.1 of the said Act, amended by section 50 of chapter 51 of the statutes of 1995, is again amended

(1) by replacing the words “or the grantee of an exemption issued by the Commission” in the third and fourth lines of paragraph 1 and the third and fourth lines of paragraph 2 by the words “issued by the Commission, or the recipient of an exemption,”;

(2) by replacing the words “or the grantee of an exemption issued by the Commission” in the third and fourth lines of paragraph 3 and the third and fourth lines of paragraph 4 by the words “issued by the Commission, or the recipient of an exemption”;

(3) by replacing the words “or, as the case may be, the proof of exemption, issued to him by the Commission” in the fourth and fifth lines of paragraph 7 by the words “issued to him by the Commission, or his proof of exemption”;

(4) by replacing the words “or an exemption” in the fourth line of paragraph 10 by the words “, an exemption or a card referred to in section 36”.

47. Sections 119.2 and 119.3 of the said Act are replaced by the following sections :

“119.2. Where a person is convicted of an offence under section 83.1 or any of paragraphs 1 and 7 to 11 of section 119.1, in addition to the prescribed penalty, his competency certificate, exemption or card issued under section 36 or, as the case may be, his right to obtain the issue or renewal of such a certificate, exemption or card shall be suspended for a period of one to three months if the person has been convicted of an offence under any of the said provisions during the two preceding years.

The suspension period provided for in the first paragraph shall be extended to a period of three to six months if the convicted person's competency certificate, exemption or card or, as the case may be, right to obtain such a certificate, exemption or card has, during the two preceding years, been suspended upon a conviction for an offence referred to in the first paragraph.

“119.3. Every person who performs construction work while his competency certificate, exemption, or card issued under section 36 or, as the case may, his right to obtain the issue or renewal of such a certificate, exemption or card is suspended is guilty of an offence and is liable to a fine of \$800 to \$1,600 and his competency certificate, exemption, or card issued under section 36 or, as the case may be, his right to obtain the issue or renewal of such a certificate, exemption or card shall be suspended for an additional period of six to twelve months.”

48. Section 119.4 of the said Act is amended by replacing the words “or his right to obtain such a certificate or the renewal of such a certificate” in the second and third lines by the words “, exemption or card issued under section 36 or, as the case may be, his right to obtain the issue or renewal of such a certificate, exemption or card”.

49. Section 119.5 of the said Act is amended by replacing the first sentence by the following sentence: “In the cases provided for in sections 119.2 and 119.3, the court shall, in addition to imposing a sentence, determine the duration of the suspension and order, where applicable, that the competency certificate, exemption or card issued under section 36 be confiscated and returned to the Commission.”

50. Section 120 of the said Act, amended by section 60 of chapter 61 of the statutes of 1993, is again amended by inserting the words “, or a prescription of a collective agreement in respect of any matter other than those referred to in section 62 or subparagraph *c* of the first paragraph of section 81,” after the word “thereunder” in the second line.

51. Section 121 of the said Act is amended by replacing the words “The Attorney General” in the first line by the words “Subject to section 105, the Minister”.

52. Section 123 of the said Act is amended by adding, at the end, the following paragraph :

“The Government may also, in order to give effect to an intergovernmental agreement in respect of manpower mobility or the mutual recognition of qualifications, skills or work experience in trades and occupations in the construction industry, make regulations to exempt certain persons, on the conditions it determines, from the requirement of holding a competency certificate or an exemption issued by the Commission ; such regulations may, in particular, provide for adjustments to the provisions of this Act and the regulations and special management rules. A regulation made under this paragraph is not subject to the requirements as to publication and the date of coming into force set out in sections 8 and 17 of the Regulations Act.”

ACT TO FOSTER THE DEVELOPMENT OF MANPOWER TRAINING

53. The Act to foster the development of manpower training (1995, chapter 43) is amended by inserting, after section 64, the following section :

“64.1. Contributions paid during each of the years 1995 and 1996 by an employer in the construction industry into the training plan fund established by section 2 of the Decree amending the Construction Decree, made by Order in Council 1883-92 dated 16 December 1992, shall be included in calculating the employer’s contribution toward the development of manpower training for 1996.

The Commission de la construction du Québec shall, not later than the end of the second month of 1997, issue statements for that purpose, showing the contributions paid into the fund during each of the years 1995 and 1996 by employers in the construction industry.

For the purposes of section 11 of the Act to foster the development of manpower training, the contributions paid to the fund in the years 1995 and 1996 shall be considered to be eligible training expenditures.”

FINAL PROVISIONS

54. Section 2.4.2 of the Safety Code for the construction industry (R.R.Q., 1981, chapter S-2.1, r.6) and the amendments in force is again amended by replacing the second paragraph of paragraph *i* by the following paragraph :

“However, a natural person who, to obtain a contractor’s licence or to qualify a partnership or legal person for a licence, has passed the examination on construction site safety management skills required by the Regulation respecting the professional qualification of building contractors and owner-builders (O.C. 876-92 dated 10 June 1992) or who is exempted therefrom by that regulation or by a regulation under section 182 of the Building Act (R.S.Q., chapter B-1.1), shall be exempted from taking such safety course.”

The amendment under this section is deemed to have been adopted in accordance with the Act respecting occupational health and safety (R.S.Q., chapter S-2.1).

55. The first regulation made under section 185 of the Building Act, as amended by this Act, shall be made by the Government. The regulation is deemed to be a regulation of the Régie du bâtiment.

The said regulation, and the first regulations made after 23 December 1996 under the Act respecting manpower vocational training and qualification, the Act respecting piping installations and the Act respecting electrical installations, as amended by this Act, are not subject to the requirements as to publication and the date of coming into force set out in sections 8 and 17 of the Regulations Act (R.S.Q., chapter R-18.1).

56. The provisions of this Act come into force on 23 December 1996, except the provisions of sections 2, 7 and 8, of paragraph 4 of section 10 and of sections 15 to 27, which come into force on the date or dates to be fixed by the Government.