

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

102381

Gouvernement du Québec

O.C. 1050-2015, 25 November 2015

An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20)

**Construction Industry
— Compensation Fund for Employees**

Regulation respecting the Compensation Fund for Employees in the Construction Industry

Whereas, under subparagraph 13.1 of the first paragraph of section 123.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), the Commission de la construction du Québec may, by regulation, establish the conditions and method of operation of the Compensation Fund for Employees in the Construction Industry, including the contributions to be paid by employers according to their category, the circumstances in which compensation is payable, the compensation procedure and the rules for the administration and investment of the money making up the Fund, and to prescribe the maximum compensation payable;

Whereas the Commission, after consulting the Committee on vocational training in the construction industry in accordance with section 123.3 of the Act, made the Regulation respecting the Compensation Fund for Employees in the Construction Industry on 12 February 2014;

Whereas, under section 123.2 of the Act, a regulation of the Commission is submitted to the Government for approval, with or without amendment;

Whereas, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the Compensation Fund for Employees in the Construction Industry was published in Part 2 of the *Gazette officielle du Québec* of 1 October 2014 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

Whereas, following that publication, no comments were received and it is expedient to approve the Regulation without amendment;

It is ordered, therefore, on the recommendation of the Minister of Labour, Employment and Social Solidarity:

That the Regulation respecting the Compensation Fund for Employees in the Construction Industry, attached to this Order in Council, be approved.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation respecting the Compensation Fund for Employees in the Construction Industry

An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20, ss. 80.3, 93.2, 93.3, 93.5 and 123.1, 1st par., subpar. 13.1)

1. This Regulation establishes the conditions and method of operation of the Compensation Fund for Employees in the Construction Industry, established by the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20).

2. In this Regulation, “wages” means the amounts provided for in a collective agreement for remuneration in currency, travelling expenses, the amounts provided for the annual vacation, for statutory general holidays and sick leave days, the employer’s contribution for current service and the employee’s contribution into the complementary account of the supplemental pension plan provided for in the Règlement sur les régimes complémentaires d’avantages sociaux dans l’industrie de la construction (chapter R-20, r. 10). The employer’s contribution for current service is modified following any change in the apportionment of the employer’s contribution under that Regulation.

3. The Fund is made up of

(1) the amounts from the special compensation fund transferred pursuant to section 84 of the Act to eliminate union placement and improve the operation of the construction industry (2011, chapter 30);

(2) the contributions paid by an employer under section 4;

(3) the amounts recovered by the Commission de la construction du Québec following a proceeding brought under the Act;

(4) the interest earned on the money accumulated in the Fund;

(5) amounts from any increase in the assets of the Fund; and

(6) amounts from a loan contracted by the Commission to offset any insufficiency in the Fund.

4. The employer's contribution is \$0.02 for each hour worked by each of its employees, excluding the persons referred to in the second paragraph of section 8, during the month preceding the monthly report prescribed by the Regulation respecting the register, monthly report, notices from employers and the designation of a representative (chapter R-20, r. 11). Payment is to be made at the same time as the monthly report is sent to the Commission.

5. The administrative and operating costs of the Fund are paid out of the money making up the Fund. The allocation method of the Commission applies to determine the amount of the payments from the Fund into the general administration fund.

6. The Commission administers the money making up the Fund as follows:

(1) it deposits the part of the money that it plans to use in the short term with an institution governed by the Act respecting financial services cooperatives (chapter C-67.3), the Bank Act (Statutes of Canada, 1991, chapter 46) or the Trust and Loan Companies Act (Statutes of Canada, 1991, chapter 45);

(2) it invests the rest of the money in accordance with the investment policy for funds under the management of the Commission.

7. The fiscal year of the Fund is the calendar year.

8. The Fund is to compensate an employer's employee

(1) for wages unpaid in case of bankruptcy, sequestration, proposal, consumer proposal, voluntary deposit by the employer or dissolution of legal person under section 59 of the Act respecting the legal publicity of enterprises (chapter P-44.1);

(2) for wages unpaid when, after a judgment rendered against the employer, the writ of execution is returned unsatisfied in whole or in part;

(3) for a maximum amount of \$1,000 when no proceeding is brought against the employer, considering the amount of loss of wages in relation to the foreseeable costs of such a proceeding;

(4) for the difference between the compensatory indemnity to which the employee is entitled under the Regulation respecting indemnities and allowances to jurors (chapter J-2, r. 1) and the wages the employee would have received for the regular working hours that would have been worked during the time the employee acts as a prospective juror after being summoned by the Court and during the time the employee acts as a juror;

(5) for the wages that the employee is entitled to receive but could not receive by reason of a homologated arbitration award or a final judgment on that award that remained unsatisfied in whole or in part.

