

Draft Regulations

Draft Regulation

An Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20)

Competency certificates — Amendments

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 to amend Regulation respecting the issuance of competency certificates, made by the Commission de la construction du Québec and the text of which appears below, may be submitted to the Government for approval upon the expiry of 45 days following this publication.

The purpose of this Regulation is to better define the criteria for issuance, renewal and conversion into competency certificates of exemption certificates that were issued under the Regulation.

This Regulation will have very little impact on small and medium-size businesses that employ individuals who normally work in a field other than construction but may occasionally carry out work within the scope of the Act: the exemption issued by the Commission de la construction du Québec shall be renewed on an annual basis.

Further information may be obtained from Mr. Jean Ménard, Director of the Service juridique of the Commission de la construction du Québec, 3530, rue Jean-Talon Ouest, Montréal (Québec), H3R 2G3; tel.: (514) 341-7740, extension 6425; fax: (514) 341-4287.

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mr. André Ménard, Chairman of the Commission de la construction du Québec, 3530, rue Jean-Talon Ouest, Montréal (Québec), H3R 2G3.

ANDRÉ MÉNARD,
*Chairman of the Commission
de la construction du Québec*

Regulation to amend the Regulation respecting the issuance of competency certificates

An Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20, s. 123.1, pars. 5, 7, 9 and 12; 1995, c. 8, s. 43)

1. The Regulation respecting the issuance of competency certificates, approved by Order in Council 673-87 dated 29 April 1987 and amended by the Regulations approved by Orders in Council 1817-88 dated 7 December 1988, 1191-89 dated 19 July 1989, 992-92 dated 30 June 1992, 1462-92 dated 30 September 1992, 314-93 dated 10 March 1993, 722-93 dated 19 May 1993, 1112-93 dated 11 August 1993, 799-94 dated 1 June 1994, 1246-94 dated 17 August 1994, by sections 55 to 58 of Chapter 8 of the Statutes of 1995 and by the Regulations approved by Orders in Council 1327-95 dated 4 October 1995 and 1489-95 dated 15 November 1995, is further amended in section 2 by adding the following after paragraph 4:

“(5) this person is exempt from the obligation to hold an apprentice competency certificate, issued under paragraph 6 of section 14 or under section 15.5, proves that he meets the admission requirements prescribed in basic school regulations made under the Education Act (R.S.Q., c. I-13.3), for a program of study leading to a secondary school vocational diploma (SSVD) pertaining to the trade indicated in this application and that he has worked at least 1 000 hours since the initial issuance of that exemption, under the conditions and restrictions provided for in section 15 or, as the case may be, in section 15.5.”.

2. The Regulation is amended by substituting the following for section 4:

“**4.** The Commission shall issue an occupation competency certificate to every person who is sixteen years of age or older and who applies therefor and furnishes proof to the Commission that he has successfully completed a safety course required by the Safety Code for the construction industry, in any of the following cases:

(1) this person furnishes proof that he has successfully completed the course on general knowledge of the industry approved by the Commission;

(2) this person furnishes proof that he is an employer holding a contractor licence issued under the Building Act or that he is, under section 19.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry, an employer's designated representative holding such a licence; in the latter case, the certificate is no longer valid if the holder has ceased to be the employer's designated representative;

(3) this person has an exemption from the obligation to hold an occupation competency certificate, issued under paragraph 6 of section 14 or under section 15.5, and has worked at least 1 000 hours since the initial issuance of that exemption, under the conditions and restrictions provided for in section 15 or, as the case may be, section 15.5."

3. Section 7 of the Regulation is amended by inserting, in the second paragraph, the words "section 2 or" before the words "section 3".

