

Regulations and other acts

Gouvernement du Québec

O.C. 25-2005, 26 January 2005

An Act respecting immigration to Québec
(R.S.Q., c. I-0.2; 2004, c. 18)

Selection of foreign nationals

— Amendments

Regulation to amend the Regulation respecting the selection of foreign nationals

WHEREAS, under subparagraphs *b*, *b.5* and *f* of the first paragraph of section 3.3 of the Act respecting immigration to Québec (R.S.Q., c. I-0.2), amended by section 10 of chapter 18 of the Statutes of 2004, the Government may make regulations in relation to the matters set forth therein;

WHEREAS the Government made the Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. M-23.1, r.2), which sets out, in particular, the conditions applicable to the selection of immigrants belonging to the investors class;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting the selection of foreign nationals was published in Part 2 of the *Gazette officielle du Québec* of 14 July 2004 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS comments were received;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Relations with the Citizens and Immigration:

THAT the Regulation to amend the Regulation respecting the selection of foreign nationals, attached to this Order in Council, be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the selection of foreign nationals*

An Act respecting immigration to Québec
(R.S.Q., c. I-0.2, s. 3.3, 1st par., subpars. *b*, *b.5* and *f*;
2004, c. 18, s. 10, par. 3)

1. The Regulation respecting the selection of foreign nationals is amended in subsection 1 of section 1

(1) by replacing “management experience” in subparagraph *e.1* by “management experience (entrepreneur)”;

(2) by adding the following after subparagraph *e.1*:

“(e.2) “management experience (investor)”: the actual assuming on a full-time basis, in the ten years preceding the application for a selection certificate, of responsibilities and duties related to the planning, management and control of financial resources and of human or material resources, provided that such responsibilities and duties are not assumed in the context of an apprenticeship, training or specialization process attested to by a diploma;”;

(3) by replacing “Act respecting trust companies (R.S.C., 1985, c. T-20)” in subparagraph *m* by “Trust and Loan Companies Act (S.C. 1991, c. 45)”.

2. Section 34.1 is amended

(1) by inserting “the Minister and” in the first paragraph after “agreement with”;

(2) by replacing “his mandatary with” in the first paragraph by “the foreign national’s mandatary with the Minister and”;

(3) by replacing subparagraph *a* of the third paragraph by the following:

* The Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. M-23.1, r.2) was last amended by the regulations made by Orders in Council 351-2003 dated 5 March 2003 (2003, G.O. 2, 1274) and 810-2004 dated 26 August 2004 (2004, G.O. 2, 2587). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2004, updated to 1 September 2004.

“(a) an undertaking for the foreign national to make an investment of \$400,000 with a broker or trust company which must invest the amount with Investissement Québec or one of its subsidiaries after the Minister has sent a notice of intent to issue a selection certificate to the foreign national, not later than 120 days after the issue of that notice, for the purpose of financing

i. a program established under section 27 or 59 of the Act respecting Investissement Québec and La Financière du Québec (R.S.Q., c. I-16.1);

ii. the exercise of the Minister’s responsibilities under the Act respecting the Ministère des Relations avec les citoyens et de l’Immigration (R.S.Q., c. M-25.01);”;

(4) by inserting the following after subparagraph *a* of the third paragraph:

“(a.1) the opening of a separate account in the name of the foreign national by the broker or trust company;

(a.2) the establishment of the identity of the foreign national by the foreign national’s name, sex, date of birth, permanent address, citizenship, personal telephone number, the type of document proving the foreign national’s identity, the number of that document and the place of issue; any change in any of the particulars must be notified to the broker or trust company by the foreign national within 30 days of the change;

(a.3) a prohibition against the foreign national’s changing brokers or trust companies from the date of filing of the application for a selection certificate, except for reasons related to the broker or trust company, such as bankruptcy, cessation of management activities, an acquisition or amalgamation, or a proven fault;”;

(5) by replacing subparagraph *b* of the third paragraph by the following:

“(b) the term of the investment is five years and is computed from the date on which the amount of \$400,000 is invested by Investissement Québec or one of its subsidiaries; that date may not be prior to the date of the sending by the Minister of a notice of intent to issue a selection certificate to the investor;”;

(6) by replacing “the Programme des immigrants investisseurs pour l’aide aux entreprises” in subparagraph *c* of the third paragraph by “a program referred to in subparagraph *a*”;

(7) by replacing subparagraph *d* of the third paragraph by the following:

“(d) the investment with Investissement Québec or one of its subsidiaries must be irrevocable before the end of its term, unless the selection certificate is cancelled, the application for a selection certificate is refused or the investor’s application for a visa or permanent residence within the meaning of the Immigration and Refugee Protection Act is denied and, in those cases, the agreement must provide that the broker or trust company is required to reimburse the investment to the investor by depositing the investor’s funds in the country from which the funds originated, in an account in the investor’s name, and file a document with the Minister attesting to the reimbursement of the investment within 30 days of the deposit;”.

3. The following is inserted after section 34.1:

“**34.1.1.** The agreement referred to in section 34.1 must also contain at least the following provisions:

(a) a requirement for the broker or trust company to give to the foreign national, to be filed with the application for a selection certificate, a statement from the broker or trust company attesting that the identity of the foreign national has been ascertained and describing the steps the broker or trust company has taken as regards the source and origin of the foreign national’s assets;

(b) a requirement for the broker or trust company having entered into the agreement referred to in section 34.1 to provide the Minister with proof of registration in the registry of lobbyists under the Lobbying Transparency and Ethics Act (R.S.Q., c. T-11.011), where the broker or trust company is also the mandatary of the foreign national during the selection certificate process;

(c) a description of the procedure for the exchange of information between the parties to the agreement.”.

4. Section 38 is amended by replacing “has been transferred to his broker or his trust company in Québec” in the second paragraph by “has been invested with Investissement Québec or one of its subsidiaries”.

5. Schedule A is amended by replacing the title of criterion “3.2 Management experience:” by “3.2 Management experience (investor) or Management experience (entrepreneur):”.

6. The provisions of an agreement filed before 2 March 2005 that differ from the provisions of subparagraphs *a*, *a.3* and *d* of the third paragraph of section 34.1 of the Regulation made respectively by paragraphs 3, 4 and 7 of section 2 are without effect after that date.

7. This Regulation comes into force on 2 March 2005.