For the purposes of this section, the following persons are not considered to be employees of an employer:

(1) a member, a manager, a senior officer of the partnership;

(2) a director, a senior officer or a shareholder holding 20% or more of the voting shares of a legal person;

(3) a guarantor for the issue of a licence issued under the Building Act (chapter B-1.1);

(4) a representative designated under the Act;

(5) a person related by filiation in the direct line or a spouse of a person designated in any of subparagraphs 1 to 4;

(6) an independent contractor.

“Spouse” means the person of the opposite or the same sex who is married or in a civil union with a person or with whom the person has been living in a conjugal relationship for at least 12 months.

9. The compensation that an employee may receive from the Fund corresponds to the wages the employee should have received, according to the collective agreement of the applicable sector.

10. Despite section 8, an employee may not receive compensation in excess of 6 weeks of remuneration in currency and travelling expenses and, for any other loss of wages, and of the amounts that should have been sent by the employer with its monthly report for the period covered by its complaint filed in accordance with section 13.

The compensation to be paid to an employee is reduced by any amount received by the employee or to which the employee is entitled under a workers' compensation program set up under the federal legislation or the legislation of a province.

11. An employee may not be compensated more than twice by the Fund in respect of the same employer.

An employee may not receive compensation from the Fund after receiving payment in wages or benefits, if the employee knows that the employer has not reported the payment in a monthly report that must be provided by the employer pursuant to the Regulation respecting the register, monthly report, notices from employers and the designation of a representative or if the employer knowingly participated in an unreported remuneration system.

An employer in which a person of the enterprise

(1) acted as a person of the enterprise that was the cause of losses of wages,

(2) is related by filiation in the direct line to a person of the enterprise that was the cause of losses of wages, or

(3) is the spouse, within the meaning of the third paragraph of section 8, of a person of the enterprise that was the cause of losses of wages, is deemed to be the same employer of an employee.

“Person of the enterprise” means the persons referred to in the second paragraph of section 8. “Losses of wages” means a loss of wages incurred by an employee who has been compensated under the Fund or the fund indicated in paragraph 1 of section 3.

12. An employee may not receive compensation from the Fund for work performed in contravention of the Act or any provision of a collective agreement.

13. To apply for compensation from the Fund, an employee must file, in the manner prescribed by the Commission, the documents and information required not later than 60 days after the expiry of the wages the employee should have received.

That expiry is that provided for in the collective agreement of the applicable sector for the loss of wages and reference period concerned.

14. The date of filing of an application for compensation is the date on which it is received by the Commission.

15. The Commission may extend the time limit indicated in the first paragraph of section 13 if the employee proves that he or she could not comply with it for a reason beyond the employee’s control.

16. The Commission decides as soon as possible an application for compensation filed by an employee and immediately informs the employee of the decision in writing.

17. The Commission pays compensation to an employee entitled to it within 60 days of its decision.

18. An employee who feels personally aggrieved by a decision made pursuant to this Regulation may, within 30 days of receiving the decision, apply for review to the Commission des relations de travail.

19. Where compensation from the Fund is paid to an employee under section 17 or where compensation is not paid in the cases provided for in section 11 or 12, the Commission makes public the name of the employer concerned, as well as the names of the directors of that employer declared under the Act respecting the legal publicity of enterprises (chapter P-44.1). This section does not apply where compensation is paid under subparagraph 4 of the first paragraph of section 8, on the grounds that the employee has acted as a prospective juror or juror after being summoned by the Court.

20. This Regulation comes into force on 6 January 2016.

102382

Gouvernement du Québec

O.C. 1051-2015, 25 November 2015

An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20)

Letters describing the situation

Regulation respecting letters describing the situation

WHEREAS, under subparagraph *i* of the first paragraph of section 82 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), the Commission de la construction du Québec may, by regulation approved by the Government and published in the *Gazette officielle du Québec*, make a regulation to determine the conditions to be met and the fee exigible for the issue of a letter describing the situation and the information that may be contained in such a letter on construction work carried out on a job site or for the purposes of a tender;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting letters describing the situation was published in Part 2 of the *Gazette officielle du Québec* of 11 February 2015 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;