

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 124 of the Environment Quality Act, a draft of the Regulation to amend the Regulation respecting wood-burning appliances was published in Part 2 of the *Gazette officielle du Québec* of 29 December 2010 with a notice that it could be made by the Government on the expiry of 60 days following that publication;

WHEREAS, under the first paragraph of section 18 of the Regulations Act (R.S.Q., c. R-18.1), a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS, under the second paragraph of section 18 of that Act, the reason justifying the immediate coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the following urgency justifies such coming into force of the Regulation to amend the Regulation respecting wood-burning appliances:

— section 10 of the Regulation respecting wood-burning appliances provides that the Regulation applies to furnaces and boilers as of 1 April 2011;

— CAN/CSA Standard CAN/CSA-B415.1, published by the Canadian Standards Association and referred to in section 4 of the Regulation respecting wood-burning appliances, which was to apply to furnaces and boilers with an output of 2 MW or less, was revised in order to apply only to furnaces and boilers with an output of less than 150 KW;

— the necessity of making the amendment before 1 April 2011 so that, as of that date, the manufacturers, distributors or vendors of furnaces and boilers with a nominal heat output of 150 KW or more do not contravene the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Sustainable Development, Environment and Parks:

THAT the Regulation to amend the Regulation respecting wood-burning appliances, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting wood-burning appliances*

Environment Quality Act
(R.S.Q., c. Q-2, s. 31, 1st par., subpars. *a*, *c* and *d*)

1. The Regulation respecting wood-burning appliances is amended in section 1 by replacing “exceeding 2 MW” in subparagraph 2 of the second paragraph by “of 150 KW or more”.

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

1337

Gouvernement du Québec

O.C. 263-2011, 23 March 2011

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

Selection of foreign nationals

— Amendment

Regulation to amend the Regulation respecting the selection of foreign nationals

WHEREAS, under subparagraph *e* of the first paragraph of section 3.3 of the Act respecting immigration to Québec (R.S.Q., c. I-0.2), the Government may, by regulation, for the purposes of section 3.2 of the Act, determine, while having particular regard to labour market conditions in Québec, the conditions that must be met by a foreign national seeking to stay temporarily in Québec to work, establish the cases where the Minister may exempt a foreign national from the application of the conditions referred to in the second paragraph of section 3.2 and issue a certificate of acceptance, and determine the classes of foreign nationals who may be excluded from the application of section 3.2;

WHEREAS, under subparagraph *f* of the first paragraph of section 3.3 of the Act, the Government may, by regulation, determine the procedure that must be followed in order to obtain a certificate of acceptance under section 3.2 of the Act;

* The Regulation respecting wood-burning appliances, made by Order in Council 508-2009 dated 29 April 2009 (2009, *G.O.* 2, 1657), was amended by Orders in Council 707-2009 dated 18 June 2009 (2009, *G.O.* 2, 1881) and 245-2010 dated 24 March 2010 (2010, *G.O.* 2, 767A).

WHEREAS, under subparagraph *f.1.0.1* of the first paragraph of section 3.3 of the Act, the Government may, by regulation, determine the conditions of validity of a certificate of acceptance and its duration;

WHEREAS the Government made the Regulation respecting the selection of foreign nationals (c. I-0.2, r. 4), which provides for the conditions of selection applicable to temporary workers;

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 15 December 2010 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired and comments were received following that publication;

WHEREAS, under the first paragraph of section 18 of that Act, a regulation may come into force between the date of its publication in the *Gazette officielle du Québec* and the fifteenth day after that publication where the authority making it is of the opinion that the urgency of the situation warrants it;

WHEREAS, under the second paragraph of section 18 of that Act, the reason justifying such coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies such coming into force:

— the main purpose of the Regulation is to harmonize the regulatory provisions applicable to temporary workers with those provided for in the Immigration and Refugee Protection Regulations (SOR/02-227) which come into force on 1 April 2011;

— it is important that all the provisions of the Regulation also come into force on 1 April 2011, in accordance with the Canada-Québec Accord Relating to Immigration and Temporary Admission of Aliens;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Immigration and Cultural Communities:

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

GÉRARD BIBEAU,
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. *e, f*, and *f.1.0.1*)

1. The Regulation respecting the selection of foreign nationals (c. I0.2, r. 4) is amended by striking out paragraph *a* in section 15.1.

