

Gouvernement du Québec

O.C. 1048-2018, 7 August 2018

An Act to promote workforce skills development and recognition
(chapter D-8.3)

Training bodies, training instructors and training services
— **Accreditation and ethics**

Regulation respecting the accreditation and ethics of training bodies, training instructors and training services

WHEREAS, under subparagraph 4 of the first paragraph of section 20 of the Act to promote workforce skills development and recognition (chapter D-8.3), the Commission des partenaires du marché du travail may make regulations to determine standards of ethics and professional conduct to apply to accredited or recognized persons or bodies;

WHEREAS, under paragraph 1 of section 21.1 of the Act, the Regulation may in particular regulate or prohibit certain practices pertaining to the professional conduct of accredited or recognized persons or bodies;

WHEREAS, under paragraph 2 of section 21.1 of the Act, the Regulation may in particular establish the procedure governing examinations of and inquiries into conduct that may be in contravention of the Act and the regulations and determine the appropriate penalties;

WHEREAS, under paragraph 2 of section 21 of the Act, a regulation made pursuant to subparagraph 1 of the first paragraph of section 20 may set out the principles, criteria or factors taken into account by the Minister for the purpose of granting accreditation or recognition referred to in Division I of the Act or in the regulations made pursuant to paragraph 1 of the section or the conditions to be fulfilled for that purpose and, where expedient, determine the fees payable and the period for which the accreditation or recognition is valid;

WHEREAS, under paragraph 3 of section 21 of the Act, a regulation made pursuant to subparagraph 1 of the first paragraph of section 20 may determine the conditions to be fulfilled by accredited or recognized persons or bodies including the documents and information to be sent to the Minister, related inspections and the conditions on which accreditation or recognition may be renewed, suspended or revoked;

WHEREAS, under section 22 of the Act, the regulations of the Commission made pursuant to section 20 of the Act require the approval of the Government, which may approve them with or without amendment;

WHEREAS, on 6 November 2017, the Commission made the Regulation respecting the accreditation and ethics of training bodies, training instructors and training services which replaces the Regulation respecting the accreditation of training bodies, training instructors and training services (chapter D-8.3, r. 1) and the Regulation respecting the ethics of training instructors and training bodies (chapter D-8.3, r. 2);

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 28 March 2018 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to approve the Regulation with amendments;

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

THAT the Regulation respecting the accreditation and ethics of training bodies, training instructors and training services, attached to this Order in Council, be approved.

MARC-ANTOINE ADAM,
Associate Secretary General

Regulation respecting the accreditation and ethics of training bodies, training instructors and training services

An Act to promote workforce skills development and recognition
(chapter D-8.3, s. 20, 1st par., subpar. 4, s. 21, 1st par., subpars. 2 and 3, and s. 21.1)

CHAPTER I
ACCREDITATION OF TRAINING BODIES,
TRAINING INSTRUCTORS AND TRAINING
SERVICES

DIVISION I
CONDITIONS FOR OBTAINING A CERTIFICATE
OF ACCREDITATION

1. A legal person, including a non-profit organization, or a partnership wishing to be accredited as a training body for the purposes of the Act to promote workforce skills development and recognition (chapter D-8.3) must apply to the Minister using the form provided by the Minister and provide the following information:

(1) its Québec business number assigned under section 37 of the Act respecting the legal publicity of enterprises (chapter P-44.1);

(2) the professional fields in which training will be provided;

(3) the names of the training instructors, employees or contract workers, and, for each of them, the professional field and experience in such field, training and experience as a training instructor;

(4) the résumé of each training instructor;

(5) the training plan and the detailed content of any training it has provided. The person responsible for the enterprise or the recognized educational institution in accordance with section 7 of the Act, where the training was provided must attest to the truth of the information by signing the training plan and detailed content and indicating the person's contact information;

(6) a list of professional references;

(7) on request, a certified copy of the diplomas for the training received.

Where an application does not include the names of the training instructors, it must be accompanied by a written statement from the representative authorized for that purpose in which the training body undertakes to provide training using only training instructors who have been accredited by the Minister.

