

1985, chapter 34
BUILDING ACT

Bill 53

Introduced by Mr Jacques Rochefort, Minister of Housing and Consumer Protection

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Assented to 20 June 1985

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Acts amended:

Act to promote housing construction (R.S.Q., chapter C-64.01)

Real Estate Brokerage Act (R.S.Q., chapter C-73)

Master Electricians Act (R.S.Q., chapter M-3)

Master Pipe-Mechanics Act (R.S.Q., chapter M-4)

Act respecting the Ministère de l'Énergie et des Ressources (R.S.Q., chapter M-15.1)

Act respecting the Ministère de l'Habitation et de la Protection du consommateur (R.S.Q., chapter M-15.3)

Summary Convictions Act (R.S.Q., chapter P-15)

Fire Prevention Act (R.S.Q., chapter P-23)

Act respecting probation and houses of detention (R.S.Q., chapter P-26)

Consumer Protection Act (R.S.Q., chapter P-40.1)

Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6)

Act respecting the Régie du logement (R.S.Q., chapter R-8.1)

Act respecting labour relations in the construction industry (R.S.Q., chapter R-20)

Public Buildings Safety Act (R.S.Q., chapter S-3)

Act respecting safety in sports (R.S.Q., chapter S-3.1)

(Cont'd on next page)



Acts replaced:

Act respecting pressure vessels (R.S.Q., chapter A-20.01)
Gas Distribution Act (R.S.Q., chapter D-10)
Act respecting the conservation of energy in buildings (R.S.Q., chapter E-1.1)
Act respecting piping installations (R.S.Q., chapter I-12.1)
Act respecting electrical installations (R.S.Q., chapter I-13.01)
Stationary Enginemen Act (R.S.Q., chapter M-6)
Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1)
Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18)



CHAPTER 34

Building Act

[Assented to 20 June 1985]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPLICATION AND INTERPRETATION

DIVISION I

APPLICATION

Purposes

1. The purposes of this Act are:

(1) to ensure proper quality of the construction work of buildings, and in certain cases, facilities intended for use by the public or installations independent of a building; and,

(2) to ensure the safety of the public who have access to a building or facilities intended for use by the public or who use installations independent of a building.

Application

2. This Act applies:

(1) to any building used or intended to be used to shelter or receive persons, animals or goods, inclusive of any materials, installations or equipment of such building;

(2) to facilities intended for use by the public;

(3) to the following installations independent of a building:

- (a) electrical installations;
- (b) installations intended to use gas; and
- (c) pressure vessels.

Restriction **3.** This Act, except Chapter IV, does not apply to mines governed by the Mining Act (R.S.Q., chapter M-13).

Pressure vessels Notwithstanding the first paragraph, it applies to any pressure vessel located therein.

James Bay and Northern Québec **4.** The Government may, by regulation, withdraw from the application, in whole or in part, of this Act all or part of the territory of Québec described in the Agreement referred to in section 1 of the Act approving the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter C-67) and the Agreement referred to in section 1 of the Act approving the Northeastern Québec Agreement (R.S.Q., chapter C-67.1) except the territory of municipalities situated south of the 50th parallel.

Applicability **5.** This Act shall bind the Government and its departments and agencies.

Rights and prerogatives **6.** Nothing in this Act affects the rights and prerogatives of members of the Corporation professionnelle des technologues des sciences appliquées du Québec or prevents the work of those technologists, according to the training provided to them by an institute of technology governed by the Specialized Schools Act (R.S.Q., chapter E-10) or by a college governed by the General and Vocational Colleges Act (R.S.Q., chapter C-29).

DIVISION II

INTERPRETATION

Definitions **7.** In this Act, unless the context indicates otherwise:

“Owner-builder” **“owner-builder”** means any person who, for his own account, carries out or has carried out building work (constructeur-propriétaire);

“contractor” **“contractor”** means any person who, for another person, carries out or has carried out building work or draws up or submits tender bids, either directly or indirectly, with the purpose of carrying out or having carried out such work for profit (entrepreneur);

“gas” “**gas**” means natural gas, inflammable manufactured gas, any type or blend of such gases, liquid petroleum gas or any blend of such gas and air (gaz);

“Pressure vessel” “**pressure vessel**” means any receptacle intended to contain a gas whether inflammable or not, or any pressurized liquid, a boiler and any equipment necessary to their operation (installation sous pression).

Contractor **8.** Any person shall be deemed to be a contractor who:

(1) offers for sale or exchange a building or a civil engineering structure, unless he is able to demonstrate that the construction work of such building or structure was not carried out for the purpose of sale or exchange; or

(2) undertakes new building work less than one year after the completion of earlier work.

Building work **9.** For the purposes of this Act, foundation, erection, renovation, repair, maintenance, alteration and demolition work shall be deemed to be building work.

Facilities for public use **10.** Any pool, hall, stand, mechanical lift, elevator, escalator, belvedere, tent, inflatable structure or other facility so designated by regulation of the Government shall be deemed to be a facility intended for use by the public.

Effect **11.** This Act does not limit any obligations otherwise imposed on a person contemplated in this Act.

CHAPTER II

BUILDING WORK

DIVISION I

APPLICATION

Application **12.** This chapter applies to any building work relating to a building, facilities intended for use by the public or installations independent of a building.

DIVISION II

BUILDING CODE

Adoption by
the Govern-
ment

13. The Government shall adopt a Building Code to ensure building work that provides satisfactory quality and safety for the public.

Compliance

14. Every contractor shall comply with the Building Code in respect of building work under his responsibility.

Owner-
builder

15. Every owner-builder carrying out building work himself shall comply with the Building Code.

Certificate
from con-
tractor

16. Any contractor contracting with a person other than a contractor or selling or exchanging a building that he has built or has caused to be built shall, no later than 90 days after the completion of the building work or the sale or exchange, forward to the other contracting party or to the purchaser a certificate of the work's conformity with the standards of safety, strength, hygiene, energy saving and access for handicapped persons contained in the Building Code.

Plans and
specifica-
tions

Notwithstanding the first paragraph, a contractor need certify only the conformity of work with the plans and specifications of an architect or an engineer where work has been carried out on the basis of plans and specifications.

Certificate
from sub-
contractor

17. Every subcontractor shall, no later than 60 days after the completion of such work, forward a certificate of conformity with the standards of safety, strength, hygiene, energy saving and access for handicapped persons contained in the Building Code in respect of building work to any contractor requesting it from him.

Plans and
specifica-
tions

Notwithstanding the first paragraph, a subcontractor need certify only the conformity of work with the plans and specifications of an architect or an engineer where work has been carried out on the basis of plans and specifications.

Architects
and
engineers

18. Every architect or engineer who prepares plans and specifications for building work shall comply with the Building Code.

Certificate

They shall certify on such plans and specifications, prior to their use, that they are in conformity with the Code.

Prefabri-
cated
building

19. Every manufacturer of a prefabricated building, other than a mobile home governed by the Consumer Protection Act (R.S.Q., chapter P-40.1), shall ensure that such building is in conformity with the Building Code.

Certificate He shall, no later than 60 days after the delivery of the building, forward to the person, other than a contractor, who purchases the building, a certificate of the building work's conformity with the standards of safety, strength, hygiene, energy saving and access for handicapped persons contained in the Building Code.

Contractor Where the purchaser of the building is a contractor, the certificate shall be forwarded at the request of the contractor.

Copy **20.** Any person supplying a certificate of conformity under section 16, 18 or 19 shall keep a copy thereof until the expiry of five years from its date.

Copy He shall, upon request of the Commission du bâtiment du Québec or of a subsequent purchaser, forward to them a copy of the certificate.

Quality control program **21.** Every contractor or manufacturer of a prefabricated building shall, where so prescribed by regulation of the Commission, draw up and implement a quality control program in respect of building work for the purpose of ensuring conformity thereof with the Building Code.

Quality control program **22.** Every owner-builder shall, where so prescribed by regulation of the Commission, draw up and implement a quality control program in respect of building work for the purpose of ensuring conformity thereof with the Building Code, unless such work has been carried out by a licensed contractor.

Single-family dwelling This section does not apply to single-family dwelling building work.

Information to the Commission **23.** Every contractor or owner-builder shall, where so prescribed by regulation of the Commission, apprise the latter of all of his completed, current or projected building work.

DIVISION III

ELECTRICITY OR GAS UNDERTAKINGS

Connection of electrical or gas installation **24.** An electricity or piped gas undertaking may not connect an electrical or gas installation to its system unless the building work for the installation has been carried out by a licensed contractor or owner-builder.

Gas installation **25.** No gas undertaking may supply any new gas installation unless the building work for the installation has been carried out by a licensed contractor or owner-builder.

Authoriza-
tion

26. An electricity or piped gas undertaking shall refuse to connect an electrical or gas installation if the Commission advises it that its authorization is required.

Authoriza-
tion

27. A gas undertaking shall refuse to supply any new gas installation if the Commission advises it that its authorization is required.

Quality con-
trol pro-
gram

28. A piped gas undertaking shall, where so prescribed by regulation of the Commission, draw up and implement a quality control program in respect of building work carried out by a contractor on an installation intended to use gas.

Approval

The program requires approval by the Commission.

CHAPTER III

PUBLIC SAFETY

DIVISION I

APPLICATION

Restrictions

29. This chapter does not apply to the following buildings:

- (1) a single-family dwelling;
- (2) an entirely residential building having fewer than three floors or fewer than nine dwellings;
- (3) a building of a class excluded by government regulation by reason of its use or its area.

Application

This chapter applies to an electrical installation, a plumbing installation or an installation intended to use gas located in a building excluded by the first paragraph.

Owners

30. For the purposes of this chapter, the following are considered owners:

- (1) the manager, for his own account or on behalf of another person, of a building or of facilities intended for use by the public;
- (2) the occupant of a non-residential building in respect of:
 - (a) an installation or a facility owned by him;
 - (b) the obligations prescribed by the Safety Code regarding the use of such building.

DIVISION II

SAFETY CODE

- Purpose** **31.** The Government shall adopt a Safety Code for the purpose of ensuring the safety of any person having access to a building or a facility intended for use by the public or using an installation independent of a building.
- Owner** **32.** The owner of a building, of facilities intended for use by the public or of an installation independent of a building shall comply with the Safety Code.
- Certificate** **33.** The owner of a building shall, upon request by the Commission, provide the Commission with a certificate of the strength of the building or a certificate of the safety of an installation or of facilities in the building made by a person recognized by the Commission.
- Certificate** **34.** The owner of a facility intended for use by the public or of an installation independent of a building shall, upon request by the Commission, provide the Commission with a certificate of the safety of such equipment or such installation made by a person recognized by the Commission.
- Obligations of owner** **35.** The owner of a building, of a facility intended for use by the public or of an installation independent of a building shall, where the Commission by regulation so prescribes:
- (1) draw up a control program designed to ensure that his building, facility or installation is in accordance with the Safety Code;
 - (2) have a person recognized by the Commission attest that it is in accordance with the Code;
 - (3) inform the Commission of any accident or fire occurring there.
- Change of use** **36.** The owner of a building may not change its use or intended purpose without bringing it into accordance with the Building Code.
- Restrictions** This section does not apply where the building becomes a building excluded under the first paragraph of section 29 by reason of a change in its use or intended purpose.

