

specialist's certificate issued by an order, after consultation, in particular, with the educational institutions and the order concerned, the Conférence des recteurs et des principaux des universités du Québec in the case of a university-level diploma, the Fédération des cégeps in the case of a college-level diploma and the Minister of Education, Recreation and Sports;

WHEREAS, in accordance with that section, the Office has made the required consultations;

WHEREAS, in accordance with the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders, attached to this Order in Council, was published in Part 2 of the Gazette officielle du Québec of 25 August 2004, with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS no comments were made to the Chair of the Office following that publication;

WHEREAS, on 24 March 2003, the Ordre des sages-femmes du Québec gave a favourable opinion on the making of the Regulation attached to this Order in Council by the Government;

WHEREAS, on 14 September 2005, the Office gave a favourable opinion on the making of the Regulation attached to this Order in Council by the Government;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation to amend the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders, attached to this Order in Council, be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders*

Professional Code
(R.S.Q., c. C-26, s. 184, 1st par.)

1. The Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders is amended by inserting the following after section 1.30:

“**1.31.** The Baccalauréat en pratique sage-femme from the Université du Québec à Trois-Rivières gives access to the permit issued by the Ordre des sages-femmes du Québec.”

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

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Gouvernement du Québec

O.C. 39-2006, 25 January 2006

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

Guarantee plan for new residential buildings — Amendments

Regulation to amend the Regulation respecting the guarantee plan for new residential buildings

WHEREAS, under subparagraphs 19.4 and 19.6 of the first paragraph of section 185 of the Building Act (R.S.Q., c. B-1.1), the Régie du bâtiment du Québec may make regulations in respect of financial guarantees for new residential buildings;

* The Regulation respecting the diplomas issued by designated teaching establishments which give access to permits or specialist's certificates of professional orders, made by Order in Council 1139-83 dated 1 June 1983 (1983, *G.O.* 2, 2369), was last amended by the regulation made by Order in Council 999-2005 dated 26 October 2005 (2005, *G.O.* 2, 4825). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2005, updated to 1 September 2005.

WHEREAS the Board made the Regulation to amend the Regulation respecting the guarantee plan for new residential buildings at its meeting held on 13 December 2004;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Regulation to amend the Regulation respecting the guarantee plan for new residential buildings was published in Part 2 of the *Gazette officielle du Québec* of 27 April 2005 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS the comments received have been examined;

WHEREAS, under section 189 of the Building Act, every regulation of the Board is subject to approval by the Government which may approve it with or without amendment;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation to amend the Regulation respecting the guarantee plan for new residential buildings, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the guarantee plan for new residential buildings*

Building Act
(R.S.Q., c. B-1.1, s. 185, 1st par., subpars. 19.4, 19.6 and 38 and s. 192)

1. The Regulation respecting the guarantee plan for new residential buildings is amended by deleting the second paragraph of section 10.

2. Section 12 is amended by striking out “within the meaning of section 10” at the end of the last paragraph.

3. Section 13 is amended

(1) by replacing “\$30 000” in paragraph 1 by “\$39,000”;

(2) by replacing “\$5 000” in the portion of paragraph 2 before subparagraph *a* by “\$5,500” and by replacing “\$75” in subparagraph *b* of paragraph 2 by “\$85”, “\$100” by “\$110”, “\$125” by “\$140” and “\$150” by “\$170”;

(3) by replacing “\$200 000” in paragraph 3 by “\$260,000”.

4. Section 14 is amended

(1) by replacing “\$30 000” in paragraph 1 by “\$39,000”;

(2) by replacing “\$5 000” in the portion of paragraph 2 before subparagraph *a* by “\$5,500” and by replacing “\$75” in subparagraph *b* of paragraph 2 by “\$85”, “\$100” by “\$110”, “\$125” by “\$140” and “\$150” by “\$170”;

(3) by replacing “\$100 000” in subparagraph *b* of paragraph 3 by “\$130,000” and “\$1 500 000” by “\$1,900,000”.

5. The following is inserted after section 17:

“**17.1.** Any claim based on the guarantee referred to in section 9 is subject to the following procedure:

(1) not later than within 90 days following acceptance of the building, the beneficiary shall send to the contractor, by registered mail, a claim for reimbursement of expenses relating to relocation, moving and storage of the beneficiary’s property, along with vouchers. If the claim has not been settled within 15 days after the claim has been sent, the beneficiary shall notify the manager in writing who must decide the claim within 15 days following receipt of the notice;

(2) for the implementation of the advance payment guarantee or guarantee of completion before acceptance of the building, the beneficiary shall send the claim in writing to the contractor and a copy of the claim to the manager. The procedure described in paragraphs 2 to 6 of section 18 applies to the claim with the necessary modifications.