4. Section 14 of the Regulation is amended by substituting the following for paragraphs 5 and 6:

"(5) this person is the child of an employer or, if the employer is a partnership or a legal person, he is the child of a member of that partnership or director of that legal person, and that employer submits an application in order to ensure that someone takes over the business. Notwithstanding the foregoing, the exemption from the obligation to hold an apprentice competency certificate shall only be issued to a person who meets the admission requirements prescribed in basic school regulations made under the Education Act, for a program of studies leading to a secondary school vocational diploma (SSVD) pertaining to the trade indicated in the application;

(6) an employer furnishes proof that no holder of a competency certificate is available in the construction industry to perform the work established in the application, guarantees employment to that person for at least 150 hours over a period not exceeding 3 months and furnishes proof of that guarantee to the Commission;"

5. Section 15 of the Regulation is amended:

(1) by substituting the following for the fourth and fifth paragraphs:

"The exemption issued under paragraph 4 of section 14 shall only be valid for a period not exceeding two months, for specific work established in the application, for the job site where such work is to be carried out and for the employer justifying the application.

Notwithstanding the fourth paragraph, the exemption issued under paragraph 4 of section 14 may be valid for a period exceeding two months with an expiry date that coincides with the end of the work to be carried out, where the employer furnishes proof to the Commission that he will also employ on the job site at least one employee holding a competency certificate who shall be able to learn, from the employee for whom the exemption is applied for, the specific skills of that employee. In this case, the exemption may be extended upon application in order to allow the employer to complete the work for which it was issued.

The exemption issued under paragraph 5 of section 14 shall be valid for a period of 3 months and entitles its holder to perform work only for the employer who made the application. Notwithstanding section 16, it may be renewed upon application if the employer has stated, in the monthly reports filed with the Commission, that the holder of the exemption has worked at least 150 hours during the time the exemption was in force. The exemption from the obligation to hold an apprentice competency certificate issued under that paragraph may be renewed one year after the date it was initially issued only if its holder has registered in a training program pertaining to the trade corresponding to his apprentice competency certificate and that he took, during the period of validity of the exemption or its renewal, at least 150 hours of training in that program, up to the total number of hours of training in that program or has registered in such a program but could not pursue it because of a lack of available places. The Commission shall issue only one exemption per firm under that paragraph; and

(2) by substituting the following for the seventh paragraph:

"Notwithstanding section 16, the exemption issued under paragraph 6 of section 14 may be renewed if the employer furnishes proof that no worker holding a competency certificate is available in the construction industry to perform the work established in the application, that he has respected the terms regarding the guarantee of employment provided in the preceding application, and that he once again guarantees that worker employment for at least 150 hours.

The exemption issued under paragraph 7 of section 14 shall be valid for a period not exceeding 3 months, for the work described on the occasional employee's card issued to the holder of the exemption and for the employer justifying the application."

6. The Regulation is amended by inserting the following after section 15.4:

“**15.5** The Commission may, by way of exception, exempt a person from the obligation to hold a journeyman competency certificate, occupation competency certificate or apprentice competency certificate if the person proves that he has performed, during the 12 months preceding a new subjection, work covered by this new subjection for at least 300 hours.

The application for exemption mentioned in the first paragraph shall be submitted no later than 12 months after the new subjection.

When the work in question comes within the scope of a trade, the exemption pertains to a journeyman competency certificate or apprentice competency certificate, according to the number of hours the person has worked in that trade, taking into account the number of apprenticeship periods determined for that trade in Schedule B to the Regulation respecting the vocational training of manpower in the construction industry.

The exemption issued under this section is valid for a period of 12 months and for the work newly subjected. It mentions the region where the holder is domiciled or, if he is domiciled elsewhere in Canada, the region in which he wishes to benefit from an employment preference.

Notwithstanding section 16, the exemption issued under this section is renewed where, according to the monthly reports filed with the Commission by a registered employer, the holder has worked at least 150 hours during the time the exemption was valid.

For the purposes of this section, the expression “new subjection” means an amendment to a statute or regulatory instrument which extends the scope of the Act respecting labour relations, vocational training and manpower management in the construction industry, as well as a judicial or quasi-judicial decision which states that a certain type of work is subject to the Act.”.

7. The following is substituted for section 24.7:

“**24.7** The fee exigible for the issuance of an exemption from the obligation to hold a journeyman competency certificate, an apprentice competency certificate or an occupation competency certificate shall be \$100.

No fee shall be exigible for the renewal of an exemption, where this Regulation authorizes a renewal.”.

8. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.