2. An applicant who meets the following conditions is accredited by the Minister as a training body:

(1) each of its training instructors, employees or contract workers, have at least 3 years of experience in each professional field in which training will be provided. Where multiple training instructors are in the same field, they must have together an average of 3 years of experience in that field;

(2) each of its training instructors

(a) has received a minimum of 135 hours of training in knowledge transmission methods;

(b) has at least 250 hours of experience as a training instructor; or

(c) has received a minimum of 90 hours of training in knowledge transmission methods and has at least 100 hours of experience as a training instructor;

(3) the training offered complies with the object and the purposes of the Act and must in particular qualify as an eligible expenditure for the purposes of the Act.

The experience required in subparagraphs 1 and 2 of the first paragraph must have been acquired in the 10 years preceding the application.

In this Regulation,

“experience as a training instructor” means any training activity allowing knowledge transmission in a structured manner, provided

(1) to the personnel of an enterprise;

(2) in a recognized educational institution, in accordance with section 7 of the Act; or

(3) by an accredited training body;

“training in knowledge transmission methods” means any training allowing the development of skills relating to the structuring of a training activity, the carrying out of a training activity fostering knowledge transmission and the assessment of the training.

3. The Minister accredits as a training instructor a natural person who submits an application to the Minister using the form provided by the Minister and who

(1) has at least 3 years of experience in each professional field for which the person seeks accreditation; and

(2) satisfies any of the conditions set out in subparagraph 2 of the first paragraph of section 2 and the condition set out in subparagraph 3 of that paragraph.

The experience required in subparagraphs 1 and 2 of the first paragraph must have been acquired in the 10 years preceding the application.

The documents identified in subparagraphs 4 to 7 of the first paragraph of section 1 must accompany the application.

4. The Minister accredits the training service of an employer subject to the provisions of Division I of Chapter II of the Act where the Minister receives an application submitted using the form provided by the Minister and the following information and documents are included:

- (1) its address in Québec;
- (2) the name of the person responsible for the service;
- (3) a detailed description of the training activities carried out in the last year or those planned at the time of the application;
- (4) a detailed description of the skills and qualifications of the personnel of the service that enable it to fulfill its responsibilities.

5. In addition, the training service must demonstrate that it assumes or coordinates the following activities:

- (1) identification of training needs;
- (2) preparation of specific training plans, design and programming of activities;
- (3) implementation of training activities for the personnel of the employer and provided by qualified employees of the employer or by a supplier of material, equipment or software;
- (4) recognition of the successful completion of an internal training activity by a member of the personnel;
- (5) follow-up to training activities.

6. Sections 4 and 5 apply, with the necessary modifications, to a multi-employer training service.

An application for accreditation for such a service must include the names of the employers to which it applies.

In this Regulation, “multi-employer training service” means the administrative unit or legal person charged with organizing training for the personnel of employers belonging to a group identified with a common banner, a trademark or a line of products or services.

7. The multi-employer training service of an employer belonging to one of the following groups may assume or coordinate activities relating to the training of the personnel of other employers belonging to such group with which it shares a common mission:

- (1) the Conseil du trésor, a government department, a body whose personnel is appointed under the Public Service Act (chapter F-3.1.1) or any body for which, by law, the Government sets or approves the conditions of employment or standards and remuneration scales of its employees;

- (2) the Ministère de la Santé et des Services sociaux, an integrated health and social services centre or an institution covered by the Act respecting health services and social services (chapter S-4.2) or a regional council or an institution covered by the Act respecting health services and social services for Cree native persons (chapter S-5);

- (3) the Ministère de l'Éducation, de l'Enseignement supérieur et de la Recherche, a school board or an educational institution covered by the Education Act (chapter I-13.3), a private educational institution covered by the Act respecting private education (chapter E-9.1), a general and vocational education college covered by the General and Vocational Colleges Act (chapter C-29) or a university level educational institution covered by the Act respecting educational institutions at the university level (chapter E-14.1);

- (4) the Ministère des Affaires municipales et de l'Occupation du territoire, a municipality, a metropolitan community or a regional county municipality.

