

Draft Regulation

Engineers Act
(R.S.Q., c. I-9)

Engineers

— Practice of the profession in partnership or corporation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the “Regulation on the practice of the profession of engineer in partnership or corporation”, made by the Bureau of the Ordre des ingénieurs du Québec, the text of which appears below, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

Pursuant to subparagraph 1 of the first paragraph of section 11 of the Engineers Act (R.S.Q., c. I-9), the Regulation sets forth the rules with which the business corporations of engineers shall comply to practice the profession.

According to the Ordre des ingénieurs du Québec, the Regulation intends mainly to increase the public’s protection by issuing a certificate of authorization to enterprises who provide or render professional services to others, even though, in some cases, engineering is solely incidental to their main activity.

According to the Ordre des ingénieurs du Québec, it is imperative to require from enterprises the compliance with strict standards in view of obtaining that certificate of authorization, in particular: the implementation of a management program consistent with sections 4.4 and 4.5 of international standard ISO-9001, the purchase of a professional liability insurance policy, the writing of a procedure related to the keeping and filing of records and a written policy so that members may hold positions the acts of which are exclusive to the profession for work constituting the field of practice of an engineer, the commitment of the enterprise to comply with the Professional Code (R.S.Q., c. C-26), the Engineers Act and the regulations made under those acts.

According to the Order, the impact of the Regulation will be beneficial to the public by providing it with controlled professional services, free of any misleading advertising while improving the public’s perception of the ethical responsibilities related to the practice of the profession. The costs related to the implementation of those mechanisms by the enterprises will be minor for most of them. In other cases, they will have to hire engineers’ services and comply with all the requirements of the regulation.

Further information may be obtained by contacting Mr. Hubert Stéphenne, engineer, Secretary and Director General of the Ordre des ingénieurs du Québec, 2020, rue University, 18^e étage, Montréal (Québec), H3A 2A5; telephone: (514) 845-6141, extension 100 or 1-800-461-6141, fax: (514) 845-1833.

Any person having comments to make is asked to send them before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1^{er} étage, Québec (Québec), G1K 8G5. Comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be forwarded to the professional order that made the Regulation and to the persons, departments and bodies concerned.

ROBERT DIAMANT,
*Chairman of the
Office des professions du Québec*

Regulation on the practice of the profession of engineer in partnership or corporation

Engineers Act
(R.S.Q. c. I-9, s.11, par. 1)

PART I DEFINITIONS

1. In the present regulation, except where otherwise provided, the following words mean:

1° “Bureau”: the Bureau of the Ordre des ingénieurs du Québec;

2° “certificate of authorization”: a certificate of authorization issued by the Bureau pursuant to the present regulation;

3° “enterprise”: any partnership or corporation, whether constituted under a Québec, Canadian or foreign law;

4° “engineer”: a person registered on the Ordre des ingénieurs du Québec’s Roll of Members who is not an engineer-in-training or junior engineer;

5° “Order”: Ordre des ingénieurs du Québec;

6° “temporary licence”: a temporary licence to practice the profession issued by the Bureau to a person;

7° “EPC Project”: any project comprising professional services, procurement and construction;

8° “EPCM Project”: any project comprising professional services, procurement and construction management;

9° “representative”: the representative of an holder of a certificate of authorization appointed pursuant to section 14;

10° “Secretary”: the secretary of the Ordre;

11° “professional services”: subject to sections 4 and 5 of the Engineers Act (S.R.Q., c.1-9), acts provided for in section 3 of that Act when they relate to works mentioned in section 2 thereof.

PART II CERTIFICATE’S AREA OF APPLICATION AND HOLDER’S RIGHT TO PRACTICE

2. An enterprise shall not offer or provide professional services to anyone without a certificate of authorization.

An enterprise shall not implement any EPC or EPCM Projects unless either of the following conditions are met:

1° the enterprise is holder of a certificate of authorization;

2° the professional services involved in those projects are provided by the holder of a certificate of authorization.

The holder of a certificate of authorization shall not be a member of the Order.

3. The holder of a certificate of authorization shall not offer or provide professional services to another or implement EPC or EPCM Projects unless either of the following conditions are met:

1° an engineer or holder of a temporary licence offers or executes the professional services;

2° an engineer or holder of a temporary licence supervises and assumes the responsibility of the offer and of the execution of the professional services.

Where the person undertaking the professional services under the conditions referred to in subsections 1 or 2 is a holder of a temporary licence, the certificate of authorization is subject to the conditions applying to the temporary licence.

PART III CONDITIONS FOR ISSUANCE AND RENEWAL OF THE CERTIFICATE OF AUTHORIZATION

4. The Bureau shall issue a certificate of authorization to an enterprise which has met the following conditions:

1° it has sent an application for a certificate of authorization to the secretary;

2° it has sent to the Secretary an official document issued by the competent authority within the enterprise which attests:

a) to the appointment of its representative in accordance with section 14;

b) with regard to professional services, to the enterprise’s commitment in ensuring within the enterprise, compliance with the Professional Code (R.S.Q., c. C-26), the Engineers Act and any regulations passed pursuant to these Acts;

c) that the enterprise has established a management program for professional practice pursuant to section 7;

3° it has sent to the Secretary an attestation issued by its insurer to the effect that it holds a contract of insurance, in force and in accordance with sections 8 and 9;

4° its business name is not composed of a registered number; and

5° it has paid the costs relating to issuance of a certificate of authorization, in accordance with section 10.