DIVISION III

SPECIAL

Pressure vessel **37.** A pressure vessel requires approval by the Commission following the procedures and subject to the conditions prescribed by government regulation before being marketed.

Approval The putting into service of such vessel similarly requires approval by the Commission where it has not been operated for more than one year or where it is used for purposes other than those for which it was originally intended.

Gas installation **38.** A gas distribution undertaking shall refuse to supply a gas installation that is defective or that it knows involves a risk of accident.

Safety standards **39.** A gas distribution undertaking shall ensure that the installations or vehicles used for storage or distribution of gas are in accordance with the safety standards prescribed by government regulation.

Safety standards **40.** An electricity distribution undertaking shall ensure that the electricity generating or transmission installations are in accordance with the safety standards prescribed by government regulation.

Exceptions This section does not apply to a municipality, Hydro-Québec, a cooperative constituted under the Rural Electrification Act (1945, chapter 48) or to the owner of a water level control work.

CHAPTER IV

QUALIFICATIONS

DIVISION I

APPLICATION AND INTERPRETATION

Applicability **41.** This chapter applies to a contractor or an owner-builder for building work on a building or a civil engineering structure at the place of construction and on site, including preliminary ground preparation work.

Exceptions **42.** This chapter does not apply to a contractor or owner-builder who performs:

- (1) building work done on a farm property usually operated by the farmer himself or by fewer than three permanent employees;

(2) maintenance or repair work carried out by the employees who usually do it or who work on production in a business and are hired directly by an employer other than a contractor;

(3) water main or sewer construction work, sidewalk construction, paving work and other similar work carried out by the employees of a local municipality, a regional county municipality or a regional or urban community;

(4) building work directly related to mining exploration or operation and carried out by the employees of a mining business;

(5) building work directly related to forest development and carried out by the employees of a forestry undertaking;

(6) power transmission line building work carried out by the employees of an electricity distribution undertaking.

Applicabil-
ity of
chapter

A contractor or an owner-builder carrying out building work on an installation intended to use or distribute gas, or on an electrical installation, except that covered by subparagraphs 4 and 6, is subject to this chapter.

Exceptions

43. This chapter does not apply to a person who is required to be a member of a corporation created by the Master Electricians Act (R.S.Q., chapter M-3) or by the Master Pipe-Mechanics Act (R.S.Q., chapter M-4).

Effect

44. For the application of this chapter, the following have the same effect as bankruptcy:

(1) the making by a court of competent jurisdiction of a winding-up order by reason of insolvency within the meaning of the Winding-up Act (R.S.C., 1970, chapter W-10);

(2) the cessation of business by a contractor for the reason that he is an insolvent within the meaning of the Bankruptcy Act (R.S.C., 1970, chapter B-3).

Officer

45. A member of a partnership or, in the case of a corporation, a director, officer or shareholder holding 20% or more of the voting shares shall be deemed to be an officer for the purposes of this chapter.

DIVISION II

LICENCES

§ 1.—*General*Building
contractor

46. No person may act as a building contractor, hold himself out to be such or give cause to believe that he is a building contractor, unless he holds a current licence for that purpose.

Contractor's
licence

47. No public body, within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) may hold a contractor's licence.

Exception

This section does not apply to the Société immobilière du Québec.

Owner-
builder

48. No person may act as an owner-builder, or give cause to believe that he is an owner-builder, unless he holds a licence in force for that purpose.

Owner-
builder's
licence

49. An owner-builder's licence is not required:

(1) for a person who has building work carried out by a licensed contractor whose main activity is the organization or coordination of building work to be carried out by other persons;

(2) for a natural person carrying out or causing to be carried out building work on a single-family dwelling, or a civil engineering structure intended for his personal use or the use of his family, except building work on an installation intended to use gas or on an electrical installation.

Cancellation
of contract

50. A person not being a contractor who has entered into a contract for building work with a contractor not holding the proper licence may apply for cancellation of the contract.

Cancellation
of privilege

The owner of an immovable against which a privilege has been registered by a contractor not holding the proper licence may apply for cancellation of the privilege.

§ 2.—*Application for a licence*

Licence

51. A person who wishes to obtain a licence or its renewal or amendment shall send an application to the Commission.

Partnership
or corpora-
tion

52. The licence for a partnership or a corporation shall be requested on its behalf by a natural person being one of its officers and meeting the conditions in paragraphs 1, 3, 5, 8 and 9 of section 58.

Content of
application

53. A partnership or a corporation applying for a licence shall inform the Commission of its legal structure and the names and addresses of its officers.

Limited
number

54. Subject to any regulation made by the Commission under paragraphs 13 and 14 of section 185, no natural person may apply for more than one licence on behalf of a partnership or a corporation, or apply for such licence while holding a licence.

§ 3.—*Issue of a licence*

Conditions

55. The Commission shall issue a licence where the conditions prescribed by this Act and the regulations have been met.

Ownership

56. The Commission shall retain the ownership of the licence.

Transfer

The holder of a licence may not transfer it.

Fees

57. A licence shall be issued upon payment of such fees as the Commission may by regulation prescribe, and for a term of two years.

Term

The Commission may issue a licence for a shorter term if it finds it necessary.

Renewal

Licences may be renewed upon application on such conditions as the Commission may by regulation prescribe.

Conditions

58. A licence shall be issued to a natural person who meets the following conditions:

(1) he shows that, following examinations prescribed by regulation of the Commission or by any other means the Commission considers fitting, he has the knowledge or relevant experience in managing a building undertaking and in carrying out building work;

(2) he demonstrates his solvency;

(3) he is of full age;

(4) he is not a person lending his name to another person;

(5) he has been discharged if he has been declared bankrupt;

(6) he has joined a guaranty plan in accordance with sections 77 and 78;

(7) he has furnished the security required under section 86;

(8) he has not, in the five years preceding the application, been found guilty of, and has not pleaded guilty to, an indictable offence triable only on indictment and connected with the business that the person intends to carry on in the building trade;

(9) he possesses such other qualifications, meets such other conditions and furnishes such particulars as the Commission may by regulation require.

Refusal

59. The Commission may refuse to issue a licence to a natural person who was an officer of a partnership or of a corporation in the 12 months preceding the bankruptcy of the partnership or corporation where the bankruptcy occurred less than three years before the date of the application.

Refusal

It may also refuse to issue a licence where the natural person was an officer of a partnership or a corporation whose licence is suspended, has been cancelled or not renewed, under section 70, within less than three years or where the natural person held a licence so cancelled or not renewed.

Application

This section applies to a natural person applying for a licence on behalf of a partnership or corporation.

Conditions

60. A licence shall be issued to a partnership or a corporation meeting the following conditions:

- (1) it demonstrates its solvency;
- (2) it has a place of business in Québec;
- (3) none of its officers lends his name to another person;
- (4) it has joined a guaranty plan in accordance with sections 77 and 78;
- (5) it has furnished the security required under section 86;
- (6) neither it nor any of its officers has been convicted of or has pleaded guilty to an indictable offence triable only on indictment and connected with the business that the person intends to carry on in the building trade;
- (7) it has such other qualifications, meets such other conditions and has furnished such particulars as the Commission may by regulation require.

Refusal

61. The Commission may refuse to issue a licence to a partnership or a corporation where any of its officers:

(1) was an officer of a partnership or a corporation in the 12 months preceding any bankruptcy of the partnership or corporation within less than three years;

(2) was an officer of a partnership or a corporation which, in the five years preceding the application, was convicted of or pleaded guilty to an indictable offence triable only on indictment and connected with the business that the person intends to carry on in the building trade;

(3) was an officer of a partnership or corporation whose licence was cancelled or not renewed under section 70 within less than three years;

(4) is an officer of a partnership or corporation whose licence is suspended.

Refusal

The Commission may refuse to issue a licence where the partnership or corporation applying for it or any of its officers holds a licence that has been suspended or held a licence that was cancelled or not renewed under section 70 within less than three years.

Refusal

62. The Commission may refuse to issue a licence where the person who applies for it on behalf of a partnership or corporation has already applied, on behalf of another partnership or corporation, for a licence that has been cancelled or not renewed under section 70 within less than three years.

Limited
number

63. Subject to any regulation made by the Commission under paragraph 15 of section 185, a partnership or person may not hold more than one licence.

Temporary
licence

64. A person whose head office is outside Québec and who wishes to carry out building work in Québec or cause it to be carried out must obtain a temporary licence from the Commission under such terms and conditions as the Commission may by regulation prescribe.

Conditions

To obtain or to keep or renew a temporary licence, an applicant must keep a place of business in Québec.

Conditions

He must also comply with sections 77 to 83 and section 86 and abide by such other conditions as the Commission may by regulation require.

Ruling

65. When the Commission receives an application for the issue, renewal or alteration of a licence, it shall deliver a ruling within 30 days.

§ 4.—*Registers and notices*

Public register

66. The Commission shall keep a public register in which the names and addresses of licence holders and the classes or subclasses of such licences are entered.

Notification of changes

67. The Commission shall be informed within 30 days of any merger, sale, transfer or change in name or structure of a partnership or corporation.

Classes of building work

68. Licences shall indicate the classes and subclasses of building work that the holder is permitted to carry out or cause to be carried out.

Cessation of entitlement

69. The holder of a licence who is no longer entitled thereto shall inform the Commission in writing within 30 days following the date on which his entitlement ceased.

Death or incapacity

On the death or incapacity of the licence holder, his executor, heir or legatee, administrator or legal representative or, in the case of incapacity, his curator or judicial adviser shall inform the Commission within 30 days of the holder's being no longer entitled to the licence.

DIVISION III

SUSPENSION, CANCELLATION AND REFUSAL TO RENEW A LICENCE

Powers of Commission

70. The Commission may suspend, cancel or refuse to renew a licence where the licence holder:

(1) has been convicted of or has pleaded guilty to an offence under this Act, the Consumer Protection Act, or the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), where in the Commission's opinion the seriousness or the frequency of the offences so warrants;

(2) does not satisfy one of the conditions set by this Act for obtaining a licence;

(3) has falsified or misrepresented facts related to his application for a licence;

(4) has not given effect, to the Commission's satisfaction, to an order issued under section 123 enjoining him to comply with the Building Code;

(5) has abandoned building work or interrupted it without reasonable cause, thereby harming the persons involved;

(6) has its solvency endangered by the bankruptcy of one of its officers;

(7) has carried out or caused to be carried out building work for which compensation was paid under a guaranty plan covered by section 80, and where the holder has not reimbursed the administrator of the plan.

Invalid
licence

71. The licence of a contractor or of an owner-builder becomes invalid on any of the following occurrences:

(1) he becomes bankrupt;

(2) its powers as a corporation are revoked;

(3) it passes a resolution to go into voluntary liquidation;

(4) a winding-up order is made against it by a court of competent jurisdiction;

(5) it has not informed the Commission in accordance with section 67;

(6) its participation in a guaranty plan covered by section 80 is terminated.

Death

72. On the death of a licence holder, his executor, heir or legatee, administrator or legal representative may continue the business for up to 90 days from the date of death.

Period of
invalidity

73. The licence of a partnership or corporation becomes invalid 60 days after the date on which the natural person who applied for a licence on behalf of a partnership or corporation ceases to be an officer thereof. In the case of the death of the natural person, the period shall be 90 days.