8. Every applicant for accreditation is deemed to have agreed to the verification by the Minister of the documents or information provided in support of the application.

DIVISION II OBLIGATIONS OF ACCREDITATION HOLDERS

9. Accredited training bodies provide training only by means of their training instructors, employees or contract workers.

10. Accredited training bodies and accredited training instructors must inform the Minister without delay of any change in the conditions to be satisfied for accreditation or in the information provided in their initial application for accreditation or in their application for renewal.

A training body that has filed the statement required in the second paragraph of section 1 must, on request, provide the Minister with the list of the names of employees or contract workers called upon to provide the training.

Training bodies must update the list of their training instructors, employees or contract workers and so inform the Minister in writing. They must also provide, on request, the documents and information required to verify whether they satisfy the conditions in section 2.

11. Accreditation holders must inform the Minister in writing that the body, or any of its directors or officers, have been the subject of a decision referred to in the first paragraph of section 24.

12. Accredited training bodies must ensure that any training they provide is given by a training instructor with the required experience and skills.

13. The training provided by the accredited training service of an employer or by an accredited multi-employer training service must be provided solely by the personnel of such employer or of the employers mentioned in the accreditation, as the case may be. It can also be provided by the personnel of a supplier of material, equipment or software, provided the supply for which training is given is used by the personnel so trained.

14. Accredited multi-employer training services covered by section 7 may provide training only by means of a qualified employee of the group to which it belongs.

A multi-employer training service of the group covered by paragraph 2 of section 7 may also provide training by means of a physician, a dentist, a midwife, an optometrist, a pharmacist, a nurse or another health professional within the meaning of the Professional Code (chapter C-26).

15. Sections 9 and 13 do not apply in the case of an activity giving entitlement to an eligible training expenditure under the Regulation respecting eligible training expenditures (chapter D-8.3, r. 3) and held as part of a conference, a convention, a seminar or any other activity organized in partnership with an educational institution recognized in accordance with section 7 of the Act, an accredited training body or an accredited training instructor.

16. Accredited training bodies or accredited training instructors issue to each employee of an employer subject to the Act who successfully completes or participates in a training activity an attestation of training including

- (1) the name of the employer;
- (2) the name of the employee;
- (3) a brief description of the training activity;
- (4) the confirmation of the successful completion or of participation of the employee;
- (5) the duration of the training activity; and
- (6) the name of the accredited training body or accredited training instructor.

17. Accredited training services, including accredited multi-employer services, issue an attestation containing the information contained in section 16 to each employee who successfully completes or participates in a training activity. The attestation is issued at least once a year and upon the employee's departure.

18. Accreditation holders must give to any participant who so requests the detailed content of the training provided to the participant in the last 24 months.

19. An accreditation cannot be assigned.

20. Accreditation holders must display the accreditation in public view in their establishment.

21. An accreditation is valid for 3 years.

22. Accreditation holders wishing to renew the accreditation must apply to the Minister, using the form provided by the Minister, before the accreditation expires and must provide

(1) a list of the training provided during the accreditation with the name of the enterprises in which the training took place and the contact information of the persons in charge in each enterprise; and

(2) on request, the course plan for the training provided during the accreditation validity period.

The accreditation is renewed where the holder continues to satisfy the conditions stipulated for obtaining accreditation and the holder has satisfied the conditions imposed for the maintenance of accreditation.

The accreditation remains valid during the processing of the application for renewal.

23. The fees for processing an application for accreditation or a renewal application are adjusted every year and are

- (1) for a training body: \$550;
- (2) for a non-profit organization: \$200;
- (3) for a training instructor: \$300;
- (4) for a training service: \$250; and
- (5) for a multi-employer training service: \$500.

DIVISION III POWERS OF THE MINISTER

24. The Minister may refuse an application for accreditation where, in the 5 years preceding the application, the applicant, or, if applicable, one of its directors or officers, has been convicted of a criminal or penal offence that, in the Minister's opinion, is related to the practice of the profession or workforce training, except if the applicant has been pardoned in respect of the offence.

