



NATIONAL ASSEMBLY

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THIRTY-SEVENTH LEGISLATURE

Bill 98
(2005, chapter 22)

An Act to amend the Building Act and other legislative provisions

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EXPLANATORY NOTES

This bill amends the Building Act to establish the Régie du bâtiment du Québec as a mandatary of the State and to review some of its governance rules. It separates the positions of chair of the board of directors and president and chief executive officer, and provides for the appointment of two vice-presidents not on the board of directors to assist the president and chief executive officer.

The bill abolishes the advisory committee established under the Building Act and consequently increases the number of members on the Régie's board of directors from five to nine. It requires that the activities of the Régie be financed out of the revenue it collects and that the Régie form an internal audit committee.

The bill furthermore discontinues the demerit points system and stipulates that a licence, once issued, remains valid until suspended or cancelled. The bill confirms that the Corporation of Master Electricians of Québec and the Corporation of Master Pipe-Mechanics of Québec may apply regulations made by the Régie until they adopt different regulations.

Lastly, the bill contains provisions to facilitate the application of the Act in addition to consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001);
- Building Act (R.S.Q., chapter B-1.1);
- 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).

Bill 98

AN ACT TO AMEND THE BUILDING ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

BUILDING ACT

1. Section 51 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing “or its renewal or amendment” in the first line by “or have a licence amended”.

2. Section 56 of the Act is amended by replacing the second paragraph by the following paragraphs:

“The holder of a licence may not transfer the licence.

The holder of a licence, when no longer entitled to the licence, must return it to the Board. The holder of a licence on which an amendment or restriction must be indicated must also return the licence to the Board. In either case, if the holder fails to return the licence, the Board shall confiscate it.”

3. Section 57 of the Act is replaced by the following section:

“**57.** A licence is issued on payment of the fees payable.”

4. Section 59 of the Act is amended by replacing the second paragraph by the following paragraph:

“It may also refuse to issue a licence if the natural person was an officer of a partnership or legal person whose licence is suspended or was cancelled under section 70 within less than three years or if the natural person held a licence so cancelled.”

5. Section 61 of the Act is amended

(1) by striking out “or not renewed” in the second line of subparagraph 3 of the first paragraph;

(2) by striking out “or not renewed” in the third line of the second paragraph.

6. Section 62 of the Act is amended by replacing “has been cancelled or not renewed” in the third and fourth lines by “was cancelled”.

7. Section 65 of the Act is amended by striking out “, renewal” in the first line.

8. Section 65.1 of the Act is amended by replacing “, on the licence issued or renewed by the Board, whether the licence” in the first and second lines by “on the licence whether it”.

9. The heading of Division III of Chapter IV of the Act is replaced by the following heading:

“SUSPENSION OR CANCELLATION OF A LICENCE”.

10. Section 70 of the Act is amended

(1) by replacing “, cancel or refuse to renew” in the first line of the first paragraph by “ or cancel”;

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

“(1) has been convicted of an offence under this Act, the Consumer Protection Act (chapter P-40.1), the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20) or the Act respecting occupational health and safety (chapter S-2.1), if the serious nature or frequency of the offence justifies the suspension or cancellation;”;

(3) by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(3.1) has not informed the Board as required under section 67;”;

(4) by replacing “, cancel or refuse to renew” in the first line of the second paragraph by “or cancel”.

11. Section 70.1 of the Act is repealed.

12. Section 71 of the Act is amended

(1) by striking out paragraph 5;

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

“(8) he did not pay the fees payable to maintain the licence when they were due.”

13. Section 75 of the Act is amended by replacing “, cancellation or refusal to renew” in the third and fourth lines of the first paragraph by “or cancellation of”.

14. Section 86.2 of the Act is amended by striking out “or the renewal of a licence” at the end of paragraph 8.

15. Section 88 of the Act is replaced by the following section:

“88. The Board is a legal person and a mandatary of the State.

Its property forms part of the domain of the State but the execution of its obligations may be levied against its property.

The Board binds none but itself when it acts in its own name.”

16. Sections 90 to 93 of the Act are replaced by the following sections:

“90. The Board shall be administered by a board of directors composed of nine members including a president and chief executive officer.

“91. The members of the board of directors are appointed by the Government for a term of up to five years.