2. Section 50 is replaced by the following:

“**50.** The Minister issues, on request, a certificate of acceptance to a foreign national wishing to stay temporarily in Québec to work and who meets the following conditions:

(*a*) the foreign national has an employment offer that complies with the conditions set out in sections 50.1 and 50.2 or, if the offer is as a live-in caregiver to provide without supervision home care to a child, an elderly person or a handicapped person, complies with the conditions set out in paragraphs *c* to *f* of section 50.1 and section 50.2;

(*b*) the foreign national undertakes to hold that employment;

(*c*) the foreign national undertakes to work for the employer indicated in the foreign national’s application or, if the foreign national is a farm worker, for the employers indicated in the foreign national’s application, as the case may be; and

(*d*) the foreign national meets the conditions of access provided for in the National Occupational Classification to hold that employment and, where applicable, the special conditions specified in the employment offer.

50.1. The employment offered to the foreign national must comply with the following conditions:

(*a*) the employment does not and is not likely to adversely affect the settlement of any labour dispute at the workplace where the foreign national would carry

on the employment, or the employment of any person involved in the dispute, or to contravene the application of the Labour Code (R.S.Q., c. C-27);

(b) the employment corresponds to the employer's legitimate labour needs;

(c) the employment comes directly from the employer who made the offer and who is able to comply with the conditions offered, in particular financially and physically;

(d) the employment does not come from an employer on the list of employers provided for in subsection 6 of section 203 of the Immigration and Refugee Protection Regulations;

(e) the employment does not come from an employer who, during the two years preceding the application for a certificate of acceptance, has been condemned by a final decision of the Human Rights Tribunal for an application relating to discrimination or reprisals relating to employment or has been convicted of an offence against

i. section 458 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001) for a contravention of the first paragraph of section 32 of that Act, section 461 of that Act for a contravention of section 290, section 463 or section 464 of that Act;

ii. paragraph 1 or 5 of section 134 of the Charter of human rights and freedoms (R.S.Q., c. C-12) relating to employment;

iii. section 143 of the Labour Code (R.S.Q., c. C-27) for a contravention of section 14 of that Act;

iv. section 30 of the Act respecting collective agreement decrees (R.S.Q., c. D-2);

v. subparagraph 3 of the first paragraph of section 115 of the Pay Equity Act (R.S.Q., c. E-12.001);

vi. section 139, 140 or 141 of the Act respecting labour standards (R.S.Q., c. N-1.1);

vii. section 119 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., c. R-20) for a contravention of section 101 of that Act; or

viii. section 235 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1) or section 236 of that Act for a contravention of section 30 or section 185 of that Act; and

(f) the employment will likely result in a positive or neutral effect on the labour market in Québec, the Minister's assessment being based on direct employment creation or employment retention, the development or transfer of skills or knowledge, or the filling of a labour shortage in the profession or trade concerned.

50.2. Where the employment offered requires that the foreign national have a skill level lower than "B" within the meaning of the National Occupational Classification, and where the period of temporary stay in Québec for work purposes is more than 30 days, that employment must also be accompanied by a written employment contract with the employer. The contract must contain the following:

(a) the duration of the contract, the place where the foreign national will be employed, a description of the foreign national's duties, hourly wage, work schedule, vacation and holidays, the deadlines the foreign national and the employer must meet with respect to any notice of resignation or termination of contract, an undertaking on the part of the employer to pay the fees prescribed by law and, in the case of a live-in caregiver who does not understand or speak French, to facilitate the foreign national's access to French courses, outside working hours;

(b) a provision stipulating that the standards set forth in the Act respecting labour standards with respect to the terms and conditions of wage payment, the computation of overtime, mealtimes, statutory general holidays, family or parental leave and absences, absences owing to sickness, accident or a criminal offence, the indemnities and recourses provided for in that Act are applicable to the foreign national to the extent provided by that Act;

(c) an undertaking on the part of the employer to pay the contributions necessary for the employee to benefit from the protection under the Act respecting industrial accidents and occupational diseases to the extent provided by that Act; and

(d) if applicable, the social benefits offered, such as health and hospital insurance, the conditions of the foreign national's residence offered by the employer and the terms and conditions of payment by the employer of the foreign national's travel costs for a round trip between the country of residence and the place of employment.