Period of
invalidity

74. The licence of a contractor becomes invalid 60 days after he ceases to be a member of the association or of one of the associations or of the group of associations that checked his qualifications under an agreement made under section 131, unless it is renewed by the Commission.

End of
membership

The association or the group of associations shall inform the Commission when a contractor ceases to be a member and, in the case of expulsion, shall state the reasons for such expulsion.

Hearing **75.** The Commission shall allow the holder an opportunity to be heard before deciding on the suspension, cancellation or refusal to renew any licence.

Ruling It shall deliver its ruling in writing, with reasons.

Licence **76.** The Commission may issue to the trustee in bankruptcy or to the liquidator, for not more than thirty days, a licence permitting the completion of the work covered by the licence.

CHAPTER V

FINANCIAL GUARANTEES

DIVISION I

GUARANTY PLANS

Guaranty plan **77.** The Government may, by regulation, require every contractor to join a plan guaranteeing the performance of his legal and contractual obligations, in particular, his obligation to comply with the Building Code, resulting from a contract entered into with a natural person, a non-profit organization or a cooperative for the sale or construction of a new residential building.

Terms and conditions The regulation contemplated in the first paragraph shall determine the cases and the terms and conditions of the guaranty related to the performance of the legal and contractual obligations of the contractor, and the class of new residential buildings to which it applies.

Guaranty plan **78.** The Government may, by regulation, require every contractor to join a plan guaranteeing the performance of his legal and contractual obligations, in particular, his obligation to comply with the Building Code, resulting from a contract entered into with a natural person, a non-profit organization or a cooperative for the carrying out of renovation, repair, maintenance or alteration work on a building or on a civil engineering structure.

Terms and conditions The regulation contemplated in the first paragraph shall determine the cases and the terms and conditions of the guaranty related to the performance of the legal and contractual obligations of the contractor.

Contract **79.** Every contractor required to join a guaranty plan shall give the contract whereby the plan guarantees the obligations provided in section 77 or 78 to the natural person, the cooperative or the non-profit organization.

Approval

80. A guaranty plan and any guaranty contract provided under such plan shall be in accordance with the criteria set by regulation of the Government and require approval by the Minister of Housing and Consumer Protection.

Management

81. A guaranty plan shall be managed by one of the following:

(1) a person authorized by the Minister in accordance with a regulation of the Government;

(2) a person designated by the Québec Master Electricians Corporation or the Québec Master Pipe-Mechanics Corporation and managing a guaranty plan set up under section 12 of the Master Electricians Act or section 11 of the Master Pipe-Mechanics Act;

(3) a management company incorporated under Division II of this Chapter.

Guaranty contract

82. No person may offer a guaranty contract to a natural person, a non-profit organization or a cooperative other than those required under this Division, for the purpose of guaranteeing performance of the contractual and legal obligations of a contractor, in particular the obligation to comply with the Building Code for a building mentioned in section 77 or work covered by section 78 if the contract is not offered under a guaranty plan managed by a person authorized by the Minister in accordance with a regulation of the Government.

Withdrawal of authorization

83. The Minister may withdraw his authorization of the manager mentioned in paragraph 1 of section 81 or in section 82 where the person:

(1) is not able to take on the obligations of the guaranty plan, owing to his financial position;

(2) does not meet the conditions prescribed by regulation of the Government.

DIVISION II

INCORPORATION OF A MANAGEMENT COMPANY

Letters patent

84. The Government may, by letters patent issued under the Great Seal, incorporate a company to manage a guaranty plan where it believes that the guaranty plans managed by one of the persons contemplated in paragraphs 1 and 2 of section 81 do not enable the contractors to provide sufficient coverage. It may also amend previously issued letters patent by supplementary letters patent.

Purpose The purpose of the company shall be to manage a guaranty plan covered by section 80.

Powers of the Government The name of the management company, its structure, the appointment of its members, the length of their term of office, their remuneration and their other working conditions shall be determined by the Government.

Publication A notice of incorporation or of amendment by supplementary letters patent of such company shall be published in the *Gazette officielle du Québec*.

Powers of the Government **85.** The Government may, on the conditions it shall set:

(1) guarantee any borrowing by the management company, and the performance of any other obligation contracted by it;

(2) authorize the Minister of Finance to advance to the management company any amount considered necessary for the carrying out of its duties.

Consolidated revenue fund Any sums that the Government may be called upon to pay under such guarantees or to advance to the management company shall be drawn from the consolidated revenue fund.

DIVISION III

SECURITY

Security **86.** The Government may, by regulation, require security from any contractor for the purpose of compensating the contractor's clients in case of fraud, embezzlement or misappropriation of funds for building work not covered by a guaranty plan contemplated in section 80.

CHAPTER VI

COMMISSION DU BÂTIMENT DU QUÉBEC

DIVISION I

CONSTITUTION AND ORGANISATION

Establishment **87.** There shall be a "Commission du bâtiment du Québec".

Corporation **88.** The Commission shall be a body corporate.

Head office **89.** The Government shall determine the location of the head office of the Commission; a notice of its location and any change in the location of the head office shall be published in the *Gazette officielle du Québec*.

Board of directors **90.** The Commission shall be administered by a board of 15 directors, one of whom shall be chairman.

Members The chairman and 10 board members shall be voting members; the remaining four members shall be non-voting members.

Chairman The chairman of the board shall be managing director of the Commission.

Appointment **91.** The Government shall appoint the members of the board of directors of the Commission.

Voting members **92.** Voting board members, except the chairman, shall be appointed as follows:

(1) six members from the persons proposed by the Québec Master Electricians Corporation, by the Québec Master Pipe-Mechanics Corporation and by the most representative contractors' associations membership whereof is not mandatory under any Act;

(2) one member from the persons proposed by the Ordre des ingénieurs du Québec and by the Ordre des architectes du Québec;

(3) one member from the persons proposed by the most representative associations of municipal authorities;

(4) one member from the persons proposed by the most representative associations of building owners;

(5) one member from the persons proposed by the most representative associations of consumers or of building residents or users.

Non-voting members **93.** Non-voting board members shall be appointed as follows:

(1) one member from the persons proposed by the most representative professional corporations working in the construction industry;

(2) one member from the persons proposed by the most representative associations of municipal authorities;

(3) one member from the persons proposed by the most representative associations of employees in the construction industry;

(4) one person chosen from among the public servants of the Ministère de l'Habitation et de la Protection du consommateur.

Other
names

94. The Minister may require an association contemplated in section 92 or 93 to propose other names to him.

Vice-
chairmen

95. The Government shall also appoint up to two vice-chairmen of the Commission for a term of up to five years.

Term of
office

96. The chairman's term may not exceed five years and the term of the other board members may not exceed three years.

Renewal of
term

The term of the chairman, the vice-chairmen and the other board members may be renewed.

Continuance
in office

97. Members of the board, as well as the vice-chairmen, shall remain in office at the end of their term until they are replaced or their appointment is renewed.

Vacancy

98. A vacancy among board members or vice-chairmen shall be filled according to the procedure prescribed for the appointment of the person to be replaced.

Incapacity

99. Where a vice-chairman or board member is unable to act, he shall be replaced by a person designated by the Government, which shall fix his fee and allowances.

Duties

100. The chairman shall see to the carrying out of board decisions and is responsible for the general management and administration of the Commission in the framework of its by-laws and policies.

Full-time
position

101. The position of chairman and of vice-chairman is full time.

Remunera-
tion

102. The Government shall fix the remuneration and working conditions of board members and of vice-chairmen.

Responsibil-
ities

103. The Commission is responsible for its employees' remuneration and working conditions as well as for its own operating expenses.

Conflict of
interest

104. On pain of forfeiture, the chairman and vice-chairmen may not have a direct or indirect interest in an undertaking that places their personal interest in conflict with the duties of their office.

Refusal or
disposal

Forfeiture may be avoided, where such interest is an inheritance or gift, by refusal or disposal without delay.

Disclosure	Any other board member who has an interest in such an undertaking must on pain of forfeiture disclose the fact in writing to the chairman and refrain from participation in all deliberations and decisions concerning the undertaking.
Meeting place	105. The Commission may hold meetings anywhere in Québec.
Decisions	106. A board decision signed by all members has the same effect as if made at a regular meeting.
Quorum	107. A majority of voting board members present at a meeting constitutes a quorum.
Tie	In the event of a tie, the chairman has a casting vote.
Rules	108. The Commission shall regulate its own procedure. The rules come into force on the date they are approved by the Government.
Secretary and staff	109. The secretary of the Commission and its staff are appointed and remunerated under the Public Service Act (R.S.Q., chapter F-3.1.1).

DIVISION II

PURPOSE, DUTIES AND POWERS

Purpose	110. The purpose of the Commission is to supervise the administration of this Act, particularly with a view to protecting the public.
Responsibilities	111. In carrying out its purpose, the Commission shall, in particular, have the following responsibilities: <ul style="list-style-type: none">(1) to ensure that this Act is applied and that building and safety standards are observed;(2) to check the qualifications of contractors so as to ensure their integrity, competence and solvency;(3) to promote administrative agreements with other agencies operating in areas covered by this Act with a view to facilitating its application;(4) to promote the delegating of responsibility to local municipalities;(5) to promote the training of persons working in the areas of building construction and public information;

(6) to cooperate with departments and agencies involved in the areas covered by this Act;

(7) to take part in the preparation of Government regulations, at the request of the Minister;

(8) to disseminate information and give opinions on the content and application of the Building Code and the Safety Code;

(9) to undertake or commission studies and research in areas covered by this Act;

(10) to foster a sense of responsibility among those working in the construction industry;

(11) to provide the Minister with an opinion on any matter he refers to it, analyze the impact of this Act and make the recommendations it considers useful to the Minister.

Powers

112. In the exercise of its powers of supervision, the Commission may:

(1) at any reasonable hour enter a building or construction site and have access to a facility intended for use by the public or an installation independent of a building;

(2) examine and copy the books, ledgers and files of a contractor, owner-builder or owner of a building, facility intended for use by the public or installation independent of a building;

(3) require the disclosure of all information necessary for applying this Act as well as the production of any related document.

Samples

113. The Commission may without charge take samples for analysis; it shall inform the person concerned and return the samples after analysis, where possible.

**Conformity
of material
or equip-
ment**

114. The Commission may require a contractor, owner-builder, owner of a building, facility intended for use by the public or installation independent of a building, an architect or an engineer, to submit material, equipment, or an installation to a test, analysis or check so as to ensure it conforms to this Act.

Tests, photographs,
recordings

115. The Commission may make tests, take photographs or make recordings at a construction site, building, facility intended for use by the public or installation independent of a building.

Measurement
apparatus

116. The Commission may itself install a measurement apparatus or order a contractor, owner-builder or owner of a building, facility intended for use by the public or installation independent of a building to install one and provide it with the data gathered.

On site
check

117. The Commission may require that a person provide it with what is needed to carry out a check.

Identification

118. A member of the Commission or its agent must identify himself on request and show his certificate of appointment.

Approval

119. The Commission may require that an electricity or piped gas undertaking obtain its consent before connecting an electric or gas installation to the distribution network.

Authorization

120. The Commission may require a gas undertaking to obtain its authorization before supplying a new gas installation.

Powers and
duties

121. A gas distributor's agents checking gas installations or construction work shall have the powers and duties prescribed in sections 112 to 118.

