



NATIONAL ASSEMBLY

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Bill 122
(2010, chapter 28)

An Act to amend the Building Act mainly to modernize safety standards

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EXPLANATORY NOTES

This Act makes various amendments to the Building Act to allow the Régie du bâtiment du Québec (the Board) to modernize the rules adopted under the Act, especially those relating to the safety of buildings and pressure installations.

Under this Act, municipalities are empowered to adopt by-laws that include standards identical to or more stringent than Safety Code standards. Municipalities, intermunicipal boards and their employees are given immunity from prosecution for an official act done in good faith in the performance of duties in connection with the enforcement, in respect of buildings, installations or facilities referred to in section 2 of the Act and to which the municipal by-laws apply, of a standard identical to a standard contained in the Safety Code.

The Board is granted several new powers, among them the power to extend the meaning of “gas” in the Act to any other gas it designates by regulation and the power to exempt the owner of a building, installation or facility referred to in section 2 of the Act from furnishing a certificate of conformity if the owner has implemented a quality control program that the Board or a person or body recognized by the Board has approved. The Board is also empowered to prohibit the sale, lease or exhibition of apparatus intended to supply an electrical installation if the apparatus is not certified or approved by a person the Board designates. Lastly, certain regulatory powers currently held by the Government are transferred to the Board and it is authorized to delegate the power to issue certain orders to a member of its personnel.

Amendments are introduced to allow the standards of the Building Code to incorporate measures advocated by the Government to promote ecoefficiency in buildings, facilities and installations.

The Board is to be authorized to make public certain data received from the managers of guaranty plans for new residential buildings.

Consequential and transitional provisions round off the Act.

LEGISLATION AMENDED BY THIS ACT:

- Building Act (R.S.Q., chapter B-1.1).

Bill 122

AN ACT TO AMEND THE BUILDING ACT MAINLY TO MODERNIZE SAFETY STANDARDS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

BUILDING ACT

1. Section 4.1 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing “Government” by “Régie du bâtiment du Québec (the Board)”.

2. Section 7 of the Act is amended

(1) by striking out the definition of “pressure vessel”;

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

“**gas**” means natural gas, manufactured combustible gas, any type or blend of such gases, liquid petroleum gas or any blend of such gas and air, or any other gas designated by regulation of the Board and, in the case of a pressure installation, combustible or non-combustible gas;”;

(3) by replacing the definition of “pressure installation” by the following definition:

“**pressure installation**”, depending on the context, means one or more of the following pieces of pressure equipment assembled to form an integrated, functional whole: a vessel or boiler intended to contain combustible or non-combustible gas or a liquid under pressure, and any pipes and accessories connected to it;”;

(4) by replacing “Government” at the end of the definition of “petroleum product” by “Board”.

3. Section 10 of the Act is amended

(1) by replacing both occurrences of “government regulation” in the first paragraph by “regulation of the Board”;

(2) by replacing “Government” in the second paragraph by “Board”.

4. Section 16 of the Act is amended by replacing “person recognized” by “person or body recognized”.

5. Section 19 of the Act is amended by replacing “by a body determined” by “by a person or body recognized”.

6. Section 29 of the Act is amended by replacing “government regulation” in subparagraph 3 of the first paragraph by “regulation of the Board”.

7. Section 33 of the Act is amended by replacing “person recognized” by “person or body recognized”.

8. Section 34 of the Act is amended by replacing “person recognized” by “person or body recognized”.

9. Section 35 of the Act is amended

(1) by replacing “person recognized” by “person or body recognized”;

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

“The regulations may exempt the owner from furnishing such a certificate if the owner has implemented a quality control program approved by the Board or a person or body recognized by the Board.”

10. Sections 37 to 37.2 of the Act are replaced by the following sections:

“37. Every person who manufactures, installs, repairs, modifies, operates or uses a pressure installation must comply with the standards and requirements prescribed for that purpose by regulation of the Board.

“37.1. Every person who manufactures, installs, repairs, modifies, operates or uses a pressure installation must, in the cases, subject to the conditions and in accordance with the procedure determined by regulation of the Board, obtain a permit from the Board authorizing the person to carry on that activity.

