

The continuing education requirements imposed by this Regulation must be satisfied even though the licence for which a guarantor is qualified is suspended.

21. At the end of a reference period, the Corporation sends a notice to any construction work guarantor who fails to comply with the continuing education requirements imposed by this Regulation. The notice must also be sent to the representative of the partnership or legal person for which the non-compliant guarantor is qualified.

The notice must state the nature of the non-compliance and inform the recipient that a period of 90 days from the end of the reference period concerned is provided to allow the recipient to remedy the non-compliance and supply supporting proof.

The notice must also mention that the guarantor holding a licence will no longer be entitled to it, resulting in the licence ceasing to have effect or, as the case may be, that the construction work guarantor of a partnership or legal person will no longer be able to act in that capacity, resulting in the partnership or legal person for which the guarantor is qualified being required to replace the guarantor or, failing that, resulting in the licence ceasing to have effect.

22. The hours of continuing education accrued by a construction work guarantor while failing to comply with the continuing education requirements imposed by this Regulation are allocated first to the reference period in respect of which the notice of non-compliance is sent.

23. At the end of the period provided under section 21, the construction work guarantor who has not remedied the non-compliance is deemed to have ceased to act in that capacity as of the end of the reference period.

As a consequence, the guarantor holding a licence ceases to be entitled to it and the licence held by the guarantor ceases to have effect.

Likewise, the licence of the partnership or legal person for which the guarantor was qualified to act in that capacity ceases to have effect, unless the partnership or legal person has replaced the guarantor or another construction work guarantor has qualified to act in that capacity for the partnership or legal person.

Pursuant to section 73 of the Building Act (chapter B-1.1), where a licence includes several subclasses and the guarantor referred to in the third paragraph was the sole person responsible for one of them, only that subclass ceases to have effect if another natural person acts as a guarantor for each of the other subclasses.

24. This Regulation comes into force on 1 April 2022.
104432

Gouvernement du Québec

O.C. 514-2020, 13 May 2020

Building Act
(chapter B-1.1)

Contractors and owner-builders
— **Professional qualification**
— **Amendment**

Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders

WHEREAS, under paragraph 8 of section 185 of the Building Act (chapter B-1.1), the Régie du bâtiment du Québec may, by regulation, determine the information to be provided by a licence holder to enable the Board to verify if the holder still meets the requirements for obtaining a licence under the Act;

WHEREAS, under paragraph 9.1 of section 185 of the Act, the Board may, by regulation, determine the continuing education requirements, or the framework for continuing education requirements, with which all or certain guarantors must comply, in accordance with the conditions set by resolution of the Board, and the regulation must include the procedure for monitoring, supervising or evaluating compliance with the requirements, penalties for a failure to comply and, if applicable, any exemptions from the requirements;

WHEREAS, under paragraph 9.2 of section 185 of the Act, the Board may, by regulation, prescribe that documents required under the Act or a regulation must be sent or received using the medium, technology or method of transmission specified in the regulation;

WHEREAS, under paragraph 10 of section 185 of the Act, the Board may, by regulation, determine the conditions and criteria of solvability and any other qualifications that a natural person applying for a licence for himself or who wishes to qualify as a guarantor for a partnership or legal person must possess, as well as any other conditions that he must fulfill and any particulars that he must provide;

WHEREAS, under paragraph 11 of section 185 of the Act, the Board may, by regulation, determine the conditions and criteria of solvability and any other qualifications that a partnership or person applying for the issue of a licence must possess, as well as any other conditions that they must fulfill and any particulars that they must provide;

WHEREAS, under paragraph 38 of section 185 of the Act, the Board may, by regulation, adopt, generally, any other related or supplementary provision it considered necessary to give effect to the provisions of that section and of the Act;

WHEREAS under the first paragraph of section 192 of the Act, the contents of the codes or regulations may vary according in particular to the classes of persons, contractors and owner-builders to which the codes or regulations apply;

WHEREAS the Board made the Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders on 10 March 2020;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders was published in Part 2 of the *Gazette officielle du Québec* of 18 December 2019 with a notice that it could be approved by the Government, with or without amendment, on the expiry of 45 days following that publication;

WHEREAS, under section 189 of the Building Act, every code or regulation of the Board is subject to approval by the Government which may approve it with or without amendment;

WHEREAS it is expedient to approve the Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs and Housing:

THAT the Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders, attached to this Order in Council, be approved.