Remedial
notice

122. The Commission may issue a remedial notice advising a person that he is not in conformity with this Act.

Content

The notice will indicate the steps required in order to conform to this Act and fix a time limit for compliance.

Order

123. The Commission may issue an order enjoining compliance with this Act and fix a time limit for doing so.

Compliance

The person so enjoined shall comply within the time allowed and shall inform the Commission of the particular steps he intends to take.

Closing or
evacuation

124. Where the Commission believes there is danger to the safety and well-being of the public, it may order that a building or facility intended for use by the public be closed or evacuated in whole or in part, or that the operation or use of an installation independent of a building or of equipment or an installation in a building, be stopped.

Reasons	The Commission shall with all speed give the reasons in writing for its decision and indicate the measures that must be taken to eliminate the danger.
Re-opening	The site may not be reopened or the installation used until the Commission so permits.
Injunction	125. Where a person against whom the Commission has made an order refuses or neglects to comply, the Commission or any interested party may move the Superior Court to issue an injunction compelling compliance.
Expense	The court may in a fit case order that work be carried out at the expense of the person it names or authorize the Commission to perform the work at that person's expense.
Registration of order	126. An order against the owner of an immovable may be registered against that immovable.
Copy	The Commission may file a copy of the order for registration at the land registry office of the division where the immovable is located.
Effect of order	The order shall in that case affect any purchaser whose right is subsequently registered, and he shall be bound to take over the obligations imposed on the former owner according to the order.
Approval	127. The Commission may approve a design, building method or the use of material and equipment different from that prescribed by a code or regulation made under this Act, on conditions it sets, where it finds the quality equivalent to what is sought by the standards of the code or regulation.
Public safety	The same applies where it considers that public safety is equally protected.
Different measures	128. In the case of a building, facility intended for use by the public or installation independent of a building, the Commission may allow the application of measures different from those prescribed by a code or regulation made under this Act, according to conditions it sets, where the provisions of the code or regulation are shown not to be reasonably applicable.
Inquiry	129. The Commission may inquire into any matter relating to this Act.

Powers and
immunity

For such purpose, it shall have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except for the power to order imprisonment.

DIVISION III

DELEGATION

Delegation

130. The Commission may delegate to the chairman, to another director or to a vice-chairman, in writing and to the extent specified, the powers and duties assigned to it by this Act, except for those conferred by sections 131, 132 and 185.

Delegation

The Commission may similarly delegate the exercise of powers and duties covered by the first paragraph to a committee composed of the chairman or a vice-chairman and one or more directors.

Delegation

The Commission may delegate, in writing and to the extent specified:

(1) the exercise of the powers and duties assigned to it by this Act, except for sections 70, 123, 131, 132 and 185, to a member of its staff;

(2) the exercise of powers conferred by sections 112 to 117 to any person it may designate.

Agreement

131. The Commission may enter into a written agreement with a contractors' association or a group of contractors' associations to delegate to it, to the extent specified, its powers and duties pursuant to sections 46, 47, 51 to 69 and 72 with a view to ensuring that members of the association are qualified.

Delegation

The Commission may also delegate to the association or group of associations or to a corporation established under the Master Electricians Act or the Master Pipe-Mechanics Act its powers and duties pursuant to sections 14, 16, 17, 20, 21 and 23 with a view to ensuring the quality of construction work done by the contractors.

Financing

The agreement may make provision for financing the expenses incurred by the association, group of associations or corporation in the application of this Act and allow the association, group of associations or corporation to collect and apply for this purpose sums covered by paragraphs 1, 2, 3 and 6 of section 151.

Agents The agents of the association, group of associations or corporation charged with the application of this Act have the powers and duties prescribed in sections 112 to 118.

Agreement **132.** The Commission may enter into a written agreement with a local municipality to delegate to it, within its territory and to the extent specified, its powers and duties pursuant to sections 14 to 23 and 32 to 36, with a view to ensuring the quality of construction work and public safety.

Provisions of agreement The agreement may make provision for financing the expenses incurred by the municipality in the application of this Act and allow the municipality to collect and apply for this purpose sums covered by paragraphs 4 and 6 of section 151.

Provisions of agreement The agreement may also provide, from among the powers and obligations contemplated in sections 112 to 118, 122 to 126 and 128, which powers may be exercised by the local municipality and to which obligations the municipality is subject, the conditions of subdelegation of those powers to employees of the municipality and the other terms and conditions of exercise of those powers.

Agreement **133.** The delegated municipality may, with the consent of the Commission, enter into a written agreement with another municipality, regional or urban community or intermunicipal board.

Local municipality Every regional county municipality, regional or urban community or intermunicipal board entering into an agreement in accordance with this section shall be considered a local municipality for the purposes of the application of this Act.

Agreement **134.** A local municipality may enter into a written agreement under this division with the Commission.

Charges The municipality that has entered into an agreement with the Commission may require, by by-law, that persons wishing to obtain a permit or certificate of occupancy for a building pay the charges resulting from the application of this Act.

Maximum fees The Government may, by regulation, set the maximum fees that may be demanded under the second paragraph.

Terms and conditions **135.** The terms and conditions of delegation to a municipality, an association, a group of associations or a corporation shall be set forth in the agreement.

Approval
and coming
into force

136. The agreement requires approval by the Minister and comes into force on the tenth day following publication in the *Gazette officielle du Québec* of a notice to that effect or on any later date fixed therein.

Powers and
privileges

137. This division does not affect the powers conferred on a municipality under another Act in respect of buildings unfit for habitation or occupancy and in respect of buildings or works representing a danger for the safety of persons owing to a lack of solidity nor privileges established in favour of the municipality to guarantee the recovery of the cost of any work done by it on the buildings or works.

Different
measures

138. A local municipality may, so far as may be determined in the agreement, codify measures different from those provided in a code or regulation adopted under this Act and that may be authorized by it in accordance with section 128.

Annual
report

The agent of the municipality exercising the power prescribed in section 128 shall send an annual report to the municipal council specifying the buildings for which an authorization was granted.

Power of
the Com-
mission

139. The Commission may check the exercise of delegated responsibility or entrust the checking to any person or agency.

DIVISION IV

DOCUMENTS, ACCOUNTS AND REPORTS

Applicabil-
ity of c.
P-22

140. The Photographic Proof of Documents Act (R.S.Q., chapter P-22) applies to documents issued by the Commission or kept in its records.

Binding
documents

141. No deed, document or writing shall bind the Commission nor be attributed to it unless signed by the chairman, the secretary or a staff member and, if by a staff member, only to such extent as the Commission may by regulation determine.

Automatic
device

142. The Commission may, by regulation and according to the conditions it sets, allow the signature to be affixed by means of an automatic device on the documents it determines.

Facsimile

The Commission may allow a facsimile of the signature to be engraved, lithographed or printed on such documents as it determines.

Authenticity

A facsimile requires authentication by the countersignature of a person so authorized by the chairman.

Authenticity **143.** A document or copy thereof issued by the Commission or kept in its records, if signed or certified true by a person covered by section 141, proves itself.

Confidentiality **144.** No member of the board of directors, except the chairman, may have access to information relating to the solvency of a contractor or owner-builder.

Immunity **145.** Neither the Commission, nor a board member, vice-chairman, staff member or any person delegated under section 131 or 132 may be sued for an official act done in good faith in the performance of duty.

Prohibited recourses **146.** Except on a question of jurisdiction, no action under article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) or extraordinary recourse within the meaning of that Code shall lie, nor may injunction be granted, against the Commission in its official capacity.

Court of Appeal A judge of the Court of Appeal may, on motion, summarily quash any writ issued or order or injunction granted contrary to the first paragraph.

Financial statements **147.** The Commission shall submit to the Minister, by 31 July of each year, its financial statements together with a report on its activities for the past fiscal year. The financial statements and report must contain all the particulars required by the Minister.

Tabling The Minister shall table the report and financial statements in the National Assembly within 30 days of their receipt, if it is sitting, or within 30 days of the resumption of a session or the opening of a new session, if it is not sitting.

Information **148.** The Commission shall also provide the Minister with all particulars he requires concerning its activities.

Audit **149.** The Auditor-General shall audit the books and accounts of the Commission annually and whenever the Government so orders; but the Government may designate another auditor.

Report The report of the Auditor-General or auditor designated by the Government shall accompany the report of the Commission's activities and its financial statements.

DIVISION V

FINANCE

Financing **150.** The Commission shall finance its activities from the revenue it collects.

Subsidies The Minister may grant subsidies to the Commission, to pay part of the costs arising from the administration of this Act, for the five fiscal years after (*insert here the date of coming into force of this section*).

Fees **151.** The Commission shall collect the following amounts:

(1) fees for issuing, amending or renewing a licence;

(2) fees for the processing or assessment involved in issuing or renewing a licence;

(3) amounts demanded from each contractor on the basis of a fixed levy as the Commission may by regulation determine or of an indicator of the importance of the contractor's activities, as set by regulation, or on the basis of both;

(4) amounts demanded from each owner of a building, of a facility intended for use by the public, or of an installation independent of a building, on the basis of a fixed levy as the Commission may by regulation determine, or of an amount based on the area, volume or use of a building, facility intended for use by the public or installation independent of a building, or on the basis of both;

(5) amounts demanded from each owner or operator of a gas undertaking on the basis of a fixed levy as the Commission may determine by regulation or on the basis of the volume of gas sold, as set by regulation, or on the basis of both;

(6) fees for approval, permission, review and checking charged by the Commission.

Amounts collected **152.** The amounts collected and recovered by the Commission in applying this Act shall be included in its assets.

Annual levy **153.** The Commission shall annually fix the levy on contractors, on owners of buildings, facilities intended for use by the public or installations independent of buildings and on owners or operators of gas undertakings, according to the method of financing it has chosen.

- Deposit** **154.** Amounts collected by the Commission shall forthwith be deposited in a bank or in a savings and credit union governed by the Savings and Credit Unions Act (R.S.Q., chapter C-4) or in an institution governed by the Deposit Insurance Act (R.S.Q., chapter A-26).
- Interest rate** **155.** For the purposes of this division, the Commission shall apply the rate of interest fixed pursuant to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).
- Computation** For the purposes of computation of the interest, part of a month is considered a full month.
- Restriction** The interest shall not be capitalized.
- Borrowing** **156.** The Commission may not borrow funds by issuing notes or other instruments without prior consent from the Government, or otherwise than at rates of interest or other terms determined by the Government.
- Contract** **157.** The Commission may not, without the prior consent of the Minister and of the Conseil du trésor, be party to a contract for goods or services for an amount greater than that determined by the Government.
- Powers** **158.** The Government may, according to the conditions it sets:
- (1) guarantee, as to capital and interest, any borrowing by the Commission and the performance of any other obligation contracted by it;
- (2) authorize the Minister of Finance to advance to the Commission any amount considered necessary for the carrying out of its duties at the interest rate, for the time and on any other terms the Government may determine.
- Consolidated revenue fund** Amounts that the Government may be called upon to pay the Commission under the terms of guarantees or advances shall be drawn from the consolidated revenue fund.
- Fiscal year** **159.** The Commission's fiscal year ends on 31 March.