* The Regulation respecting the guarantee plan for new residential buildings, approved by Order in Council 841-98 dated 17 June 1998 (1998, *G.O.* 2, 2510), was last amended by the regulation approved by Order in Council 920-2001 dated 31 July 2001 (2001, *G.O.* 2, 4781). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2005, updated to 1 September 2005.

For the purposes of subparagraph 2 of the first paragraph, the beneficiary shall pay fees to the manager in the amount of \$100 which will be reimbursed to the beneficiary on the conditions prescribed for reimbursement of the fees referred to in paragraph 2 of section 18.”

6. Section 18 is amended

(1) by replacing “made under the guarantee plan” in the portion before paragraph 1 by “based on the guarantee referred to in section 10”;

(2) by replacing paragraphs 5 to 7 by the following :

“(5) within 20 days following the inspection, the manager shall file a detailed written report stating whether or not the matter has been settled and send a copy by registered mail to the parties concerned. If the claim has not been settled, the manager shall decide the claim and order, as applicable, the contractor to reimburse to the beneficiary the cost of necessary and urgent conservatory repairs, or to complete or correct the work within the period the manager indicates and agreed upon with the beneficiary ;

(6) where the contractor fails to reimburse the beneficiary or to complete or correct the work and there is no recourse to mediation or the manager’s decision is not contested in arbitration by one of the parties, the manager shall, within 15 days after the expiry of the period agreed upon with the beneficiary under paragraph 5, make the reimbursement or take charge of completing or correcting the work, agree to a time period for doing so with the beneficiary and undertake, if applicable, the preparation of corrective specifications and a call for tenders, choose contractors and supervise the work.”

7. Section 19 is amended by replacing “15” by “30”.

8. The following is inserted after section 19 :

“**19.1.** Failure by the beneficiary to file a claim or implement the guarantee in timely fashion cannot be set up against the beneficiary if the contractor or manager fails to perform the obligations under sections 17, 17.1, 18, 66, 69.1, 132 to 137 and paragraphs 12, 13, 14 and 18 of Schedule II, unless the contractor or manager shows that such failure had no incidence on the failure to file a claim in timely fashion or that the time for filing the claim or implementing the guarantee has been expired for more than one year.”

9. Section 25 is amended by replacing the definition of “acceptance of the common portions” by the following :

“acceptance of the common portions” means the act, with a copy sent to each known beneficiary, the syndicate and the contractor, whereby a building professional chosen by the syndicate of co-owners declares the date of the end of the work on the common portions, subject to minor work indicated by the building professional as remaining to be completed. The acceptance takes place following receipt of a notice of the end of work sent by the contractor to each known beneficiary and to the syndicate of co-owners.”. (*réception des parties communes*)

10. The following is inserted after section 25 :

“**25.1.** For the purposes of this Subdivision, acceptance is deemed to have taken place not later than 6 months after receipt of the notice of the end of work if the following conditions are met :

(1) the work is completed ;

(2) the syndicate is formed and is no longer under the control of the contractor ;

(3) the notice of the end of work sent to the syndicate by the contractor informed the syndicate of the end of the work and obligations with respect to acceptance ; and

(4) six months have elapsed since the receipt of the notice by the syndicate and the latter, without reason, did not accept the common portions.”

11. Section 27 is amended

(1) by replacing subparagraph 1 of the first paragraph by the following :

“(1) completion of the work, notice of which is given in writing

(a) by the beneficiary, at the time of acceptance of the private portion or, so long as the beneficiary has not moved in, within 3 days following acceptance ; and

(b) by the building professional, at the time of acceptance of the common portions ;” ;

(2) by deleting the second paragraph.

12. Section 29 is amended

(1) by striking out “of a private portion” in subparagraph 1 of the first paragraph ;

(2) by striking out “within the meaning of section 27” at the end of the last paragraph.

13. Section 30 is amended

(1) by replacing “\$30 000” in paragraph 1 by “\$39,000”;

(2) by replacing “\$5 000” in the portion of paragraph 2 before subparagraph *a* by “\$5,500” and by replacing “\$75” in subparagraph *b* of paragraph 2 by “\$85”, “\$100” by “\$110”, “\$125” by “\$140” and “\$150” by “\$170”;

(3) by replacing “\$200 000” in paragraph 3 by “\$260,000” and “\$2 000 000” by “\$2,600,000”;

(4) by replacing “\$100 000” in subparagraph *b* of paragraph 4 by “\$130,000” and “\$2 000 000” by “\$2,600,000”.

