

The holder of the certificate may not allow two members to use the title of electric heating specialist concurrently.

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

SCHEDULE I

(s. 13)

OATH OF DISCRETION

I, _____, declare under oath that I will not reveal or disclose, unless so authorized, anything of a confidential or privileged nature that may come to my knowledge in the performance of my functions.

Signed this _____ day of _____, 20__ .

8203

Draft Regulation

Master Electricians Act
(R.S.Q., c. M-3)

Corporation of Master Electricians of Québec — Discipline of the members

Notice is hereby given, in accordance with section 13 of the Master Electricians Act (R.S.Q., c. M-3) and sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting discipline of the members of the Corporation of Master Electricians of Québec, appearing below, may be approved by the Government on the expiry of 45 days following this publication.

The Corporation advises that the Regulation, adopted simultaneously with the regulations respecting admission as members, the sections, committees and the internal management of the Corporation, repeats most of the rules contained in the regulation currently in force. In addition to regrouping and reformulating the wording of derogatory acts, it amends the rules respecting the processing of complaints and the procedure for disciplinary hearings, and increases the amounts of disciplinary fines as well as the registration fees for appeals of a disciplinary decision.

The Corporation foresees no significant impact on the enterprises that are members.

Further information may be obtained by contacting Yvon Guilbault, Executive Vice President, Corporation of Master Electricians of Québec, 5925, boulevard Décarie, Montréal (Québec) H3W 3C9; telephone: 514 738-2184; fax: 514 738-2192; e-mail: yvon.guilbault@cmeq.org

Any interested person having comments to make on the Regulation is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec) G1R 5S1. The comments will be sent by the Minister to the Corporation of Master Electricians of Québec.

DAVID WHISSELL,
Minister of Labour

Regulation respecting discipline of the members of the Corporation of Master Electricians of Québec

Master Electricians Act
(R.S.Q., c. M-3, s. 12, par. 1, subpar. c and s. 20)

DIVISION I DEROGATORY ACTS

1. In addition to the acts in section 20 of the Master Electricians Act (R.S.Q., c. M-3), a member who commits any of the following is guilty of an act derogatory to the honour of the trade of master electrician and is liable to the disciplinary measures in section 33:

- (1) maliciously damaging the reputation of a colleague;
- (2) filing a frivolous or clearly unfounded complaint against a colleague;
- (3) being disloyal towards the Corporation of Master Electricians of Québec, maliciously damaging its reputation or speaking on its behalf without authorization;
- (4) impairing the work of an employee of the Corporation in the performance of duties or insulting or intimidating an employee in any way;
- (5) failing to reply to communications from the executive vice-president or a person designated by him or her, an investigator or a committee of the Corporation if they request information or explanations on any matter within the purview of the Act and regulations of the Corporation;
- (6) using disloyal and dishonest practices to obtain information on a tender submitted by a colleague;

(7) using disloyal and dishonest practices to obtain a contract or to gain the favour of clients;

(8) finishing work stopped by a contractor that is a member of the Corporation for non-payment of bills owing;

(9) performing the work, or a part thereof, specified in the written contract of another member;

(10) entering into any type of agreement with any person for the purpose of obtaining contracts or clients, in particular by offering commissions or other benefits to intermediaries;

(11) misleading a client as to the cost and performance of a contract, in particular by

(a) providing the client with false information on the quality and quantity of materials used or the labour involved;

(b) deviating from the plans and specifications of a project; or

(c) overbilling a client in relation to the services rendered;

(12) defrauding an employee by illegally retaining the employee's wages;

(13) making a false statement in a document to be used for admission to the Corporation;

(14) failing to compensate a client who is a victim of fraud, embezzlement or misappropriation of funds on the part of the member or to reimburse the Corporation for any amount the Corporation pays as security to one of the member's clients;

(15) lending his or her name or licence to a person who is not a member of the Corporation so that the person may work as an electrical contractor;

