

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;

WHEREAS comments were received after that publication;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour, Employment and Social Solidarity:

THAT the Regulation respecting letters describing the situation, attached to this Order in Council, be approved.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

Regulation respecting letters describing the situation

An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20, s. 82, par. *i*)

1. This Regulation determines 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 the letter.

2. The Commission de la construction du Québec issues the following letters describing the situation to an employer who applies for a letter and who meets the requirements of this Regulation:

(1) a letter on construction work carried out on a job site and describing the situation of an employer and the employer's sub-contractors to whom the employer sub-contracted work, with respect to the construction activities on the job site and the obligations provided for in the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) and in this Regulation;

(2) a letter for the purposes of a tender which describes the situation of an employer who wishes to tender, with respect to the employer's activities on the construction site and the employer's obligations provided for in the Act and in this Regulation.

3. To be issued a letter describing the situation, an employer must be registered as such with the Commission, in accordance with the conditions provided for in the Regulation respecting the register, monthly report, notices from employers and the designation of a representative (chapter R-20, r. 11).

4. To apply for a letter describing the situation, an employer must use the online services of the Commission by completing the prescribed form and provide the information required.

5. A fee of \$30 is exigible for the issue of a letter describing the situation, payable by using the online services of the Commission.

The date of filing an application is the date on which the application is received by the online services of the Commission.

6. The Commission issues a letter describing the situation on the basis of the information brought to the attention of the Commission and the information sent by an employer at the time the application is filed.

7. A letter describing the situation contains, as the case may be,

(1) the identification of the job site, the nature and duration of the work, the name of the recognized client, the value of the contract before provincial and federal taxes, the employer's workforce assigned to the work with regards to the number of employees and the cost, and the name of the employer's sub-contractors;

(2) the statement of the monthly reports sent by the employer for a 12-month period preceding the date of filing an application for a letter for the purposes of a tender and, for an application for a letter on construction work carried out on a job site (i) the statement of the monthly reports sent by the employer for the duration of the work, without exceeding 12 months and (ii) the information concerning the monthly reports not sent by the sub-contractor and the reports sent by the sub-contractor without the corresponding delivery, for the duration of the work, without exceeding 12 months;

(3) any unpaid claim to the Commission by the employer, and the claim sent within the 24 months preceding the date of filing an application with a mention of the balance for a letter for the purposes of a tender. In the case of an application for a letter on construction work carried out on a job site, the letter mentions any unpaid claim sent to the employer and the employer's sub-contractors for a period of the construction work carried out on the job site;

(4) any disagreement notified in writing by the employer to the Commission regarding the subjection of the work to the scope of the Act or relating to the interpretation of a clause of the collective agreement after a claim is sent;

(5) any amount held to guarantee payment of a claim by the employer or one of the sub-contractors;

(6) any order to suspend work rendered in respect of the employer or one of the sub-contractors under section 7.4 of the Act and any contravention to such order,

if either occurs within the 24 months preceding the date of filing an application for a letter for the purposes of a tender and relating to the construction work on the job site identified in the application and, where applicable, if the order has been the subject of an application for review pursuant to section 7.7 of the Act;

(7) for a letter on construction work on a job site, that the employer or one of the sub-contractors, including one of their directors, shareholders, officers, partners or employees, while acting as such for the employer or sub-contractor, has been convicted of an offence provided for in Schedule I committed during the work and, for a letter for the purposes of a tender, that the employer, including one of the employer's directors, shareholders, officers, partners or employees, while acting as such for the employer, has been convicted of an offence provided for in Schedule I committed within the 24 months preceding the date of filing an application;

(8) that at the time of the work, the employer and the employer's sub-contractors have not sent the notice provided for in the Regulation respecting the register, monthly report, notices from employers and the designation of a representative;

SCHEDULE I

(section 7, par. 7)

OFFENCES

Law and regulation	Sections	Summary description of the offence
An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20)	7.2 with 120	A person involved in any construction work who does not take the necessary means to enable the Commission and any person authorized by it for that purpose to exercise the powers provided for in section 7.1 of the Act.
	83(1)	An employer who refuses or neglects to furnish the Commission with the information provided for in subparagraph <i>a</i> of the first paragraph of section 82 of the Act.
	83(2)	An employer who fails to grant, on request of the Commission, or delays to grant the Commission, access to the register, the registration system or the pay-list provided for in subparagraph <i>a</i> of the first paragraph of section 82 of the Act.
	83(3)	A person who does not grant, or delays to grant, the Commission, or any person authorized by it, access to the place where construction work is being done or to an establishment of an employer.
	83.1	An employer who fails to comply with a request made by the Commission pursuant to subparagraph <i>f</i> of the first paragraph of section 81 of the Act.

(9) the holding by the employer of a licence issued under the Building Act (chapter B-1.1) and for the letter on the construction work carried out on a job site, by also indicating in the letter for each sub-contractor the periods in which they did not have a licence during the work;

(10) that the licence of the employer is subject to a restriction as regards the obtention of a public contract under section 65.1 of the Building Act.

The information in subparagraphs 2 to 10 applies to the time the letter describing the situation for the purposes of a tender is applied for and, for the letter on construction work carried out on a job site, to the work period.

8. A letter describing the situation issued by the Commission does not constitute a renunciation to the exercise of any of the recourses provided for in the Act.

9. This Regulation applies to applications for letters describing the situation that are ongoing on the date of the coming into force of the Regulation.

10. This Regulation comes into force on 7 January 2016.

Law and regulation	Sections	Summary description of the offence
	83.2	A person who fails to comply, within the prescribed period, with a written request made by the Commission pursuant to section 81.0.1 of the Act. A person who fails to comply with a request made by the Commission to furnish information or a document pursuant to section 81.0.1 of the Act.
	84	Whoever molests, hinders or insults any member or employee of the Commission in the performance of his duties, or otherwise obstructs such performance.
	111.1	Whoever carries out or causes to be carried out construction work in contravention of a decision to suspend work rendered under section 7.4.1 of the Act.
	119.1(3)	Whoever hires the services of or assigns to construction work an employee who is not the holder of a competency certificate.
	122 (4)	Whoever knowingly destroys, alters or falsifies any register, pay-list, registration system or document relating to the application of the Act, a regulation or a collective agreement.
Regulation respecting the register, monthly report, notices from employers and the designation of a representative (chapter R-20, r. 11)	2 with 82 and 119.7 of the Act	An employer who fails to send the written notice provided for in section 2 of the Regulation.
	8 with 82 and 120 of the Act	An employer who fails to keep a register or enter the number of hours worked in accordance with section 8 of the Regulation.
	11 with 82 and 119.7 of the Act	An employer who fails to enter the number of regular and extra hours of an employee in the monthly report.
	12 with 82 and 119.7 of the Act	An employer who fails to send the monthly report provided for in section 12 of the Regulation.