The Minister may refuse an application for accreditation to a person referred to in the first paragraph where, in the 2 years preceding the application for accreditation, the person knowingly pretended or acted in a manner that leads to believe that the person held accreditation while it was not the case.

The Minister may also refuse an application for accreditation if it contains false statements or misleading elements.

25. The Minister may reprimand an accreditation holder or suspend or revoke accreditation where

(1) the Act or the regulations thereunder have not been complied with;

(2) the accreditation holder uses it for purposes other than those provided for in the Act or in this Regulation; or

(3) the accreditation holder has been convicted of a criminal or penal offence which, in the Minister's opinion, is related to the practice of the profession or workforce training.

26. The renewal of an accreditation may be refused where

(1) in the 3 years preceding the application for renewal, the accreditation holder has been convicted of a criminal or penal offence that, in the Minister's opinion, is related to the practice of the profession or workforce training, except if the accreditation holder has been pardoned;

(2) it is determined that the accreditation holder failed to comply with the Act or the regulations thereunder; or

(3) it is determined that the application contains false statements or misleading elements.

27. Where an accreditation is revoked or its renewal has been refused, the accreditation holder may not submit a new application for accreditation before the expiry of 3 years as of the date of the Minister's decision.

In the case of a training body, the prohibition referred to in the first paragraph also applies to its directors and officers.

DIVISION IV INSPECTION AND VERIFICATION

28. The Minister may verify whether an accreditation holder complies with the Act or the regulations thereunder.

29. During a verification, the Minister may in particular ask the accreditation holder to provide the Minister with any information or have access to any document relating to training provided or to the accreditation and obtain a copy thereof. The person conducting the verification may go to the premises of the training, for inspection purposes, particularly to attend the training provided.

CHAPTER II RULES OF ETHICS OF TRAINING INSTRUCTORS AND TRAINING BODIES

30. Accredited training bodies and accredited training instructors must fully honour contracts concluded with their clients.

31. Accredited training instructors must act with competence. They must provide quality professional services and make sure that the training provided complies with the set objectives and is adapted to the needs of the clients.

Accredited training instructors must take into account the limits of their skills and knowledge, as well as the means at their disposal. In particular, they must refrain from

(1) providing professional services for which they are not sufficiently prepared without the assistance or information needed; and

(2) accepting an assignment when they have not acquired the required competence in due time or are unable to acquire it.

32. Accredited training instructors have the duty to update and upgrade their knowledge and methods of instruction in order to keep up with the requirements of the profession.

33. Accredited training instructors must, in carrying out workforce training activities, act honestly and loyally. They must not in particular

(1) engage in an act derogatory to the dignity of the profession;

(2) use discriminatory, fraudulent or illegal practices and must refuse to take part in such practices;

(3) carry on activities in conditions or states likely to compromise the quality of the services provided;

(4) receive, in addition to the remuneration to which they are entitled, any benefit, commission or discount related to the workforce training activities, except customary tokens of appreciation or gifts of small value, and must not pay, offer to pay or promise to pay any such benefit, commission or discount;

(5) use methods for attracting or soliciting clients that are unfair to the competition;

(6) abuse the good faith of another accredited training instructor, commit a breach of trust towards the instructor or use unfair practices;

(7) take credit for work done by another person; and

(8) plagiarize or use without written permission the content of training provided in particular by a recognized educational institution in accordance with section 7 of the Act or by another accreditation holder.

34. Accreditation holders must refrain from providing persons in training with information intended to recruit them for organizations, movements, associations or circles, regardless of their purpose or reputation.

35. Accreditation holders must avoid placing themselves in any situation where their personal interest would be in conflict with contractual obligations or, where applicable, the obligations resulting from the performance of duties.

36. Accreditation holders may not use for their benefit or the benefit of a third person personal information obtained for training purposes or in the course of the training activities provided, or any confidential information provided by a client or employer and usually dealt with confidentially by the client or employer, except with the consent of the person, client or employer concerned.