The Board shall determine by regulation the cases in which obtaining such a permit is tied to the implementation of a quality control program, and the conditions and procedure for approval of the program by the Board or a person or body recognized by the Board.

Chapter IV does not apply to a manufacturer or, in the cases and subject to the conditions prescribed by regulation of the board, to a permit holder for the activities authorized by the permit.

“37.2. Every person who manufactures, installs, repairs or modifies a pressure installation must, in the cases and subject to the conditions determined by regulation of the Board, report to the Board all work that the person has carried out or intends to carry out, and furnish all required information and documents.”

11. Section 37.4 of the Act is replaced by the following section:

“37.4. The Board may determine, by regulation, how the conformity of a pressure installation is to be evaluated at the different stages of its design, manufacture, installation, repair, modification, operation and use and at the time of its marketing and commissioning.

The Board may determine, among other things, the notices, information or documents to be sent or recorded in a register, the inspections or verifications to be carried out, the authorizations to be obtained and the statements, declarations, approvals or certificates of conformity required.

The Board may recognize persons or bodies to carry out such an evaluation of conformity or to issue any approval or certificate required under this division.”

12. The Act is amended by inserting the following section after section 81.1:

“81.2. The following information obtained from the manager of a guaranty plan may be made public by the Board:

(1) the following balance sheet elements contained in the audited financial statements:

- (a) the amount of the reserves and the total assets;
- (b) the actuarial reserve and the total liabilities; and
- (c) the required surplus and the total net assets;

(2) the following income statement elements contained in the audited financial statements:

- (a) the premiums paid, premium adjustments, membership fees, investment income and total income;
- (b) the total claims and claims expenses, the variation in the actuarial reserve and total expenses; and
- (c) the pre-tax surplus; and

(3) the data required by the Board regarding the manager’s activities.

The data referred to in subparagraph 3 of the first paragraph include a breakdown of the certificates issued and the number of contractors accredited, of complaints processed, of files submitted to arbitration and of inspections carried out.”

13. Section 111 of the Act is amended by inserting the following paragraph after paragraph 4:

“(4.1) to support local municipalities, regional county municipalities and intermunicipal boards in their enforcement of any standard identical to a Safety Code standard;”.

14. Sections 128.3 to 128.5 of the Act are replaced by the following sections:

“**128.3.** The Board may revoke, limit, suspend, amend or refuse to renew a permit granted under section 35.2 or 37.1 if the holder no longer meets one of the conditions required by regulation of the Board for obtaining a permit.

“**128.4.** The Board may revoke the recognition of a person or body referred to in section 16, 35 or 37.4 on the grounds prescribed by regulation of the Board.

“**128.5.** Before ordering the revocation, limitation, suspension or amendment of or refusal to renew a permit or the revocation of the recognition of a person or body, the Board shall notify the permit holder, person or body in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the permit holder, person or body at least 10 days to submit observations.

Every decision of the Board must be rendered in writing and give reasons.”

15. Section 130 of the Act is amended by striking out “123,” in subparagraph 1 of the third paragraph.

16. Section 145 of the Act is amended by adding the following paragraph after the first paragraph:

“The same applies for a local municipality, a regional county municipality, an intermunicipal board and their employees as regards the enforcement, in respect of buildings, installations or facilities referred to in section 2 that are subject to the municipal by-laws, of a standard identical to a Safety Code standard.”

17. Section 173 of the Act is amended by adding the following paragraph at the end:

“The standards may include measures advocated by the Government to promote ecoefficiency in buildings, facilities intended for use by the public, installations independent of a building and petroleum equipment installations.”

18. Section 182 of the Act is amended

(1) by striking out subparagraphs 1, 4 and 5 of the first paragraph;

(2) by adding the following subparagraph after subparagraph 7 of the first paragraph:

“(8) prescribe, with regard to certain categories of persons and contractors, adjustments to the provisions of this Act and the regulations, including regulations adopted by the Board, to give effect to an intergovernmental agreement in respect of the mobility of building contractors or the recognition of their qualifications, skills or work experience, as well as special management rules.”;

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

“A regulation under subparagraph 8 of the first 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 (chapter R-18.1).”