The members of the board other than the president and chief executive officer are appointed in the following manner:

(1) three chosen from among persons identified with building contractors associations or with corporations incorporated under the Master Electricians Act (chapter M-3) or the Master Pipe-Mechanics Act (chapter M-4);

(2) one chosen from among persons identified with the financial sector;

(3) one chosen from among persons identified with consumer associations or persons living in or frequenting a building;

(4) one chosen from among persons identified with building owners associations;

(5) one chosen from among persons identified with the municipal sector;

(6) one chosen from among persons identified with the professional orders tied to the building and construction industry.

At the end of their terms, the members of the board remain in office until replaced or reappointed.

“91.1. The Government shall appoint a chair and a vice-chair from among the members of the board of directors.

“91.2. The positions of president and chief executive officer and of chair of the board of directors may not be held concurrently.

“91.3. The chair of the board of directors shall call and preside at the meetings of the board and see to the proper operation of the board. The chair shall also assume the other duties assigned by the board.

The vice-chair of the board shall perform the duties of the chair if the chair is absent or unable to act.

“91.4. The president and chief executive officer shall see that the decisions of the board of directors are carried out and is responsible for the management and direction of the Board within the scope of its by-laws and policies.

“91.5. The Government shall also appoint two vice-presidents for a term of up to five years. At the end of their terms, they shall remain in office until replaced or reappointed.

In addition to the powers and duties that may otherwise be assigned or delegated to them, the vice-presidents shall assist and advise the president and chief executive officer in the performance of the duties of office and shall perform their administrative duties under the authority of the president and chief executive officer.

“92. A vacancy on the board of directors other than in the position of president and chief executive officer shall be filled in the manner set out for the appointment of the member to be replaced.

Absence from the number of meetings of the board of directors determined in the internal by-laws of the Board, in the cases and circumstances specified, constitutes a vacancy.

“93. If the president and chief executive officer is absent or unable to act, the Minister shall designate the vice-president who is to replace the president and chief executive officer.

If a vice-president is absent or unable to act, the other vice-president shall assume the latter’s responsibilities.

If a member of the board of directors other than the president and chief executive officer is absent or unable to act, the Government may appoint an interim replacement on the conditions it determines.”

17. Section 94 of the Act is repealed.

18. Section 95 of the Act is replaced by the following section:

“95. The president and chief executive officer and the vice-presidents shall perform their duties on a full-time basis.”

19. Section 96 of the Act is amended by replacing the first paragraph by the following paragraph:

“96. The Government shall fix the remuneration, employment benefits and other conditions of employment of the president and chief executive officer and the vice-presidents.”

20. Section 97 of the Act is repealed.

21. Sections 100 and 101 of the Act are replaced by the following sections:

“100. The quorum at meetings of the board of directors is the majority of its members, including the president and chief executive officer or the chair.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the person presiding at the meeting has a casting vote.

“100.1. The members of the board of directors may waive notice of a meeting. Attendance at a meeting of the board constitutes a waiver of notice, unless the members are present to contest the legality of the meeting.

“100.2. If all agree, the members of the board of directors may take part in a meeting by means of equipment enabling all participants to communicate directly with one another.

“100.3. Written resolutions, signed by all members of the board of directors entitled to vote, have the same value as if they had been adopted during a meeting of the board.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

“101. The Board shall adopt internal by-laws. The internal by-laws must, among other things, provide for the formation of an internal audit committee under the authority of the board of directors.

The mission of the internal audit committee includes assessing the performance of the Board and the quality of its internal controls and financial information as well as determining whether the way in which the Board manages its affairs is in compliance with law, regulation and ethics. The committee shall submit its findings and conclusions to the board of directors, along with any recommendations.

The internal by-laws come into force on the date of their approval by the Government.”

22. Division I.1 of Chapter VI of the Act, comprising sections 103 to 109.5, is repealed.

23. The heading of Division II of Chapter VI of the Act is amended by replacing “PURPOSE” by “MISSION”.

24. Section 110 of the Act is amended by replacing “purpose” in the first line by “mission”.

25. Section 111 of the Act is amended by replacing “its purpose” in the first line by “its mission”.

26. The Act is amended by inserting the following section after section 129.1.1:

“129.1.2. The Board may also enter into an agreement with a department or body of the Gouvernement du Québec for the carrying out of this Act or of an Act whose carrying out is under the responsibility of that department or body.”