37. Accreditation holders must advertise services in a way likely to adequately inform persons who have no special knowledge of the area of expertise referred to in the advertisement.

In particular, they may not in their advertising state or let people believe that

(1) the content of the training provided is approved by the Government, the Minister, the Commission des partenaires du marché du travail, a government department, a public body or a public or private institution, unless authorized to do so under an agreement in writing to that effect;

(2) the training instructors have skills or experience not recognized by the accreditation; and

(3) the scope of the accreditation covers professional fields other than those for which the accreditation is issued.

38. Accreditation holders may not in any way whatsoever engage in or allow advertising that is false, misleading or likely to mislead concerning the training provided or offered.

39. Accreditation holders may not in any way whatsoever engage in or allow advertising that is incompatible with the object of the Act.

The advertisement may however indicate that the accreditation holder is accredited by the Minister.

40. Accreditation holders must keep a complete copy of any advertisement made or authorized, for at least 3 years following the date it was last broadcast or published. The copy must be given to the Minister on request.

41. Accreditation holders are required, if applicable, to ensure compliance with the rules provided for in sections 30 to 37 by their training instructors, employees or contract workers.

CHAPTER III COMPLAINTS AND PROCEEDINGS

42. Any person may file a complaint with the Minister against an accreditation holder for conduct derogatory to the Act or the regulations thereunder.

The complaint must be written and summarily expose the reasons on which it is based.

43. The Minister may reject any complaint that is obviously ill-founded. The Minister so informs the complainant and gives the complainant the reasons for the rejection.

44. The Minister may, following a complaint or on his or her own initiative, inquire into any act likely to be derogatory to the Act or the regulations thereunder.

45. No accreditation holder may communicate with the complainant during the inquiry.

46. The Minister must inform the accreditation holder of the alleged violations, of the reference to the provisions concerned in the Act and the regulations thereunder, of the possible penalty and that the holder may make observations in writing and file documents to complete the accreditation holder's record within 15 days.

47. Where the Minister finds that an accreditation holder's conduct has been derogatory to the Act or the regulations thereunder, the Minister may, depending on the seriousness of the conduct, reprimand the accreditation holder or suspend or revoke the accreditation.

48. The Minister must inform the complainant of the result of the inquiry and of the decision.

The first paragraph does not allow disclosure of confidential information.

CHAPTER IV DECISIONS

49. Any decision of the Minister under this Regulation must be in writing, give reasons and be notified to the accreditation holder.

Where applicable, the Minister must inform the accreditation holder of the terms for the contestation provided for in section 23.1 of the Act.

50. The Minister makes public the names and the penalties imposed to the holders of an accreditation that has been suspended, revoked or not renewed.

51. The Minister's decision takes effect as soon as notification is given.

Within 10 days of the notification of the Minister's decision to suspend, revoke or not renew the accreditation, the accreditation holder must return to the Minister the document attesting accreditation.

52. The decision to suspend, revoke or not renew the accreditation of a holder may not affect the eligibility of an employer's training expenditure recognized under the Act or the regulations thereunder, where the expenditure has been incurred in good faith by the employer prior to the decision.

CHAPTER V TRANSITIONAL AND FINAL

53. Applications for accreditation received as of 6 September 2018 are governed by this Regulation.

54. Despite section 53, the renewal of an accreditation as training instructor may not be refused to a natural person who holds the accreditation on 5 September 2018, for the reason that the experience as training instructor recognized at the time the accreditation was obtained does not meet the requirement of the second paragraph of section 2. The exception applies only to the first application for renewal.

The same applies to the renewal of the accreditation of a training body, valid on 5 September 2018, concerning the experience as training instructor recognized for its training instructors before that date.

55. This Regulation replaces the Regulation respecting the accreditation of training bodies, training instructors and training services (chapter D-8.3, r. 1) and the Regulation respecting the ethics of training instructors and training bodies (chapter D-8.3, r. 2) and comes into force on the fifteenth day following the date of its publication.

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