CHAPTER VII

REVIEW AND APPEAL

DIVISION I

REVIEW

Review **160.** Any interested party may apply for review of a ruling of the Commission or of a municipality covered by section 132 where such ruling:

(1) was delivered under section 123 or 124;

(2) involves the issue, renewal, amendment, suspension or cancellation of a licence.

Application **161.** An application for review of a ruling must be submitted to the Commission or the municipality within 30 days of its date.

Hearing **162.** The Commission or the municipality shall, before deciding on the review, allow the interested party an opportunity to express his opinion.

Restriction **163.** The person who made the ruling under review may not himself review the ruling except in the case of the board of directors of the Commission or of the council of a municipality.

Decision **164.** The Commission or the municipality may affirm, reverse or vary the ruling under review.

DIVISION II

APPEAL

Appeal **165.** Any interested party may appeal to the Provincial Court on any question of law, jurisdiction or fact from a ruling of the Commission or of a municipality covered by section 132 where such ruling:

(1) was delivered under section 123 or 124;

(2) involves the issue, renewal, amendment, suspension or cancellation of a licence.

Motion **166.** The appeal shall be made by motion of which notice shall be served on the Commission or on the authority.

- Filing** The motion shall be filed with the clerk of the Provincial Court in the judicial district where the appellant resides, has his head office or his place of business, within 30 days following receipt by the appellant of the initial ruling or, as the case may be, of the ruling under review, of the Commission or the municipality.
- Transmission of file** **167.** On service of the notice of motion, the Commission or the municipality shall forward to Provincial Court the file regarding the ruling under appeal.
- Hearing** **168.** The appeal shall be heard and decided in priority.
- Decision** **169.** Subject to any additional evidence that it may require, the court shall deliver its decision on the file sent to it by the Commission or the municipality, after permitting the parties to be heard.
- Suspension** **170.** The appeal shall not stay enforcement of the ruling of the Commission or the municipality. In the matter of a licence, the court may decide otherwise.
- Appeal** **171.** No appeal lies from a ruling of the Provincial Court.
- Rules of practice** **172.** The Provincial Court may, in the manner prescribed by article 47 of the Code of Civil Procedure, make the rules of practice it considers necessary for application of this division.

CHAPTER VIII

REGULATIONS

DIVISION I

CODES

- Building Code** **173.** The Government shall by regulation adopt a Building Code.
- Building standards** The Code may contain, in particular, building standards regarding the following matters:
- (1) the design and procedures for construction of buildings, of facilities intended for use by the public or of installations independent of a building;
 - (2) fire and accident prevention and protection;

(3) the safety and strength of buildings, of facilities intended for use by the public or of installations independent of a building;

(4) the hygiene of buildings;

(5) ease of access to buildings and facilities intended for use by the public;

(6) energy saving in buildings and the energy efficiency of buildings;

(7) materials, appliances or equipment to be used or prohibited in buildings, in facilities intended for use by the public or in installations independent of a building;

(8) the quality, assembly, erection, inspection, certification, quantity, site and tests of materials, facilities and installations.

Energy
saving

174. The Building Code may specify the cases in which a contractor, an architect or an engineer may depart from the standards regarding energy saving in a building where a natural person wishing to build a single-family dwelling requests different specifications in writing.

Safety Code

175. The Government shall by regulation adopt a Safety Code.

Safety stan-
dards

The Code shall contain safety standards for buildings, for facilities intended for use by the public and for installations independent of a building and their vicinity, and standards for their use and hygiene.

Content

The Code may contain standards regarding the following matters in particular:

(1) fire and accident prevention and protection;

(2) the maximum number of persons that may be admitted to a building or to a facility intended for use by the public;

(3) the supervision measures required and the qualifications of the persons who are to carry them out;

(4) materials and equipment to be used or prohibited in buildings, in facilities intended for use by the public or in installations independent of a building;

(5) the assembly, erection, inspection, certification, quantity, site and tests of materials, facilities and installations;

(6) the use and storage of substances involving safety hazards.

Manuf-
turer's
instructions

176. The codes may require manufacturers to provide instructions regarding the assembly, erection, maintenance and inspection of materials, facilities and installations.

Content of
codes

177. The content of the codes may vary, depending upon the class of building, of facilities intended for use by the public and of installations independent of a building to which the codes apply.

Technical
standard

178. The codes may require observance of a technical standard drawn up by another government or by an agency empowered to draw up such standards.

Breach

179. The Government may determine which of the provisions of a code shall in case of breach be sanctioned under paragraph 7 of section 194.

Publication

180. The Government shall publish a draft regulation made under sections 173 and 175 in the *Gazette officielle du Québec*, with a notice indicating that it may be adopted with or without amendments after the expiry of 60 days beginning from such publication.

Coming into
force

181. A regulation comes into force on the thirtieth day after the publication in the *Gazette officielle du Québec* of the notice of its adoption or, where it is amended, of its final text, or at any later date fixed in the notice or in the final text.

DIVISION II

REGULATIONS

§ 1.—*Government regulations*

Powers of
the Govern-
ment

182. The Government may, by regulation:

(1) exempt from application of this Act or of selected provisions thereof, classes of persons, contractors, owner-builders, owners of buildings, facilities intended for use by the public, or installations independent of a building, and classes of buildings, facilities, installations or construction work;

(2) designate any other facility intended for use by the public for the purposes of section 10;

(3) fix the charges due from a subsequent purchaser requesting a copy of the certificate of compliance under section 20;

(4) draw up procedures and set conditions for approval by the Commission of pressure vessels and for putting such vessels into service;

(5) draw up standards regarding installations or vehicles used for storage or distribution of gas, in particular:

(a) the design and construction procedures for such installations or vehicles;

(b) the strength of such installations or vehicles;

(c) the materials, apparatus or equipment to be used or prohibited in such installations or vehicles;

(d) the quality, assembly, erection, inspection, certification, quantity, site and tests of materials, facilities or installations;

(e) the transport, storage, handling and distribution of gas;

(f) accident prevention and protection;

(6) draw up safety standards applicable to an electricity generating or transmitting installation;

(7) require every contractor to join a guaranty plan in respect of new residential buildings in a class to be determined by it or in respect of renovation, repair, maintenance or alteration work on a building or a civil engineering structure;

(8) determine the cases, terms and conditions of the guaranty offered under a plan, in particular:

(a) the legal and contractual obligations of the contractor, including breaches of the Building Code for which compensation may be due;

(b) the amount of the deductible for each claim;

(c) the minimum amount of compensation depending on the nature of the building work;

(9) specify the qualities required of a person covered by paragraph 1 of section 81 or by section 82, the conditions he must meet and the information he must provide, in particular:

(a) fix criteria for solvency;

(b) require security from the person, prescribe the amount and the form thereof and procedures for collection, payment and application of the security;

(c) decide the amount of the reserves that the person must keep to guarantee the obligations resulting from a guaranty plan;

(d) decide what financial statements the person must furnish to the Government and the form and content of such statements;

(e) decide what investments the person may be permitted to make;

(f) require in the case of a corporation that it have a place of business in Québec;

(g) decide what measures the person must take to ensure the confidentiality of information communicated by a contractor;

(h) prescribe the particulars that the person must communicate to the Government;

(10) draw up criteria for a guaranty plan, in particular:

(a) terms and conditions for membership of a contractor;

(b) the maximum amount that may be demanded from a contractor to enable a person to benefit from a guaranty offered under a plan;

(c) standards for disseminating information regarding the guaranty plan;

(d) the arbitration procedure enabling a person to attack a decision of the manager concerning a claim or enabling the contractor to appeal a decision of the manager refusing or cancelling his participation in the plan;

(11) decide the cases where security is to be required of the contractor within the meaning of section 86, and decide the procedures, amount and form thereof, and the method of dealing with it;

(12) decide the maximum fee that may be charged a person wishing to obtain a permit or a certificate of occupancy of a building under section 134;

(13) prohibit the sale or leasing of materials or accessories whose use in the building work of a building, of a facility intended for use by the public or of an installation independent of a building has not been approved by a person recognized by the Commission;

(14) prohibit the sale or leasing of appliances intended to be connected to an electrical installation used in a plumbing installation or intended to use gas, unless such appliance has been approved by a person recognized by the Commission;

(15) determine which of the provisions of a regulation adopted under this section shall in case of breach be sanctioned under paragraph 7 of section 194.

Publication

183. The Government shall publish a draft of any regulation in the *Gazette officielle du Québec* with a notice stating that it may be adopted, with or without amendments, after the expiry of 60 days following such publication.

Coming into
force

184. A regulation comes into force on the thirtieth day after the publication in the *Gazette officielle du Québec* of the notice of its adoption or, where it is amended, of its final text, or at any later date fixed in the notice or in the final text.

§ 2.—*Regulations of the Commission*

Powers of
Commission

185. The Commission may, by regulation:

(1) determine the form and content of the certificates prescribed in sections 16 to 19;

(2) determine cases where a contractor, the manufacturer of a prefabricated building or an owner-builder must draw up and implement a quality control program in accordance with sections 21 and 22, as well as the components of the program;

(3) determine cases where a contractor or an owner-builder must report work that he has carried out or that he intends to carry out, the manner of forwarding the report and any conditions that he must fulfill;

(4) determine cases where any piped gas undertaking must draw up and implement a quality control program with regard to building work;

(5) determine cases where the owner of a building, a facility intended for use by the public or installations independent of a building must draw up a program by which conformity of the building or either the facility or the installations with the Building Code can be ascertained, together with the components of the program and the cases where he must have a person recognized by the Commission confirm the conformity thereof with the Code;

(6) determine cases where the owner of a building, a facility intended for use by the public or installations independent of a building must inform the Commission of any accident or fire that has occurred

therein as well as the details of the report and the time within which it must be submitted;

(7) require, in the cases and in accordance with the conditions that it may determine, the preparation of plans and specifications and their forwarding to the Commission and determine from whom such plans and specifications are required;

(8) determine the information to be provided by a licence holder to enable the Commission to verify if the holder still meets the requirements for obtaining a licence under this Act;

(9) determine subjects for examination, particularly those concerning administrative or technical knowledge or relating to the safety of construction sites, and determine the criteria for admission to and exemption from an examination or other method of evaluation;

(10) determine any other qualifications that a natural person applying for a licence for himself or on behalf of a partnership or corporation must possess, as well as any other conditions that he must fulfill and any particulars that he must provide;

(11) determine any other qualifications that a corporation or natural person applying for the issue or renewal of a licence must possess, as well as any other conditions that they must fulfill and any particulars that they must provide;

(12) determine the cases where a person other than an officer may apply for a licence on behalf of a partnership or legal person;

(13) permit a natural person to apply for a licence on behalf of more than one partnership or corporation;

(14) permit a natural person to hold a licence while applying for a licence on behalf of a partnership or corporation;

(15) determine the cases where a partnership, corporation or natural person may hold more than one licence;

(16) set the conditions and criteria for the issue, amendment or renewal of a licence or a temporary permit, set the fees that may be demanded for such issue, amendment or renewal and determine in what cases it will charge the fees;

(17) set the classes and subclasses of licences and the fees that may be demanded for each of those classes or subclasses of licences and determine in what cases it will charge the fees;

(18) determine in what cases it will charge examination or evaluation fees for the issue, amendment or renewal of a licence or temporary licence and set the fees;

(19) limit the classes or subclasses of building work that an owner-builder may carry out or cause to be carried out on an electrical installation or plumbing installation;

