

Gouvernement du Québec

O.C. 333-97, 19 March 1997

Financial Administration Act
(R.S.Q., c. A-6)

Construction contracts

— **Regulation**

— **Amendments**

Regulation to amend the Regulation respecting construction contracts of government departments and public bodies

WHEREAS under section 49 of the Financial Administration Act (R.S.Q., c. A-6), the Government may, by regulation, upon the recommendation of the Conseil du trésor, determine the conditions of contracts made in the name of the Government by a department, a public body whose operating budget is voted wholly or in part by the National Assembly or any other public body;

WHEREAS by means of a Regulation made by Order in Council 1242-96 dated 2 October 1996, the Government included measures intended to fight undeclared labour in the Québec construction industry in the Regulation respecting construction contracts of government departments and public bodies;

WHEREAS the application of these measures, which require contractors to comply with the conditions set out in section 7.4 of the General Regulation respecting the conditions of contracts of government departments and public bodies, poses certain problems insofar as:

— contractors who have been found guilty of offences against the Regulation since 11 May 1995, that is, the day after the date of the 1995-96 Budget Speech, could not know before the publication of those measures that they were also subject to administrative penalties;

— certain offences established by the Regulation would not be directly related to undeclared labour;

— the number of convictions required to determine that a contractor fails to apply those measures could have taken the size of the business into account;

— a general contractor does not have easy access to the information he would need to ascertain that his potential subcontractors respect the provisions applicable to them;

WHEREAS it is expedient to revoke these measures;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published as prescribed in section 8 of that Act where the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is also of the opinion that the urgency of the situation requires it;

WHEREAS under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and such coming into force shall be published with the Regulation;

WHEREAS in the opinion of the Government, the urgency due to the following circumstances justifies the absence of prior publication and such coming into force:

— the present measures intended to fight undeclared labour in the Québec construction industry are not adequate to attain the governmental objective;

— for most construction contracts to be carried out during the 1997 summer season, the awarding procedure will have to be initiated in the coming months of March and April; therefore, in order to avoid unwanted situations, it is expedient to revoke, as soon as possible, the provisions containing measures intended to fight undeclared labour in the construction industry;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies, which has been recommended by the Conseil du trésor;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the Regulation to amend the Regulation respecting construction contracts of government departments and public bodies, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting construction contracts of government departments and public bodies

Financial Administration Act
(R.S.Q., c. A-6, s. 49)

1. The Regulation respecting construction contracts of government departments and public bodies, made by Order in Council 1168-93 dated 18 August 1993 and amended by the Regulations made by Orders in Council 181-94 dated 2 February 1994, 1106-94 dated 20 July 1994, 235-96 dated 28 February 1996, 332-96 dated 21 March 1996 and 1242-96 dated 2 October 1996, is further amended in section 10 by revoking subparagraph *c* of paragraph 7 and paragraph 7.01.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 334-97, 19 March 1997

Financial Administration Act
(R.S.Q., c. A-6)

Exemption of the public bodies described in paragraph 1 of section 5 of the Auditor General Act from the application of government regulations concerning contracts

WHEREAS under section 49.4 of the Financial Administration Act (R.S.Q., c. A-6), the Government, on the conditions it determines, may exempt a public body described in paragraph 1 of section 5 of the Auditor General Act (R.S.Q., c. V-5.01) from the application of all regulations made under section 49 of the Financial Administration Act;

WHEREAS under Order in Council 1243-96 dated 2 October 1996, the Government exempted from the application of all regulations made under section 49 of the Financial Administration Act the public bodies described in paragraph 1 of section 5 of the Auditor General Act, on the following conditions;

(1) that they file, with the Chairman of the Conseil du trésor, the policy prescribed in section 49.4 of the Financial Administration Act as well as all amendments that will have been made thereto within 30 days following the making of the latter;

(2) that in the policy they provide for measures to fight undeclared labour in the construction industry in Québec, inspired by the provisions of sections 7.3, 7.4, 13.1 and 13.2 of the General Regulation respecting the conditions of contracts of government departments and public bodies and the provisions of subparagraphs *b* and *c* of paragraph 7 of section 10 and of paragraph 7.01 of section 10 of the Regulation respecting construction contracts of government departments and public bodies;

(3) in the case of the bodies that already have such a policy, that they amend it in order to provide for the measures indicated in paragraph 2, that those amendments take effect on 1 January 1997 and that they be filed not later than on that date;

(4) that they report on the application of that policy in their annual report;

WHEREAS a policy filed with the Minister of Supply and Services, in accordance with Order in Council 1164-93 dated 18 August 1993, was equivalent to a policy filed with the Chairman of the Conseil du trésor, in accordance with paragraph 1 of the first paragraph of the operative part of Order in Council 1243-96 dated 2 October 1996;

WHEREAS it is expedient to eliminate the condition that obliges the bodies to apply measures intended to fight undeclared labour in the construction industry, which they had to include in their policy, inspired by regulatory provisions that will be revoked;

WHEREAS it is expedient that these bodies withdraw those measures from their policy and that they file the amendments thereto with the Chairman of the Conseil du trésor;

IT IS ORDERED, therefore, on the recommendation of the Minister for Administration and the Public Service, Chairman of the Conseil du trésor:

THAT the public bodies described in paragraph 1 of section 5 of the Auditor General Act (R.S.Q., c. V-5.01) be exempted from the application of all regulations made under section 49 of the Financial Administration Act (R.S.Q., c. A-6), on the following conditions:

(1) that they have filed, with the Chairman of the Conseil du trésor, the policy prescribed in section 49.4 of the Financial Administration Act as well as all amendments that will have been made thereto within 30 days following the making of the latter;

(2) that they report on the application of that policy in their annual report;