27. Section 129.9 of the Act is amended by replacing “continue to apply” in the second line of the first paragraph by “apply”.

28. Section 130 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“130. The Board may delegate to the president and chief executive officer, another member of the board of directors or a vice-president, in writing and to the extent specified, the functions assigned to it by this Act, except those conferred by sections 132, 173 to 179 and 185.”;

(2) by replacing “chairman or vice-chairman” in the second and third lines of the second paragraph by “president and chief executive officer”.

29. Section 130.1 of the Act is amended by striking out “, renewal” in the seventh line of the first paragraph.

30. The Act is amended by inserting the following section before section 141:

“140.1. The minutes of the meetings of the board of directors, approved by the board of directors and certified by the chair, the vice-chair, the president and chief executive officer, the secretary or another person authorized to do so by the Board, are authentic.”

31. Section 141 of the Act is amended

(1) by replacing “the chairman, the vice-chairman” in the second line by “the chair of the board of directors, the president and chief executive officer, a vice-president”;

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

“A member of the personnel of the Ministère du Travail is considered a member of the personnel of the Board for the purposes of the first paragraph, insofar as the member is assigned to an administrative activity the Board has delegated by agreement to that government department.”

32. Section 142 of the Act is replaced by the following section:

“142. The Board may, by regulation and subject to specified conditions, allow a signature to be affixed by means of an automatic device, an electronic signature to be affixed, or a facsimile of a signature to be engraved, lithographed or printed on specified documents. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person authorized to do so by the president and chief executive officer.”

33. Section 144 of the Act is amended by replacing “, except a full-time member,” in the first line by “except the president and chief executive officer”.

34. Section 145 of the Act is amended by replacing “staff member” in the first line by “a vice-president, a staff member”.

35. Section 147 of the Act is amended by replacing “the financial statements” in the first and second lines of the first paragraph by “its financial statements and those”.

36. Section 149 of the Act is amended by replacing the second paragraph by the following paragraph:

“The report of the Auditor General or of the auditor designated by the Government must be submitted with the Board’s activities report and financial statements and the financial statements of the Board’s compensation fund.”

37. The Act is amended by inserting the following section after section 149:

“149.1. Every year, the Board shall submit its budget estimates for the following fiscal year to the Minister, at the time, and according to the form and content determined by the Minister.

The estimates require the approval of the Government.”

38. Section 150 of the Act is replaced by the following section:

“150. The Board shall finance its activities out of the revenue it collects.”

39. Section 151 of the Act is amended

(1) by replacing “renewing” in paragraph 1 by “maintaining”;

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

“(2) registration fees, examination or evaluation fees relating to the issue or amendment of a licence and licence maintenance fees;”.

40. Section 152 of the Act is amended by replacing “shall be paid into the consolidated revenue fund” in the second line by “are part of its assets”.

41. The Act is amended by inserting the following sections after section 155:

“**155.1.** The Board may not, without the Government’s authorization,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or contrary to the conditions determined by the Government;

(3) acquire or dispose of assets in excess of the limits or contrary to the conditions determined by the Government.

“**155.2.** The Government may, on the terms and conditions it determines,

(1) guarantee the payment, in principal and interest, of any loan contracted by the Board and any of its obligations;

(2) authorize the Minister of Finance to advance any amount to the Board that is considered necessary for the performance of its obligations or the pursuit of its mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.”

42. Section 160 of the Act is amended by striking out “renewal,” in the first line of paragraph 2.

43. Section 164.1 of the Act is amended by striking out “renewal,” in the second line of subparagraph 1 of the first paragraph.

44. Section 182 of the Act is amended

(1) by striking out “for the renewal of the licence,” in the fourth and fifth lines of subparagraph 6.1 of the first paragraph;

(2) by adding “and of licence maintenance fees” at the end of that subparagraph.