(20) determine in what cases it will charge approval, authorization, review or verification fees payable under this Act;

(21) determine an indicator of the importance of the contractor's activities that may be used as a basis for a levy, determine a fixed amount or an amount in relation to the indicator, or both, and determine the minimum and maximum according to the indicator at which a contractor is subject to the levy;

(22) set, for the determining of the levy payable by each gas undertaking owner or operator, a fixed amount or an amount in relation to the volume of gas sold or both together, and determine the period for which the levy is payable by each owner or operator, define what constitutes the volume of gas sold and determine the maximum thereof;

(23) set, for the determining of the levy payable by each owner, a fixed amount or an amount depending on the area, volume or use of the building, facility intended for use by the public or installation independent of a building, or both together, as well as determine the period for which the levy is to be payable by each owner, and to define what constitutes the area or the volume of the building, facility or installation, determine the maximum thereof and determine such amount in relation to their use;

(24) prescribe the form and content of the report to be forwarded by a contractor or a gas undertaking owner or operator, as well as the time limit within which it must be forwarded;

(25) prescribe the form and content of the report to be forwarded by the owner of a building, facility intended for use by the public or installation independent of a building, as well as the time limit within which it must be forwarded;

(26) set a time limit within which a contractor shall forward to it an estimate of the indicator of activities used as a basis for a levy, for each period the Commission shall determine;

(27) set a time limit within which an owner of a building, a facility intended for use by the public or installation independent of a building

shall forward to it, for each such construction, an estimate of the area, volume or use of each, as well as the time limit within which the owner shall inform it of any material alteration of the building, facility or installation;

(28) set a time limit within which the gas undertaking owner or operator shall forward to it an estimate of the volume of gas sold for each period it may determine;

(29) prescribe the form and content of the annual statement that a contractor or a gas undertaking owner or operator must forward to it;

(30) prescribe the form and content of the annual statement that the owner of a building, facility intended for use by the public or installation independent of a building must forward to it;

(31) prescribe the form, content and manner of forwarding of the register of activities used as a basis for a levy that each contractor must place at its disposal;

(32) prescribe the form, content, terms and conditions for forwarding the gas sales register that each gas undertaking owner or operator must place at its disposal;

(33) prescribe the form, content and manner of forwarding of the register of buildings, facilities intended for use by the public or installations independent of a building that each owner must place at its disposal;

(34) determine the cases where it may enter into an agreement with a contractor or a gas undertaking owner or operator in order to assess him more than once annually and set, for that purpose, any special conditions for the forwarding of the report under subparagraph 24 and the payment of the levy under paragraph 3 or 5 of section 151;

(35) determine the cases where it may enter into an agreement with an owner in order to assess him more than once annually and set, for that purpose, any special conditions for the forwarding of the reports under subparagraph 25 and the payment of the levy under paragraph 4 of section 151;

(36) set the time limit and the manner of payment of the levy payable by each contractor, each owner of a building, facility intended for use by the public or installation independent of a building and by each gas undertaking owner or operator;

(37) determine which of the provisions of a regulation adopted under this section shall in case of breach be sanctioned under paragraph 7 of section 194.

Regulations
made by
the Govern-
ment

Where the Commission has failed to adopt a regulation covered by subparagraphs 21 to 36 within a time deemed reasonable by the Government, the latter may make such regulation itself.

Maximum
amount col-
lected

186. The amounts that the Commission expects to collect from contractors pursuant to a regulation contemplated in subparagraphs 17 and 18 of section 185 shall not exceed the foreseeable costs incurred by the Commission as a result of the administration of Chapters IV and V, taking into account the general expenses of the Commission.

Maximum
amount col-
lected

The same applies to the amounts that the Commission expects to levy

(1) from owners pursuant to a regulation contemplated in subparagraph 23 of section 185 in respect of the foreseeable costs related to the administration of Divisions I and II of Chapter III;

(2) from contractors pursuant to a regulation contemplated in subparagraph 21 of section 185 in respect of the foreseeable costs related to the administration of Divisions I and II of Chapter II;

(3) from owners or operators pursuant to a regulation contemplated in subparagraph 22 of section 185 in respect of the foreseeable costs related to the administration of Division III of each of Chapters II and III as regards the distribution of gas.

Civil
engineering
structure

187. No regulation contemplated in subparagraph 21 of section 185 applies to construction work on a civil engineering structure.

Publication

188. A regulation of the Commission must be forwarded to the Minister who will cause it to be published in the *Gazette officielle du Québec* together with a notice that it will be submitted to the Government for approval upon the expiry of a 60-day period from such publication. The Government may amend a regulation submitted to it for approval.

Coming into
force

189. A regulation comes into force after having been approved with or without amendment by the Government on the thirtieth day after its publication in the *Gazette officielle du Québec*, or at any later date fixed in the notice or in the final text.

DIVISION III

MISCELLANEOUS

Consultation **190.** Prior to publication of a notice pursuant to section 180, the Minister shall consult the Commission, the most representative associations of municipal authorities and the most representative associations working in the areas of construction and building, on the content of a code.

Consultation The Minister shall consult the most representative associations working in the area of construction prior to the publication of a notice pursuant to section 183 or 188, and the Commission prior to the publication of a notice pursuant to section 183.

Specific standards **191.** A code or regulation may include standards that are specific to the territory covered by section 4.

Classes of contractors **192.** The contents of the codes or regulations may vary according to the classes of persons, contractors, owner-builders, owners of buildings, facilities intended for use by the public or installations independent of a building, of gas undertaking owners or operators and classes of buildings, facilities or installations to which the codes or regulations apply.

By-laws **193.** A by-law of a local municipality, regional county municipality or regional or urban community dealing with any matter already prescribed by the Building Code, the Safety Code or a regulation made under section 182 may not have the effect of setting standards that are identical or equivalent to those of the Codes or regulation, nor of restricting their scope or application.

CHAPTER IX

OFFENCES

Offences **194.** It shall be an offence to:

- (1) make a false statement for purposes of obtaining a licence;
- (2) make a false statement in a document prescribed by this Act or knowingly use such a document;
- (3) supply a certificate under sections 16 to 19 that is incorrect or which should have been known to be incorrect;

(4) hinder or attempt to hinder a person acting on behalf of the Commission or obstruct him in the exercise of his duties;

(5) use the name of another person with a licence or use his licence number to carry out construction work;

(6) alter a building, facility intended for use by the public or installation independent of a building in such a way that the risk of accident or fire is increased, or a safety measure prescribed by the Safety Code diminished;

(7) contravene any of sections 16, 17, 20 to 28, 33 to 35, 37, 38, 49, 53, 54, 56, 63, 67, 69, 79, 82, 119 or 120 or the second paragraph of section 18 or 19 or any regulatory provision sanctioned under section 179, subparagraph 15 of the first paragraph of section 182 or subparagraph 32 of the first paragraph of section 185.

Breach
attributable
to plans and
specifica-
tions

195. A contractor or owner-builder may not be convicted of a breach of the Building Code where he shows that the fact a building does not conform to the Code is attributable to plans and specifications prepared by an architect or engineer.

Obvious
error

The contractor or owner-builder may not rely on the first paragraph where the plans and specifications contained an obvious error which he should have noticed.

Fines

196. Any offence under section 194 is punishable with a fine of between \$200 and \$500 where the offender is an individual and between \$500 and \$1 000 in the case of a corporation, in addition to costs.

Second con-
viction

On a second conviction within two years of a first conviction for the same offence, the offender is liable to a fine of between \$400 and \$1 000, in the case of an individual, and between \$1 000 and \$2 000 in the case of a corporation, in addition to costs.

Subsequent
conviction

On a subsequent conviction for the same offence within two years of the first conviction, the offender is punishable with a fine of between \$1 200 and \$3 000 where he is an individual or between \$3 000 and \$6 000 in the case of a corporation, in addition to costs.

Fines

197. An offence against section 46, 48 or 64 is punishable with a fine of between \$500 and \$1 000 where the offender is an individual or between \$1 000 and \$2 000 in the case of a corporation, in addition to costs.

- Fines** **198.** Failure to comply with an order made under section 123 or 124 is punishable with a fine of between \$500 and \$1 000 where the offender is an individual or between \$1 000 and \$2 000 in the case of a corporation, in addition to costs.
- Fines** **199.** Whoever directly and seriously endangers public safety, whether by act or omission, is liable to a fine of between \$1 000 and \$2 000 in the case of an individual or between \$5 000 and \$20 000 in the case of a corporation, in addition to costs.
- Subsequent conviction** On a subsequent conviction for the same offence within two years of the first conviction the offender is punishable with a fine of between \$2 000 and \$4 000 where he is an individual or between \$10 000 and \$50 000 in the case of a corporation, in addition to costs.
- Act or omission** **200.** Whoever, by act or omission, assists another in committing an offence is guilty of the offence as if he had committed it himself, if he knew or should know that his act or omission would probably result in assistance towards the commission of the offence.
- Commission of offences** **201.** Whoever abets, counsels or commands another to commit an offence is guilty of the offence and of any other offence committed by the other as a result of the abetment, counsel or command, if he knew or should have known that his action would probably result in the commission of the offence.
- Prosecution** **202.** Any prosecution shall be brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) and this Chapter.
- Local municipality** **203.** A prosecution by a local municipality may be brought in a municipal court having jurisdiction in the area where the offence was committed.
- Costs** The costs shall be the property of the municipality to which is attached the municipal court hearing the case.
- Notice** **204.** The prosecution may be commenced by notice of the offence handed to or otherwise served on the offender. The notice has the effect of an information.
- Notice** **205.** The notice of offence shall describe the offence, specify the minimum fine and the costs set by Government regulation, advise the offender where payment of the required amount within 30 days may be made and provide all other relevant information.

- Payment** **206.** An offender who pays the required amount at the prescribed place within the time limit is deemed to have pleaded guilty; but such payment does not constitute an admission of civil liability.
- Summons** On failure to make such payment, the notice of offence shall be laid before a justice of the peace who, if he thinks fit, will issue a summons.
- Service of notice** **207.** Failure to serve a notice of offence may not be pleaded against the prosecutor, nor is it necessary to allege or prove that the notice was served.
- Maximum amount** An offender appearing and pleading guilty and proving that such notice was not served, may not be ordered to pay an amount greater than he would have had to pay under the notice of offence.
- Subsequent conviction** **208.** Sections 204 to 207 do not apply in the case of a subsequent conviction within two years of a first conviction for the same offence.
- Prosecution** **209.** A prosecution under this Act may be brought by the Attorney-General, by the Commission or by a local municipality, where an agreement has been entered into under section 132, or by any person generally or specifically authorized by any of them in that behalf, or by any interested party. In the last case, sections 189 to 192 do not apply.
- Building for public use** **210.** For the purposes of sections 16 and 17 of the Summary Convictions Act, a building or facility intended for use by the public is deemed to be the owner's place of business or business office, as the case may be.
- Fines** **211.** Fines imposed, except the portion that the Government may allocate to the Commission, are the property of the Crown and shall be paid into the consolidated revenue fund.
- Prosecution** **212.** A prosecution must be commenced within six months from the time the prosecutor comes to know of the offence.
- Evidence** **213.** No evidence may be led to show that an inquiry or proceeding under this Act was undertaken following information obtained from any person or to ascertain the identity of that person.