5. Subject to paragraph 2, the first certificate of authorization issued by the Bureau to an enterprise is valid until the expiry of the guarantee against professional civil liability established under an insurance contract meeting the requirements of section 8.

The duration of the certificate of authorization shall not exceed one year.

6. The Bureau shall renew, for a period of one year, the certificate of authorization of an enterprise which makes a demand for such renewal to the Secretary and which, in addition to meeting the conditions set out in the first four paragraphs of section 4, meets the following conditions:

1° where applicable, it has paid any penalty imposed by the Bureau and owed;

2° it has paid the costs relating to the renewal of a certificate of authorization set in accordance with section 10.

7. Subject to section 4, an enterprise shall, in order to be entitled to obtain a certificate of authorization and to keep it into force, establish a management program for professional practice which includes:

1° a written procedure on the keeping and conservation of its records and those of its employees relating to professional services, in accordance with the Regulation respecting the keeping of records and consulting offices by engineers (R.R.Q., 1981, c. I-9, s. 14);

2° a written procedure aimed at controlling and checking its conceptual activities, in particular, the preparation of reports, computations, designs, drawings, plans and specifications relating to the works referred to in section 2 of the Engineers Act. This procedure shall be consistent with sections 4.4 and 4.5 of International Standard ISO 9001 in force.

3° a written policy that provides that only engineers or, subject to the conditions applying to temporary permits, holders of temporary permits fill positions comprising the following functions:

- a) offering or executing professional services; or
- b) supervising and assuming the responsibility of the offer and execution of professional services.

8. Subject to section 4, an enterprise shall, in order to be entitled to obtain a certificate of authorization, hold a contract of insurance establishing a guarantee against professional civil liability resulting from fault or negligence committed by such enterprise or its employees with respect to professional services.

The guarantee shall, as a minimum, cover the period during which the certificate of authorization is in force.

The contract of insurance shall contain the following minimum requirements:

1° the commitment by the insurer to pay instead and in the place of the insured, within the limits of the guarantee, any amount that the insured may legally be required to pay to a third party as damages relating to a claim presented during the period covered by the guarantee and resulting from professional services rendered or which should have been rendered by the insured or its employees;

2° the extension of the guarantee to professional services rendered or to the failure to render professional services before the entry into force of the contract of insurance until the expiry of the guarantee;

3° the commitment on the part of the insurer to take the side and assume the defence of the insured in any action taken against the insured and to pay, apart from the amounts covered by the guarantee, the costs and expenses of actions taken against the insured, including those of the defence and including interest on the amount of any judgment;

4° a minimum guarantee of 500 000 \$ per claim and of 1 000 000 \$ for the total claims during the period of the guarantee;

5° the commitment, by the insurer, when it intends to rescind the contract of insurance of the insured before the expiry of the guarantee, to give a notice to the Order of at least 30 days before the rescission of the contract;

6° the commitment, by the insurer, to give a notice to the Order within 30 days of the following events:

a) the modification by the insurer or the insured of the contract of insurance which results in the failure to comply with the minimum conditions set out in section 8;

b) the rescission by the insured of the contract of insurance before the expiry of the guarantee;

c) the non-renewal by the insurer or by the insured of the contract of insurance.

9. The enterprise or the holder of a certificate of authorization shall, when applying for a certificate of authorization or the renewal thereof, provide to the Secretary, an attestation to the effect that it holds a contract of insurance in force and in accordance with section 8.

In case of rescission, non-renewal or modification of the contract of insurance which results in the failure to comply with the minimum conditions set out in section 8, the holder of a certificate of authorization shall provide to the Secretary a new attestation to the effect that it holds a contract of insurance in force and in accordance with section 8.

The attestation referred to in the first two paragraphs of this section shall be issued by the insurer of the enterprise and shall contain the following elements:

1° the name of the insured enterprise;

2° the date of the coming into force and expiry of the guarantee;

3° a statement to the effect that the contract of insurance meets the minimum conditions provided in section 8.

10. The Bureau shall, by resolution, for the issuance and renewal of certificates of authorization, set the base costs applicable to all enterprises and additional costs established according to the number of engineers employed by the enterprise or providing services on an individual basis to the enterprise.

The costs imposed by the Bureau in accordance with the first paragraph of this section, shall cover all the costs related to the enforcement of this regulation and to the professional inspection corresponding.

The Bureau shall set by resolution the costs required to obtain any supplementary copies of the certificate of authorization.