14. The following is inserted after section 33:

“**33.1.** Any claim based on the guarantee referred to in section 26 is subject to the following procedure:

(1) not later than within 90 days following acceptance of the building, the beneficiary shall send to the contractor, by registered mail, a claim for reimbursement of expenses relating to relocation, moving and storage of the beneficiary’s property, along with vouchers. If the claim has not been settled within 15 days after the claim has been sent, the beneficiary shall notify the manager in writing who must decide the claim within 15 days following receipt of the notice;

(2) for the implementation of the advance payment guarantee or guarantee of completion before acceptance of the building, the beneficiary shall send the claim in writing to the contractor and a copy of the claim to the manager. The procedure described in paragraphs 2 to 6 of section 34 applies to the claim with the necessary modifications.

For the purposes of subparagraph 2 of the first paragraph, the beneficiary shall pay fees to the manager in the amount of \$100 which will be reimbursed to the beneficiary on the conditions prescribed for reimbursement of the fees referred to in paragraph 2 of section 34.”.

15. Section 34 is amended

(1) by replacing “made under the guarantee plan” in the portion before paragraph 1 by “based on the guarantee referred to in section 27”;

(2) by replacing paragraphs 5 to 7 by the following:

“(5) within 20 days following the inspection, the manager shall file a detailed written report stating whether or not the matter has been settled and send a copy by registered mail to the parties concerned. If the claim has not been settled, the manager shall decide the claim and order, as applicable, the contractor to reimburse to the beneficiary the cost of necessary and urgent conservatory repairs, or to complete or correct the work within the period the manager indicates and agreed upon with the beneficiary;

(6) where the contractor fails to reimburse the beneficiary or to complete or correct the work and there is no recourse to mediation or the manager’s decision is not contested in arbitration by one of the parties, the manager shall, within 15 days after the expiry of the period agreed upon with the beneficiary under paragraph 5, make the reimbursement or take charge of completing or correcting the work, agree to a time period for doing so with the beneficiary and undertake, if applicable, the preparation of corrective specifications and a call for tenders, choose contractors and supervise the work.”.

16. Section 35 is amended by replacing “15” wherever it appears by “30”.

17. The following is inserted after section 35:

“**35.1.** Failure by the beneficiary to file a claim or implement the guarantee in timely fashion cannot be set up against the beneficiary if the contractor or manager fails to perform the obligations under sections 33, 33.1, 34, 66, 69.1, 132 to 137 and paragraphs 12, 13, 14 and 18 of Schedule II, unless the contractor or manager shows that such failure had no incidence on the failure to file a claim in timely fashion or that the time for filing the claim or implementing the guarantee has been expired for more than one year.”.

18. Section 42 is amended by replacing paragraph 8 by the following:

“(8) its organizational structure provides that its officers and key personnel participating in policy decision-making and application of the guarantee plan are recruited from among persons who, because of their activities, are capable of contributing in a particular manner to the administration of a guarantee plan, and that at least 3 of those persons have experience in the financial institutions sector, in government and in the consumer affairs sector and are recruited from among persons proposed by the most representative consumer

associations. The representatives are to be chosen from a list drawn up by the Board. The term of the representatives from the financial institutions sector, the government and the consumer affairs sector is of not less than one year and may be renewed.”

19. Section 66 is replaced by the following :

“**66.** Any decision by the manager to refuse or cancel a contractor’s membership in the approved plan or concerning a claim made by a beneficiary shall be in writing and give reasons therefor.

The decision must contain the following :

(1) in the case of a decision on a claim made by a beneficiary, mention that it is the decision of the manager, the names of the beneficiary and the contractor, the address of the building concerned, the date of each inspection, if any, the date of the final decision, the remedies and time limits prescribed by the regulation and the names and addresses of the arbitration bodies authorized by the Board as well as those of the Ministère du Travail so that the list of accredited mediators may be obtained;

(2) in the case of a decision refusing or cancelling a contractor’s membership in the approved plan, the date of the decision and the remedies and time limits prescribed by the regulation and the names and addresses of the arbitration bodies authorized by the Board.”

20. Section 69 is replaced by the following :

“**69.** The manager shall supply each contractor with a list of items to be checked for each class of building, approved by the Board for the purposes of the inspection prior to acceptance.”

21. The following is inserted after section 69 :

“**69.1.** Upon receipt of a building registration application from the beneficiary or as soon as the beneficiary is known, the manager shall send to the beneficiary the explanatory document prepared by the Board on the application of this Regulation.”