CHAPTER X

TRANSITIONAL AND FINAL

DIVISION I

TRANSITIONAL

Acts
replaced

214. This Act replaces the Act respecting pressure vessels (R.S.Q., chapter A-20.01), the Gas Distribution Act (R.S.Q., chapter D-10), the Act respecting the conservation of energy in buildings (R.S.Q., chapter E-1.1), the Act respecting piping installations (R.S.Q., chapter I-12.1), the Act respecting electrical installations (R.S.Q., chapter I-13.01), the Stationary Enginemen Act (R.S.Q., chapter M-6), the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1) and the Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18).

Regulation
in force

215. Any provision of a regulation made under the Acts covered by sections 214 and 282 remains in force in so far as it is consistent with this Act.

Order and
schedules in
force

216. Notwithstanding section 215, the Order respecting certificates of competence with respect to gas (R.R.Q., 1981, chapter D-10, r. 2), except for category 311 under the heading “300 — Distribution” of section 1, Schedule A and the list of categories in Schedule B, sections 17 and 32 of the Regulation respecting gas and public safety (R.R.Q., 1981, chapter D-10, r. 4), sections 28 to 39 and 41 to 60 of the Regulation respecting stationary enginemen (R.R.Q., 1981, chapter M-6, r. 1) and Schedule D to that regulation remain in force in so far as they are consistent with the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5).

Certificate
of qualifica-
tion

Such provisions are deemed to have been made under the Act respecting manpower vocational training and qualification and a certificate of qualification or competence issued under such provisions has the effect of a certificate of qualification required by that Act.

R.R.Q.,
1981, c.
Q-2, r. 15,
repealed

217. The Regulation respecting dwellings in general (R.R.Q., 1981, chapter Q-2, r. 15) made under the Public Health Act (Revised Statutes, 1964, chapter 161) and transferred to the responsibility of the Minister of the Environment pursuant to section 123.3 of the Environment Quality Act (R.S.Q., chapter Q-2) is repealed.

ACT TO PROMOTE HOUSING CONSTRUCTION

c. C-64.01,
s. 1.1, am. **218.** Section 1.1 of the Act to promote housing construction (R.S.Q., chapter C-64.01) is amended by substituting “Building Act (1985, chapter 34), the Master Electricians Act (R.S.Q., chapter M-3) or the Master Pipe-Mechanics Act (R.S.Q., chapter M-4)” for “Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1)” in the third and fourth lines of the first paragraph.

c. C-64.01,
s. 8.1, am. **219.** Section 8.1 of the said Act is amended by substituting “Building Act, the Master Electricians Act or the Master Pipe-Mechanics Act” for “Act respecting building contractors vocational qualifications” in the second and third lines of the first paragraph.

REAL ESTATE BROKERAGE ACT

c. C-73, s.
1, am. **220.** Section 1 of the Real Estate Brokerage Act (R.S.Q., chapter C-73) is amended by replacing subparagraph *b* by the following subparagraph:

“real estate agent” “(b) “real estate agent” means any natural person who, as an employee or a person authorized to act on behalf of a broker or a registered builder contemplated in section 3, carries out a real estate transaction;”.

c. C-73, s.
6, am. **221.** Section 6 of the said Act is amended by replacing subsections 1 and 2 by the following subsections:

Application
for permit **“6. (1) Every applicant for a permit or registration certificate or for the renewal thereof shall send his application to the Superintendent in the form prescribed by regulation, with the documents and contribution to the indemnity fund prescribed by this Act and the regulations thereunder.**

Application
for permit **“(1.1) Every applicant for a broker’s permit, or registration certificate or for the renewal thereof shall also send, with his application,**

(a) his financial statements in the form prescribed by regulation;

(b) a contract of insurance establishing, on the terms and conditions prescribed by regulation, a guaranty against professional liability which he may incur owing to his fault, error or omission or that of his employees or real estate agents in the performance of their duties;

(c) in cases determined by regulation, an auditor’s report of the accounting of his trust account transactions, prepared by a person who

is a member of a professional corporation of accountants contemplated in Schedule I to the Professional Code (R.S.Q., chapter C-26) and signed by him, the contents and form of which and the period covered by which are determined by regulation.

Security “(2) Every person who, in the year preceding his application, held in a trust account an amount exceeding the amount determined by regulation, or who intends to hold such an amount therein, shall also send with his application a security as an additional guaranty to that contemplated in Division III.2.

Terms and conditions The amount, form and terms and conditions of the security shall be determined by regulation.”

c. C-73, s. 7, replaced **222.** Section 7 of the said Act is replaced by the following sections:

Real estate agent's permit “**7.** No person may obtain a real estate agent's permit unless he is in the employ of a broker holding a permit or of a registered builder or unless he is authorized by contract to act on their behalf.

Single employment “**7.1** No person may be employed or authorized to act for more than one broker or registered builder.

Suspension of permit “**7.2** The cessation of employment of the agent or, as the case may be, the breach of the contract whereby he is authorized to act on behalf of the broker or registered builder shall of itself suspend the real estate agent's permit unless the cessation or breach results from a change of status with the same broker or registered builder.

Reinstatement The Superintendent, on request, may reinstate the permit when the real estate agent is again in the employ of a broker or of a registered builder or a party to a contract authorizing him to act on behalf of any of them.”

c. C-73, s. 8, replaced **223.** Section 8 of the said Act is replaced by the following sections:

Cessation of employment “**8.** Every broker or registered builder shall communicate forthwith to the Superintendent the name and address of every real estate agent who ceases to be in his employ or who ceases to act on his behalf, and also the cause of cessation of the employment or of the breach of contract.

Responsibility “**8.1** The broker or registered builder shall have the same responsibility in respect of the acts of the agent authorized to act on his behalf as in respect of the acts of the agent who is his employee.”

c. C-73, ss. 9.1-9.13, added **224.** The said Act is amended by inserting the following Division after section 9:

"DIVISION III.1

"RULES RESPECTING CERTAIN REAL ESTATE BROKERAGE CONTRACTS

Application **"9.1** This division applies to any contract made between a natural person and a broker, lawyer or notary under which the latter agrees to act as an agent for the sale, rental or exchange of:

(1) part or all of a chiefly residential immovable of less than five dwellings;

(2) a fraction of a chiefly residential immovable subject to a declaration of co-ownership covered by articles 441*b* to 442*p* of the Civil Code of Lower Canada.

Natural person **"9.2** The contract binds the natural person only when it is recorded in a document signed by himself and the broker or his agent.

Effect **"9.3** The contract has effect only upon receipt by the natural person of a duplicate of the contract signed by the broker or his agent.

Content of contract **"9.4** The contract shall be in writing and indicate:

- (1) the names and addresses of the parties in legible characters;
- (2) the date of the contract and the address at which it was signed;
- (3) the nature of the real estate transaction in question;
- (4) the cadastral designation and identification of the immovable in question, with the building erected thereon;
- (5) its irrevocability, if such is the case;
- (6) its exclusiveness, if such is the case;
- (7) the time of its expiry;
- (8) the purchase price, the exchange price or, as the case may be, the rental price of the immovable;
- (9) the nature and method of payment of the broker's remuneration;
- (10) any obligation on the part of the broker to send the particulars of the contract to a multiple listing service or a similar service of a real estate board or of any other agency for the purposes of distribution to members subscribing to such a service;

(11) any other matter determined by regulation.

Expiry “**9.5** Failing a stipulation as to the time of expiry of the contract, it shall expire 30 days after its making.

Automatic renewal “**9.6** The contract shall contain no stipulation for automatic renewal.

Remuneration “**9.7** Any agreement permitting a broker to take his remuneration in whole or in part out of funds to be held in trust is void.

Remuneration “**9.8** Any agreement binding a natural person, for a fixed period after the expiry of the contract, to remunerate the broker even if the sale, rental or exchange of an immovable is made after such expiry, is void.

Exception The first paragraph does not apply if the agreement provides that remuneration is due where

(1) the contract is exclusive;

(2) the sale, rental or exchange is made with a person who had an interest in the immovable during the term of the contract;

(3) the transaction is carried out not more than 180 days after the expiry date of the contract;

(4) during that period, the natural person did not enter into any exclusive contract for the sale, rental or exchange of the immovable with another broker.

Agreement “**9.9** The contract must specify that the broker is bound to submit to the natural person any agreement to buy, sell, rent or exchange the immovable in question.

Rescission “**9.10** Notwithstanding any stipulation to the contrary, the natural person may rescind the contract if he so desires within three juridical days of the day following that on which he receives a duplicate of the contract signed by both parties unless a waiver is written in its entirety by the person and signed.

Notice The contract is rescinded by the fact of and at the moment of sending or delivery of a notice in writing to the broker.

Remuneration “**9.11** A broker may not demand any remuneration after rescission of a contract effected in accordance with section 9.10 unless a sale, rental or exchange is made in accordance with section 9.8.

Cancellation “**9.12** The contract may not be set aside merely because a provision thereof contravenes this division.

Waiver “**9.13** The natural person may not, by special agreement, waive the rights given him by this division.”

c. C-73,
ss. 9.14-9.35,
added **225.** The said Act is amended by inserting, after section 9.13, the following division:

“DIVISION III.2

“INDEMNITY FUND

“§ 1.—*Establishment and organization*

Establishment “**9.14** The “Fonds d’indemnisation du courtage immobilier” is hereby established.

Corporation “**9.15** The fund is a corporation.

Head office “**9.16** The Government shall determine the location of the head office of the fund; a notice of its location and any change in the location of the head office shall be published in the *Gazette officielle du Québec*.

Administration “**9.17** The fund shall be administered by a board of directors consisting of seven members appointed by the Government.

Choice Three members shall be chosen from among holders of permits or registration certificates, after consultation with the Association de l’Immeuble du Québec.

Real estate brokerage Three members shall be persons who, by reason of their activities, are specially qualified to contribute towards solving problems related to real estate brokerage.

Public servant One member shall be a public servant designated by the Minister of Housing and Consumer Protection.

Fees and allowances The Government shall fix the fees or allowances of the members.

Term of office “**9.18** The members of the board of directors shall be appointed for two years. Their terms of office may be renewed.

Continuance in office Each member shall remain in office at the end of his term until he is replaced or reappointed.

Chairman and vice-chairman “**9.19** The members of the board of directors shall designate a chairman and a vice-chairman from among their number. Where the

chairman is absent or temporarily unable to act, the vice-chairman shall perform his duties.

Secretary “**9.20** The fund may appoint a secretary and any other employee for the performance of its duties.

Secretary “**9.21** The secretary and the other employees shall be appointed and remunerated in accordance with the standards, scales and staffing plan established by by-law of the fund.

Coming into force The by-law shall come into force from the date of its approval by the Government.

Meeting place “**9.22** The board of directors may hold meetings anywhere in Québec.

Quorum A majority of board members present at a meeting constitutes a quorum.

Tie In the event of a tie, the chairman has a casting vote.

Procedure “**9.23** The fund shall regulate its own procedure.

Coming into force The rules come into force on the date they are approved by the Government.

Effect “**9.24** A decision signed by all members of the board of directors has the same effect as if made at a regular meeting.