50.3. For the purpose of determining if the employment offered will likely result in a positive or neutral effect on the labour market in Québec within the meaning of paragraph *f* of section 50.1, the Minister must take into account that it might be a single employment offer or an aggregate of employment offers from an employer or a group of employers, and the following factors:

(a) the employer has made or has agreed to make reasonable efforts to hire or train Québec residents;

(b) the working conditions and the wages offered meet the requirements of the Act respecting labour standards, even in the cases where the Act does not apply to certain categories of employees;

(c) the working conditions and the wages offered are such as to attract Québec residents into holding and continuing to hold the employment; and

(d) an improvement in the working conditions or in the wages offered would attract Québec residents into holding and continuing to hold the employment.

50.4. A foreign national who wishes to stay temporarily in Québec to work as a live-in caregiver must, in addition to the conditions provided for in section 50, meet the following conditions:

(a) the foreign national has a secondary school diploma attesting to at least 11 years of full-time elementary and secondary school studies;

(b) the foreign national had for one year, in the three years preceding the filing of the foreign national's application for a certificate of acceptance, a full-time remunerated employment in that field of employment, including at least six consecutive months with the same employer, or the foreign national has successfully completed, in the same field, full-time vocational training of at least six months in a vocational school; and

(c) the foreign national understands and speaks French or English.

50.5. A certificate of acceptance is issued for the employment and the employer indicated in the offer, for a duration not exceeding the duration of the employment offered, but not over 48 months.

On the expiry of the period of validity of a certificate of acceptance, a new certificate may be issued, on request, to a foreign national who meets the conditions provided for in section 50.

A foreign national who wishes to modify the undertakings made under paragraphs *b* and *c* of section 50 must file a new application for a certificate of acceptance.

The Minister may refuse a foreign national's application if, during the period of validity of a certificate previously issued, the foreign national failed to comply with the undertakings made under paragraphs *b* and *c* of section 50, unless more than six months have elapsed since the Minister became aware of the failure.”

3. Section 53 is replaced by the following:

“**53.** For the purposes of this Subdivision, a foreign national who is staying temporarily in Québec to work for 30 days or less or to work while the foreign national's admission to Canada is not governed by the requirements concerning the determination of the positive or neutral effect on the labour market, according to Part 11 of the Immigration and Refugee Protection Regulations, is exempt from the application of section 3.2 of the Act.”

4. Section 57 is amended by striking out the third paragraph.

5. Section 57.1 is amended by adding the following paragraph at the end:

“The fees must be paid when the application is filed.”

6. Paragraph *e* of section 50.1 introduced by section 2 of this Regulation does not apply to a conviction prior to 1 April 2011 or to a conviction after that date against an offence committed before 1 April 2011.

7. This Regulation comes into force on 1 April 2011.

1345

Gouvernement du Québec

O.C. 276-2011, 23 March 2011

Forest Act
(R.S.Q., c. F-4.1)

Forestry fund
— **Contributions**
— **Amendment**

Regulation to amend the Regulation respecting contributions to the forestry fund

WHEREAS, under the first paragraph of section 73.4 of the Forest Act (R.S.Q., c. F-4.1), every holder of a timber supply and forest management agreement must, at such intervals as are determined by regulation of the Government, pay to the Minister of Natural Resources and Wildlife a contribution for the financing of activities related to forest management;

WHEREAS, under the second paragraph of that section, the contribution, paid into the forestry fund under section 73.5 of the Forest Act, is to be established by the Minister on the basis of a rate per cubic metre of timber, fixed by regulation of the Government, that is