(16) contravening the Act and its regulations;

(17) contravening a provision of a statute or regulation that applies to the activities carried on by the member in the construction industry or being convicted of an offence against any such statute or regulation;

(18) being convicted of a summary conviction offence relating to the member's activities in the construction industry;

(19) accepting money or any other actual or promised benefit for the member's contribution to the making of any decision detrimental to the Corporation;

(20) using in an advertisement or on a sign a title or name of a position that the member or the member's delegate holds or held in the Corporation; and

(21) failing to comply with a final judgment rendered by a court of justice following a breach of the member's professional responsibility.

2. In addition to the offences in section 24 of the Act, a member who contravenes a bidding rule arising from an agreement for the establishment of a bid depository pursuant to section 24 of the Act is guilty of an act derogatory to the honour of the trade of master electrician and is liable to the disciplinary measures in section 33.

DIVISION II PROCESSING OF COMPLAINTS

3. Complaints received by the Corporation and the resulting investigation reports are submitted for examination to the complaints examination committee established under the Regulation respecting the committees of the Corporation of Master Electricians of Québec, approved by Order in Council (*insert the number and date of approval of the Order in Council*).

4. An inadmissible complaint is rejected and the complainant is so informed in writing.

5. If the complaints examination committee concludes that a complaint is admissible, it requests that the member complained of be called by the Corporation before the committee on discipline or the qualifications committee, or that proceedings be instituted by the Corporation against the member under section 28 of the Act.

6. A notice of hearing stating the date, time and place of the hearing and the alleged acts giving rise to the complaint must be served on the member complained of at least 10 days before the date set for the hearing.

The document setting out the alleged acts may be amended at any time. An amendment that would entail an entirely new alleged act may not be authorized, except with the consent of the parties.

7. A member called before a committee by the Corporation may, not later than five clear days before the hearing, request complete disclosure of the evidence in the Corporation's possession.

8. Only one postponement may be requested, for a serious reason. The request must be made in writing to the Corporation not later than one clear day before the hearing.

No later request for postponement may be considered, unless exceptional circumstances arise that are set out in writing and submitted not later than one clear day before the hearing.

9. If the committee on discipline considers that an offence against a bidding rule arising from an agreement for the establishment of a bid depository pursuant to section 24 of the Act appears founded and is not of a serious nature, the committee may send a letter of warning to the member complained of, without a prior hearing.

10. If the member considers that the letter of warning is not warranted, the member may make a written request to the Corporation for a hearing by the committee on discipline within 30 days of the date on which the letter was sent. The member is then heard at the next sitting of the committee on discipline after receipt of the request, provided a notice of hearing can be given at least 10 clear days before the sitting.

11. No penalty other than the letter of warning may be imposed on a member if the member has not been called to appear before the committee on discipline.

DIVISION III HEARING

12. The sittings of the committee on discipline are held at the head office of the Corporation, or are held elsewhere if the committee considers it preferable in the circumstances.

13. The chair of the committee on discipline is master of the hearing.

14. A member called before the committee may appear in person or be represented by an advocate.

15. The parties may call witnesses and make their representations. They must answer the questions the committee considers appropriate.

A member called before the committee may request the Corporation to summon the member's witnesses. The member must pay in advance to the Corporation the travel expenses and summons costs payable under the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2). The member must reimburse the Corporation for any excess amount it disburses.

16. The hearing is recorded by mechanical means or taken down by an official stenographer.

17. If a member duly called before the committee on discipline fails to appear or to plead, the committee on discipline may proceed with the hearing in the member's absence.

18. Documents produced during a hearing of the committee on discipline are confidential. They may not be removed from the record before the expiry of the appeal period or before a decision by the appeals committee, except with the written consent of the parties. Documents that are not retrieved by the parties are destroyed one year after the date of the final decision in the matter.