YVES OUELLET,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders

Building Act
(chapter B-1.1, s. 185, pars. 8, 9.1, 9.2, 10, 11 and 38, and s. 192).

1. The Regulation respecting the professional qualification of contractors and owner-builders (chapter B-1.1, r. 9) is amended in section 12 by adding the following after subparagraph *o* of subparagraph 1 of the first paragraph:

“(p) if the person is referred to in section 56.17 or 56.18, or in section 19 of the Regulation respecting the mandatory continuing education of master electricians, approved by Order in Council 513-2020 dated 13 May 2020, or in section 19 of the Regulation respecting the mandatory continuing education of master pipe-mechanics, approved by Order in Council 512-2020 dated 13 May 2020, a statement of continuing education, together with a copy of participation certificates issued by the trainers, showing that the person has complied with the continuing education requirements provided for in those sections;”.

2. The following Chapter is added after section 56:

“CHAPTER IV.1 CONTINUING EDUCATION

DIVISION I SCOPE

56.1. This Chapter applies to construction work guarantors for any of the following licence subclasses:

(1) licence subclasses referred to in Schedule I: 1.1.1, 1.1.2, 1.2 or 1.3;

(2) licence subclasses referred to in Schedule II: 15.1.1, 15.2.1, 15.3.1, 15.4.1 or 15.5.1.

This Chapter also applies to such guarantor for a licence subclass referred to in the first paragraph that has been issued under section 62.1 of the Building Act (chapter B-1.1).

56.2. The following persons are excluded from the application of this Chapter:

(1) a construction work guarantor who acts in that capacity solely for an owner-builder’s licence;

(2) a building contractor domiciled outside Québec who has obtained a licence by benefiting from an exemption in accordance with sections 3.1 to 3.2 of the Regulation respecting the application of the Building Act (chapter B-1.1, r. 1).

56.3. A construction work guarantor for any of licence subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1 is exempt from the continuing education requirement related to those subclasses if that person is also a construction work guarantor for any of subclasses 15.1, 15.2, 15.3 and 15.4.

A construction work guarantor for licence subclass 15.5.1 is exempt from the continuing education requirement related to that subclass if that person is also a construction work guarantor for subclass 15.5.

56.4. Persons who, to qualify as construction work guarantor for any of the licence subclasses referred to in section 56.1 pass the examination provided for in section 24 or successfully complete a training program recognized by the Board in accordance with section 20 are exempt from the continuing education requirement related to that subclass during the reference period in progress at the time of passing or completion.

Persons who show that they have the knowledge or relevant experience in carrying out of construction work by any other means the Board considers fitting, in accordance with subparagraph 1 of the first paragraph of section 58 of the Building Act (chapter B-1.1), are exempt from the continuing education requirement related to that subclass during the reference period in progress at the time of the demonstration.

DIVISION II

CONTINUING EDUCATION REQUIREMENTS

56.5. A construction work guarantor for one or more licence subclass referred to in section 56.1 must conduct 16 hours of continuing education per 2-year reference period.

Despite the foregoing, where a person is a guarantor for a licence subclass referred to in Schedule I, for any of subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1 and for subclass 15.5.1 simultaneously, the person is then required to conduct 24 hours of continuing education per 2-year reference period.

The education hours required under the first and second paragraphs must be education activities that are recognized by the Board.

The first reference period begins on 1 April 2022.

56.6. Where 16 hours of education are required, the guarantor must conduct at least 8 hours of education related to the performance of construction work for the licence subclass for which the guarantor is a guarantor.

Despite the foregoing, subject to section 56.7, the construction work guarantor for a licence subclass referred to in Schedule I and for a licence subclass referred to in Schedule II must conduct 16 hours of continuing education related to the performance of construction work, including 8 hours of education related to a subclass in each of the Schedules.

Likewise, the construction work guarantor for any of licence subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1 and for subclass 15.5.1 must conduct 16 hours of education related to the performance of construction work, including 8 hours of education related to any of subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1 and 8 hours for subclass 15.5.1.

56.7. Where 24 hours of education are required, the guarantor must conduct 8 hours of education related to a licence subclass referred to in Schedule I, 8 hours of education related to any of subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1 and 8 hours of education related to subclass 15.5.1. All those education activities must be related to the performance of construction work in those subclasses.