22. The following is inserted after section 77 :

“**77.1.** The publicity for a guarantee plan must clearly distinguish between the compulsory guarantee plan and any other guarantee plan and mention that the compulsory plan is approved by the Régie du bâtiment du Québec and that it ensures financial protection in respect of part of the contractor’s legal and contractual obligations.”

23. Section 78 is amended

(1) by replacing paragraph 6 by the following :

“(6) produce a document certifying that the shareholders holding 20% or more of the voting shares, officers and guarantors have been discharged from any personal bankruptcy and have not been involved in the bankruptcy of a construction firm for at least 3 years and state whether one of the other shareholders was involved in such a bankruptcy in less than 3 years;”

(2) by adding the following paragraph :

“(12) if that person, one of its shareholders holding 20% or more of the voting shares or one of its officers was accredited for the last 3 years by another manager, produce a statement of that manager stating whether sums are owed by the applicant undertaking, one of its shareholders holding 20% or more of the voting shares or one of its officers.”

24. Section 84 is amended

(1) by deleting the third paragraph ;

(2) by striking out “also” in the fourth paragraph.

25. The following is inserted after section 88 :

“**88.1.** The manager may also require from the contractor that the contractor supply the following information, if the manager considers it appropriate considering the complaints received or the financial situation of the undertaking :

(1) detailed cost estimates for the construction of a building ;

(2) any document evidencing a change to the contract ;

(3) when the work concerns multifamily buildings held in divided co-ownership having more than 5 private portions, a copy of the list of sale prices of the co-ownership units, a list of the units sold, the amount of the advance payments collected or to be collected and, where a supervisory mandate has been entrusted to a member of a professional order, a copy of such a mandate ; and

(4) interim financial statements.”

26. Section 93 is amended by replacing paragraph 5 by the following :

“(5) he fails to complete work related to a building or carry out the repairs required in accordance with the manager’s requirements;”.

27. Section 98 is amended by replacing “15” by “30”.

28. Section 107 is amended by replacing “15” by “30”.

29. Schedule II is amended

(1) by striking out “, in particular the standards contained in the National Building Code of Canada, the Canadian Electrical Code and the Plumbing Code” in paragraph 3;

(2) by replacing “to the beneficiary and to the building professional” in paragraph 13 by “to the building professional, the syndicate, each known beneficiary and any new purchaser at the time of conclusion of the contract”.

30. This Regulation comes into force on the one hundred and eightieth day following the date of its publication in the *Gazette officielle du Québec*.

It applies to the buildings for which the preliminary contract or the contract of enterprise is signed between a beneficiary and an accredited contractor and the construction work begins on or after that date.

Sections 1, 2, 7, 10, paragraph 2 of section 11, paragraph 2 of section 12 and sections 16, 19, 23 to 28 and paragraph 1 of section 29 apply within 15 days after that publication as regards guarantee contracts in effect on that date.

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M.O., 2006

Order number AM 2006-003 of the Minister of Natural Resources and Wildlife dated 27 January 2006

An Act respecting the conservation and development of wildlife
(R.S.Q. c. C-61.1)

CONCERNING the Fishing and Hunting Areas Régulation*

THE MINISTER OF NATURAL RESOURCES AND WILDLIFE,

CONSIDERING that the Government made the Fishing and Hunting Areas Regulation by Order in Council 27-90 dated 10 January 1990;

CONSIDERING section 84.1 of the Act respecting the conservation and development of wildlife (R.S.Q., c. C-61.1) which provides that the Minister may divide Québec into hunting areas, fishing areas or trapping areas, and delimit the areas;

CONSIDERING section 84.3 of the Act which provides that an order made by the Minister under section 84.1 must be published in the *Gazette officielle du Québec* and comes into force on the date of its publication or on any later date indicated therein;

CONSIDERING that it is expedient to replace Schedule X to the Fishing and Hunting Areas Regulation to remove the reference to the eastern and western parts of Area 10;

ORDERS THE FOLLOWING:

Schedule X to the Fishing and Hunting Areas Regulation is replaced by Schedule X attached hereto;

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

Québec, 27 January 2006

PIERRE CORBEIL,
*Minister of Natural Resources
and Wildlife*

* The Fishing and Hunting Areas Regulation, made by Order in Council 27-90 dated 10 January 1990 (1990, *G.O. 2*, 317), was last amended by Minister’s Order 2004-037 dated 3 September 2004 (2004, *G.O. 2*, 2661). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2005, updated to 1 September 2005.