PART IV REGISTER OF HOLDERS OF CERTIFICATES OF AUTHORIZATION

11. The Secretary shall enter in the register, the names of all the holders of certificates of authorization.

12. The register of holders of certificates of authorization shall include, with respect to each enterprise entered therein, the following information:

1° the business name of the enterprise and all of its trade names;

2° the address of its head office and any other places of business;

3° the name, address, telephone numbers at work, and telecopier number at work, if any, of the representative of the enterprise;

4° the date of the enterprise first entry in the register and all the periods during which it was entered.

13. The Bureau prepares, keeps up-to-date and publishes the register.

PART V APPOINTMENT AND FUNCTIONS OF THE REPRESENTATIVE

14. Subject to section 4, the enterprise shall, in order to be entitled to obtain a certificate of authorization,

appoint at least one engineer among its full-time employees, who shall be designated as its representative.

The representative shall be an engineer of at least three year standing or a holder of a temporary licence and have exercised with an unrestricted right to practice, the profession of engineer for at least three years.

The holder of a certificate of authorization shall ensure that its representative holds a position of responsibility and that such person possesses the powers necessary to exercise authority over the enterprise's professional services as a whole.

15. When the holder of a certificate of authorization fails to comply with any of the obligations set out in sections 16, 17 or 18, the representative shall advise the Secretary within 5 days of such failure.

The representative shall advise the Secretary of any changes to the information set out in section 12 within 5 days of the change.

PART VI OBLIGATIONS OF A HOLDER OF A CERTIFICATE OF AUTHORIZATION

16. The holder of a certificate of authorization shall:

1° ensure compliance within the enterprise, with regard to professional services, with the Professional Code, the Engineers Act and any regulations passed pursuant to these Acts;

2° have a business name which does not contravene the fourth paragraph of section 4;

3° ensure the implementation of a management program for professional practice established in accordance with section 7;

4° hold and maintain in force a contract of insurance in accordance with section 8;

5° appoint a representative in accordance with section 14; and

6° post up its certificate of authorization in every place meant to receive persons to whom it offers or provides professional services.

17. Upon request of the Secretary or of an investigator appointed by the Bureau in accordance with section 22, the holder of a certificate of authorization shall send to the Secretary a copy of its insurance contract and its management program for professional practice and provide to the Secretary any information relating thereto.

18. Subject to section 26 of the Engineers Act, the holder of a certificate of authorization may use the title of “consulting-engineer” only for public relations and advertising purposes relating to the holder’s professional services.

The holder of a certificate of authorization shall not use the title of “engineer” without the word “consulting” to qualify it.

19. The holder of a certificate of authorization may not obtain a seal issued by the Order.

PART VII SANCTIONS

20. The Bureau may impose one or more of the sanctions provided in section 21 on an enterprise which is holder of a certificate when it establishes that the enterprise:

1° obtained its certificate of authorization fraudulently or by false representations;

2° is bankrupt; or

3° does not meet the obligations set out in sections 16, 17 or 18.

21. In any of the cases provided for in section 20, the Bureau may impose on the holder of a certificate of authorization one or more of the following sanctions:

1° the temporary or permanent revocation of the holder’s certificate of authorization;

2° a penalty of no less than 600 \$ and no more than 6 000 \$.

For purposes of this section, when an offence is continuous, its continuity shall constitute a separate offence, day by day.

22. Before making a decision pursuant to sections 20 and 21, the Bureau may appoint one or more persons to investigate and report back to the Bureau.

The mandate of the investigators shall be for a period of one year and is renewable.

The investigators shall assume their duties after having been sworn in under oath or having made a solemn declaration in the form provided for in schedule II of the Professional Code and shall remain in office until they die, resign, are replaced or are struck off the Order’s Roll of Members.

23. The Bureau issues the decisions referred to in sections 20 and 21 after having considered the whole file and after having provided to the enterprise the opportunity to be heard either through its representative or other duly authorized delegate of the enterprise.

24. In case of revocation of a certificate of authorization by the Bureau, the representative shall return the certificate of authorization to the Secretary within 5 days of a request by the Secretary to this effect.

PART VIII TRANSITIONAL AND FINAL PROVISIONS

25. Every enterprise existing at the time of coming into force of the present regulation and which offers or provides professional services to another or which implements EPC or EPCM Projects for which professional services are provided other than in accordance with subparagraph 2 of the second paragraph of section 2 shall have 4 months, commencing from the date of the coming into force of the present regulation, to obtain a certificate of authorization.

26. The Bureau may impose on an enterprise the penalty set out in subsection 21(2) when it establishes that the enterprise offers or provides professional services to another or implements EPC or EPCM Projects for which professional services are provided contrary to subparagraph 2 of the second paragraph of section 2.

Sections 22 and 23 apply, *mutatis mutandis*, to the decision of the Bureau.

For purposes of this section, when an offence is continuous, its continuity shall constitute a separate offence, day by day.

27. The provisions of the present regulation come into force on the fifteenth day following the day of its publication in the *Gazette officielle du Québec*.

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Draft Regulation

Transport Act
(R.S.Q., c. T-12)

Road vehicles used for the transportation of school children

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting road vehicles used for the