56.8. Where a person is a construction work guarantor for more than one licence subclass referred to in Schedule I, the person distributes the 8 hours of education related to the performance of construction work between the subclasses concerned. The foregoing also applies where a person is a construction work guarantor for more than one of subclasses 15.1.1, 15.2.1, 15.3.1 and 15.4.1.

56.9. A guarantor who has met the continuing education requirements for a reference period may postpone a maximum of 4 excess hours of education to the subsequent reference period. Despite the foregoing, the postponed hours may not reduce the hours that must be devoted to education required under section 56.12 during the subsequent reference period.

56.10. Despite the suspension of a licence, the continuing education requirements provided for in this Chapter continue to apply.

DIVISION III

CONDITIONS AND MONITORING

56.11. For the purposes of this Chapter, all continuing education activities must be recognized by the Board. The conditions for the recognition of education and trainers are established by resolution of the Board.

Such resolutions are published on the Board's website.

56.12. The Board may determine, by resolution, before a given reference period begins, the education that all construction work guarantors or some of them must receive among the mandatory hours of continuing education. In such case, the Board sets the duration of the education, the time allotted to receive it and it indicates the authorized trainers.

Such resolutions are published on the Board's website.

56.13. A construction work guarantor referred to in this Chapter is responsible for sending to the Board, through the electronic system set up by the Board, a statement of continuing education together with a copy of the participation certificates issued by the trainers not later than 31 March from the end of each reference period.

However, where the licence includes any of licence subclasses 15.1, 15.2, 15.3, 15.4 and 15.5, the construction work guarantor referred to in this Chapter must send the documents required under the first paragraph to the Corporation of Master Pipe-Mechanics of Québec, constituted under the Master Pipe-Mechanics Act (chapter M-4) or, where the licence includes subclass 16, to the Corporation of Master Electricians of Québec, constituted under the Master Electricians Act (chapter M-3), through the electronic system set up or used by those corporations.

Where the licence includes any of subclasses, 15.1, 15.2, 15.3, 15.4 and 15.5 and subclass 16 simultaneously, the guarantor must then send the documents referred to in the first paragraph to the corporation which, as designated by the building contractor for which the guarantor acts, is responsible for the contractor's professional qualification.

56.14. Participation certificates must be kept for at least 2 years after the end of the reference period during which the education was received by the guarantor and, where the licence holder is a partnership or legal person, by the partnership or legal person. The certificates must be available for consultation by the Board.

DIVISION IV PENALTIES

56.15. The Board sends a notice in writing to the licence holder where the guarantor fails to meet the continuing education requirements provided for in this Chapter.

The notice indicates the nature of the failure and the penalty provided for in this Division to which the licence holder is liable if the failure is not remedied by the guarantor within 90 days from the date of the end of the reference period.

If the licence holder is a partnership or legal person, a copy of the notice is also sent to the guarantor in default.

56.16. If the continuing education requirements are not met within 90 days from the date of the end of the reference period, the licence ceases to have effect for the licence subclass covered by the continuing education requirements.

For the purposes of section 73 of the Building Act (chapter B-1.1) and this Regulation, the construction work guarantor who is in default is deemed to have ceased to act as guarantor for the licence subclass covered by the requirements on the date of the end of the reference period.

Despite the foregoing, in the case of a licence subclass for a partnership or legal person, the licence remains in force if another person who is not in default is a construction work guarantor for that subclass.

56.17. A construction work guarantor for a licence subclass referred to in section 56.1 who ceases to act in that capacity for a subclass pursuant to section 56.16 may not apply for the same subclass, for the guarantor itself or on behalf of a partnership or legal person, without first meeting the continuing education requirements of the reference period during which the guarantor ceased to act in that capacity.

56.18. A construction work guarantor for a licence subclass referred to in section 56.1 who ceases to act in that capacity for a reason other than the reason provided for in section 56.16 may not apply for the same subclass, for the guarantor or on behalf of a partnership or legal person, without first meeting the continuing education requirements of the reference period during which the guarantor ceased to act in that capacity or, if the guarantor was exempt under section 56.4, the continuing education requirements that would have been imposed on the guarantor had the exemption not been granted.

This section does not apply to a person who again applies for the title of guarantor in the same reference period as the period during which the guarantor ceased to act in that capacity.”

3. This Regulation comes into force on 1 April 2022.

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