19. Section 185 of the Act is amended

(1) by inserting the following paragraphs before paragraph 1:

“(0.1) exempt from the application of this Act or certain of its provisions categories of persons, contractors, owner-builders, manufacturers of pressure installations, or owners of buildings, facilities intended for use by the public, installations independent of a building or petroleum equipment installations, and categories of buildings, pressure installations, facilities, installations or construction work;

“(0.2) for the purposes of section 10, designate any facility as a facility intended for use by the public and establish criteria for determining whether or not a facility is intended for use by the public;

“(0.3) exclude a category of buildings from the application of Chapter III;”;

(2) by replacing “16 and 35” in paragraph 2.1 by “16, 35 and 37.4”;

(3) by replacing “building and the” in paragraph 2.2 by “building, and the persons;”;

(4) by inserting the following paragraph after paragraph 5:

“(5.0.1) determine the cases in which the owner of a building, facility intended for use by the public, installation independent of a building or petroleum equipment installation who has implemented a quality control program may be exempted from furnishing a certificate of conformity, and, if warranted, determine conditions for the approval of such a program by the Board or a person or body recognized by the Board;”;

(5) by replacing “and its period of validity” in paragraph 5.1 by “, its period of validity and, if warranted, the cases in which obtaining such a permit is tied to the implementation of a quality control program, and the conditions and procedure for the approval of such a program by the Board or a person or body recognized by the Board”;

(6) by replacing paragraph 5.3 by the following paragraph:

“(5.3) adopt standards of design, manufacture, installation, repair, modification and use of a pressure installation;”;

(7) by replacing “and registration” in paragraph 5.4 by “, registration and suitability”;

(8) by replacing paragraph 5.5 by the following paragraph:

“(5.5) determine the cases and the manner in which the conformity of a pressure installation is to be evaluated at the different stages of its design, manufacture, installation, repair, modification, operation or use and at the time of its marketing and commissioning, as well as the notices, information or documents to be sent or recorded in a register, the inspections or verifications to be carried out, the authorizations to be obtained and the statements, declarations, approvals or certificates of conformity required, and designate persons or bodies to carry out such an evaluation of conformity or to issue any approval or certificate required under sections 37 to 37.4;”;

(9) by replacing “person” in paragraph 6.2 by “recognized person or body”;

(10) by inserting “or to supply” after “supplied from” in paragraph 6.3 and by replacing “person” in that paragraph by “recognized person or body”;

(11) by replacing “authorized persons” in paragraph 20 by “recognized persons or bodies”.

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

“193. No by-law of a local municipality or regional county municipality dealing with any matter already covered by the Building Code or a regulation under section 182 or 185 may set standards that are identical or equivalent to those of that Code or regulation or that restrict their scope or application.

A local municipality or a regional county municipality may, however, set standards that are identical to or more stringent than those of the Safety Code.”

21. Section 194 of the Act is amended by replacing “second paragraph of section 37.1, sections 37.2, 37.4” in paragraph 7 by “first paragraph of section 37.1, section 37.2”.

TRANSITIONAL AND FINAL PROVISIONS

22. Any provision of the Regulation respecting the application of the Building Act, enacted by Order in Council 375-95 (1995, G.O. 2, 1100), that was adopted by the Government under paragraph 1, 4 or 5 of section 182 of the Building Act (R.S.Q., chapter B-1.1), struck out by section 18, continues to apply until it is replaced by a provision of a regulation adopted under paragraph 0.1, 0.2 or 0.3 of section 185 of the Building Act, enacted by section 19.

23. A local municipality or regional county municipality must, not later than the date set by the Government, amend its by-laws to replace any standard that is equivalent to or restricts the scope or application of a Safety Code standard by that standard.

Despite the second paragraph of section 193 of the Building Act, replaced by section 20, a local municipality or regional county municipality may, before that date, continue to enforce a standard that is not inconsistent with the Safety Code standards.

After that date, any municipal by-law that is not in conformity with the second paragraph of section 193 of the Building Act, replaced by section 20, is deemed to be amended, and any standard of such a by-law that is equivalent to or that restricts the scope or application of a Safety Code standard is deemed to be replaced by that Safety Code standard.

24. This Act comes into force on 2 December 2010.