DIVISION IV DECISIONS

19. The committee on discipline, after deliberating, renders a decision, with reasons in writing, signed by the chair or alternate chair, as the case may be.

20. A member found guilty following failure to appear may request that the decision of the committee on discipline be withdrawn if the member could not attend the hearing for a serious reason, such as

- (1) no notice of hearing was served on the member;
- (2) illness; or
- (3) an event of irresistible force.

21. A request for withdrawal of the decision must be made in writing to the Corporation within 15 days of the date on which the decision was sent by the committee on discipline.

The request is heard at the next sitting of the committee following its receipt, provided a notice of hearing can be given at least 10 clear days before the sitting.

22. At the withdrawal hearing, the member must prove the reasons that prevented the member from appearing. If the withdrawal request is granted, the committee on discipline may proceed with the hearing immediately or postpone it to a later date.

23. The decision of the committee on discipline becomes binding on the expiry of the appeal period.

24. The appeals committee hears any appeal made from a decision by the committee on discipline.

25. The costs for transcribing the recording or the stenographer's notes of the hearing before the committee on discipline is borne by the person who requested the recording or stenographer's services.

26. A party may file a notice of appeal in writing with the Corporation within 30 days of the date on which the decision of the committee on discipline was sent.

27. A notice of appeal must state the name and address of the appellant, the decision or part thereof appealed from and the reasons for the appeal, and be accompanied by a certified cheque or money order made out to the Corporation in the amount of \$300.

That amount is adjusted on 1 August each year based on the percentage change in the general Consumer Price Index for Montréal, as determined by Statistics Canada, for the 12-month period ending on 31 May of the same year. The adjusted amount is rounded up or down to the nearest hundredth of a dollar.

The Corporation informs the public of the adjustment under this section in Part 1 of the *Gazette officielle du Québec* and, if the Corporation considers it appropriate, gives notice by any other means.

If the decision is changed in favour of the appellant, the costs of the appeal are reimbursed to the appellant.

28. A notice indicating the date, time and place of the hearing must be served on the appellant at least 10 days before the date set for the hearing.

29. Each party may send the Corporation a statement of allegations, not later than five days before the appeal hearing.

30. The record of first instance, the notice of appeal and the statement of allegations of the parties are the only documents produced in the appeal. If it considers it appropriate, the appeals committee may, however, authorize the filing of additional documents.

31. No witness may be heard on appeal, unless the appeals committee so authorizes.

32. The appeals committee may dismiss the appeal, grant it or make the decision it believes should have been made by the committee on discipline.

The decision of the appeals committee becomes binding on the date on which it is sent.

33. The disciplinary measures that the committee on discipline or the appeals committee may impose on a member found guilty of an offence against the Act or this Regulation are

(1) a letter of warning;

(2) a reprimand in the form of a letter signed by the chair of the committee or a member of the committee acting in that capacity; and

(3) a fine of not less than \$200 nor more than \$6,000 for each offence committed.

The name of the member found guilty, the nature of the offence and the penalty imposed are sent to all members of the Corporation, by any means the Corporation considers appropriate.

34. In addition to the disciplinary measures in the first paragraph of section 33, the committee on discipline or the appeals committee may recommend to any body authorized to issue construction contractor's licences, including the Corporation, the suspension or cancellation of the licence if the committee considers that the licence holder's conduct so warrants.

The Corporation must then send the record and recommendation to the body that issued the licence, so that the body may make a decision following the recommendation.

35. The identity of the person who filed a complaint against a member of the Corporation must be kept confidential at all times.

36. Sections 12 to 14 and 17 to 19 apply to the appeals committee, with the necessary modifications.

DIVISION V **TRANSITIONAL AND FINAL**

37. This Regulation applies to matters pending on the date of its coming into force.

38. This Regulation replaces sections 79 to 86, 88 to 100, 153 and 155 of the Regulation of the Corporation of Master Electricians of Québec (R.R.Q., 1981, c. M-3, r.2).

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