45. Section 185 of the Act is amended

(1) by striking out “or renewal” in the second line of subparagraph 11 of the first paragraph;

(2) by replacing subparagraph 16 of the first paragraph by the following subparagraph:

“(16) determine the terms and conditions and set the fees payable for the issue, amendment or maintenance of a licence, and determine in what cases and at what intervals it will charge such fees;”;

(3) by replacing subparagraph 17 of the first paragraph by the following subparagraph:

“(17) determine classes and subclasses of licences and the fees payable for each class or subclass, and determine in what cases and at what intervals it will charge such fees;”;

(4) by replacing “entry dues, examination or evaluation fees for the issue, amendment or renewal of a licence” in the first and second lines of subparagraph 18 of the first paragraph by “registration fees, examination or evaluation fees for the issue or amendment of a licence or licence maintenance fees;”;

(5) by striking out subparagraph 19.1 of the first paragraph;

(6) by striking out “19.1,” in the fourth line of subparagraph 37 of the first paragraph.

46. Section 297.3 of the Act is repealed.

47. The Act is amended

(1) by replacing “building work” in sections 7, 8, 9, 12, 14, 15, 18, 24, 25, 42, 49, 50, 58, 62.1, 68 and 70, subparagraph 19 of the first paragraph of section 185 and section 299 by “construction work”;

(2) by replacing “corporation” in sections 52, 53, 54 and 59, the first line of the first paragraph of section 60 and sections 61, 62, 69, 71, 73, 196 and 197 by “legal person”;

(3) by replacing “alteration” and “altered” in sections 65 and 129.8, paragraph 3 of section 129.19, the first paragraph of section 130.1, subparagraph 1 of the first paragraph of section 164.1 and subparagraph 6.1 of the first paragraph of section 182 by “amendment” and “amended”, respectively.

AMENDING PROVISIONS

FINANCIAL ADMINISTRATION ACT

48. Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 61 of chapter 11 of the statutes of 2004, is again amended by striking out “Régie du bâtiment du Québec”.

49. Schedule 2 to the Act, amended by section 59 of chapter 25 of the statutes of 2004, section 50 of chapter 30 of the statutes of 2004, section 53 of chapter 32 of the statutes of 2004, section 39 of chapter 35 of the statutes of 2004, section 40 of chapter 37 of the statutes of 2004 and section 16 of chapter 40 of the statutes of 2004, is again amended by inserting “Régie du bâtiment du Québec” in alphabetical order.

MASTER ELECTRICIANS ACT

50. Section 12.0.2 of the Master Electricians Act (R.S.Q., chapter M-3) is amended

(1) by replacing “renewal” in the first line of subparagraph 1 of the second paragraph by “maintenance”;

(2) by replacing “alteration, renewal” in the fifth line of subparagraph 3 of the second paragraph by “amendment, maintenance”.

MASTER PIPE-MECHANICS ACT

51. Section 10.2 of the Master Pipe-Mechanics Act (R.S.Q., chapter M-4) is amended

(1) by replacing “renewal” in the first line of subparagraph 1 of the second paragraph by “maintenance”;

(2) by replacing “alteration, renewal” in the fifth line of subparagraph 3 of the second paragraph by “amendment, maintenance”.

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

52. Section 123 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20) is amended

(1) by replacing subparagraph 8.2 of the first paragraph by the following subparagraph:

“(8.2) determine in what cases, subject to what terms and conditions, and for how long a licence issued under the Building Act (chapter B-1.1) is to contain a restriction as regards the obtention of a public contract referred to in section 65.4 of that Act;”;

(2) by striking out “or renewed” in the fifth line of subparagraph 8.3 of the first paragraph.

TRANSITIONAL AND FINAL PROVISIONS

53. The Régie du bâtiment du Québec or the mandatory Corporation referred to in section 129.3 of the Building Act (R.S.Q., chapter B-1.1) issues a licence on (*insert the date of coming into force of this section*) to any person who, on that date, holds a valid licence issued under that Act.

The licence is for the class or subclass to which the operations authorized by the replaced licence belong.

The fees payable under subparagraphs 16 and 17 of the first paragraph of section 185 of that Act are payable on the expiry date of the replaced licence.

This section does not apply to a licence issued to a trustee in bankruptcy or a liquidator referred to in section 76 of that Act.

54. The sums required to carry out the Building Act (R.S.Q., chapter B-1.1) during the fiscal year 2005-2006 are taken out of the consolidated revenue fund to the extent determined by the Government.

55. For the remainder of their respective terms of office, the chair of the board of directors of the Régie du bâtiment du Québec shall act as its president and chief executive officer, and the vice-chair and the full-time member of the board of directors, as its vice-presidents.

56. The provisions of this Act come into force on the date or dates to be set by the Government.