“§ 2.—*Purpose, duties and powers*

Purpose “**9.25** The purpose of the Fonds d’indemnisation du courtage immobilier is to administer a fund to guarantee the liability that may be incurred by a broker, a registered builder or an agent owing to fraud, dishonest transaction, or misappropriation of funds or other property that shall be deposited in a trust fund in accordance with this Act.

Duties “**9.26** According to the terms and conditions and the rules determined by regulation of the Government, the fund shall

(a) administer the indemnity fund;

(b) rule on the admissibility for payment of claims against a broker, registered builder or real estate agent;

(c) decide every payment or outlay to be made out of the fund;

(d) invest the amounts constituting the fund.

Composition
of fund

“9.27 The fund shall be constituted of

(a) contributions imposed for that purpose and fixed by regulation of the Government;

(b) amounts recovered from a broker, registered builder or real estate agent under a subrogation;

(c) interest yielded on the sums of money constituting the fund;

(d) the increase of the assets of the fund.

Subrogation

“9.28 The fund is subrogated to the rights of an indemnified person up to the indemnity paid.

“§ 3.—Documents, accounts and reports

Fiscal year

“9.29 The fiscal year of the fund shall end on 31 March each year.

Signature

“9.30 No deed, document or writing shall bind the fund unless signed by the chairman or the secretary.

Authenticity

“9.31 A document or a copy thereof issued by the fund or kept in its records, if signed or certified true by a person covered by section 9.30, proves itself.

Financial
statements

“9.32 The fund shall submit to the Minister, by 31 July of each year, its financial statements together with a report of its activities for the past fiscal year. The financial statements and report must contain all the particulars required by the Minister.

Tabling

The Minister shall table the report and financial statements in the National Assembly within 30 days of their receipt, if it is sitting, or within 30 days of the resumption of a session or the opening of a new session, if it is not sitting.

Information
to Minister

“9.33 The fund shall also provide the Minister with all particulars he requires concerning its activities.

Advice and
measures

The Minister may request from the fund any advice regarding the administration of the Act and measures designed to promote the protection of persons who are parties to real estate transactions.

Audit

“9.34 The Auditor-General shall audit the books and accounts of the fund annually and whenever the Government so orders, but the Government may designate another auditor.

Report The report of the Auditor-General or auditor designated by the Government shall accompany the report of the activities and financial statements of the fund.

Claim “**9.35** The fund shall be bound to pay a claim only after all the security from a broker, registered builder or agent existing on (*insert here the date of coming into force of section 225 of the Building Act*) has been used up.”

c. C-73, s. 11.1, added
226. The following is inserted after section 11:

Record “**11.1** The broker shall record in writing the circumstances in which the amounts paid into the trust account may be applied.

Signature The document must bear the signature of each of the parties to the real estate transaction and that of the broker or of his agent.”

c. C-73, s. 12, replaced
227. The following is substituted for section 12:

Real estate transaction “**12.** A registered builder and any other person carrying out a real estate transaction for another and for remuneration shall also be subject to sections 10 to 11.1.

Professional corporation Notwithstanding the foregoing, any person covered by section 5 who is a member of a professional corporation within the meaning of the Professional Code (R.S.Q., chapter C-26) whose regulations require the keeping of a trust account, prescribe its inspection or audit, and provide for the punishment of offences by a disciplinary tribunal accessible to any complainant, is not subject to sections 10 and 11.”

c. C-73, s. 13, am.
228. Section 13 of the said Act is amended

(1) by replacing subparagraphs *e*, *f* and *g* of the first paragraph by the following subparagraphs:

“(e) any broker or registered builder who, for the purposes of a real estate transaction,

(i) employs a real estate agent in the employ of another broker or registered builder or a real estate agent who does not hold a permit, or who authorizes him to act on his behalf; or

(ii) pays or offers or promises to pay him a remuneration;

“(f) any real estate agent

(i) who takes part in a real estate transaction on behalf of a broker or registered builder other than his employer or the employer on behalf of whom he is authorized to act by contract; or

(ii) who agrees to receive a remuneration from such broker or registered builder;

“(g) any corporation or firm holding a broker’s permit or registration certificate that acts as a broker through a person other than its designated representative, a real estate agent in its employ or authorized by contract to act on its behalf, or a broker holding a permit;”;

(2) by inserting the following after subparagraph *k* of the first paragraph:

“(l) any person who, when performing an act covered by section 4,

(i) does not disclose a material fact;

(ii) makes a false or misleading representation.”;

(3) by inserting the following after the second paragraph:

“To determine whether a representation is false or misleading, the general impression it gives and, in a fit case, the literal meaning of the terms used shall be taken into consideration.”

False
representa-
tion

c. C-73, s.
20, am.

229. Section 20 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) the qualifications required of any person applying for a permit or registration certificate or a renewal or reinstatement, the conditions he must comply with, the financial statements, the information and the documents he must produce, the courses and professional training programs he shall take, the case where he shall undergo an examination and the fees he must pay;”;

(2) by inserting the following after subparagraph *i*:

“(j) the form and the minimum content of the real estate brokerage contract covered by Division III.1 after consultation with the Association de l’Immeuble du Québec;

“(k) the value of the bank balance of a trust account in excess of which a security is exigible from a broker or registered builder;

“(l) the amount, the form and the terms and conditions of the security to be provided by every person applying for a broker’s permit or registration certificate or the renewal thereof, according to the amounts he has held or intends to hold in a trust account;

“(m) the cases where a person applying for a broker’s permit or registration certificate or the renewal thereof shall provide an auditor’s report of the accounting of its trust account transactions, and the content and form of the report and the period it shall cover;

“(n) the terms and conditions of the claims and indemnities, and the rules governing the administration and investment of the amounts constituting the fund;

“(o) the contributions to the fund, and the terms and conditions of payment thereof, made by a person applying for a permit or a registration certificate or the renewal thereof, and the classes of permits and registration certificates for the purpose of fixing the contributions to be paid upon the establishment of the fund;

“(p) special contributions to the fund, and the terms and conditions of payment thereof, made by every person holding a permit or a registration certificate in force when the amount constituting the fund is less than the minimum amount fixed;

“(q) the conditions enabling the Minister to authorize the fund to use the interest yielded on the sums of money constituting it for the purposes of research, training and information in the field of real estate brokerage or in related activities.”

MASTER ELECTRICIANS ACT

c. M-3, s. 1,
am.

230. Section 1 of the Master Electricians Act (R.S.Q., chapter M-3) is amended by:

- (1) repealing paragraph 2;
- (2) substituting “the Building Code authorized by section 13 of the Building Act (1985, chapter 34)” for “the electricity code, approved by the Bureau des examinateurs du Québec” in subparagraph *a* of paragraph 6;
- (3) substituting “of the Commission du bâtiment du Québec” for “of the Bureau des examinateurs électriciens du Québec” in subparagraph *e* of paragraph 7;

(4) substituting “this Act” for “the Act respecting building contractors vocational qualifications (chapter Q-1)” in subparagraph *g* of paragraph 7.

c. M-3, s. 5,
am. **231.** Section 5 of the said Act is amended by striking out “with the Act respecting building contractors vocational qualifications (chapter Q-1) and”.

c. M-3, s. 9,
am. **232.** Section 9 of the said Act is amended by inserting “to define more specifically the qualifications for being a master electrician” in the fifth line after “interest to them”.

c. M-3, s.
11, replaced

Powers and
immunity **233.** Section 11 of the said Act is replaced by the following section:

“**11.** The corporation or a person it designates may inquire into any question relating to this Act. For that purpose, the corporation or the person shall be vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.”

c. M-3, s.
12, am. **234.** Section 12 of the said Act is amended:

(1) by substituting the following for subparagraph *c* of paragraph 1:

“(c) requirements for the practice of the trade;

“(c.1) the qualifications, proficiency, admission, discipline, suspension and expulsion of members of the Corporation;

“(c.2) the subject matter of examinations, particularly those pertaining to administrative and technical knowledge or to safety on construction sites, requirements governing eligibility for and exemption from an examination or any other method of evaluation;”;

(2) by replacing the words “entrance dues” in subparagraph *e* of paragraph 1 by the words “entrance dues and examination fees”;

(3) by inserting the following subparagraphs after subparagraph *i* of paragraph 1:

“(j) the other qualifications required of a natural person applying for a licence for himself or on behalf of a partnership or a corporation, the conditions to be met and the particulars to be provided;

“(k) the other qualifications required of a natural person, partnership or corporation applying for the issue or the renewal of a licence and the other conditions to be met and the particulars to be provided;

“(l) the cases where a person other than an officer may apply for a licence on behalf of a partnership or legal person;

“(m) the cases where a natural person may apply for a licence on behalf of more than one partnership or corporation;

“(n) the cases where a person may hold a licence while applying for a licence on behalf of a partnership or a corporation;

“(o) the cases where a natural person may hold more than one licence;

“(p) the conditions and procedures for the issue, the amendment or the renewal of a licence or a temporary licence, the setting of the fees payable for such issue, amendment or renewal and the determination of cases where such fees may be collected;

“(q) the classes and subclasses of licences and the fees payable for each class or subclass of licence and the determination of the cases where such fees may be collected;”;

(4) by inserting the following after paragraph 3:

“(4) set up, by regulation, a plan guaranteeing the discharge of the legal and contractual obligations of a master electrician in respect of work related to electrical installations and in particular, the obligation to comply with the Building Code.

Provisions
of regula-
tion

The regulation shall provide in particular that:

(a) the guaranty plan be managed by a person separate from the corporation, designated by the latter and meeting the qualifications required of a person covered by paragraph 1 of section 81 of the Building Act, and the conditions to be met by such person and the particulars to be provided;

(b) the management of the plan come under the supervision of the Commission.”

c. M-3, ss.
12.1-13,
replaced

235. The following sections are substituted for sections 12.1 to 13:

Publication

“**12.1** Every regulation of the council shall be forwarded to the Minister who will cause it to be published in the *Gazette officielle du Québec* with a notice indicating that it will be submitted to the Government for approval upon the expiry of a period of 60 days after such publication. The Government may amend a regulation submitted to it for approval.

Coming into
force

“12.2 Every regulation, after approval with or without amendment by the Government, shall come into force on the thirtieth day following its publication in the *Gazette officielle du Québec*, or at any later date fixed in the notice or in the final text.

Applicable
provisions

“13. Chapter IV of the Building Act, except for sections 43, 48 and 49, applies *mutatis mutandis* to any applicant for a licence for work on electrical installations.

Suspension,
cancellation
or refusal

“13.1 The Commission shall refer to the Corporation if it is of the opinion that facts within its knowledge may warrant the suspension, cancellation or refusal to renew a licence.

Ruling

The Corporation shall make a ruling within 60 days of receipt of the reference from the Commission, after having allowed the latter to make representations.”

c. M-3, s.
14, am.

236. Section 14 of the said Act is amended by substituting “of a certain number of members of the Corporation, as shall from time to time be determined by regulation of the council, of a person delegated by the Commission and of a person appointed by it who does not work in the construction industry” for “of a certain number of members of the Corporation, as shall from time to time be determined by the regulations of the council” in the third, fourth and fifth lines.

c. M-3, ss.
14.1-14.4,
added

237. The following sections are inserted after section 14:

Term of
office

“14.1 The delegate of the Commission and the member it appoints shall be appointed for the same term as elected or designated members.

Duties and
powers

The delegate and the appointed member perform the same duties, enjoy the same powers and are subject to the same obligations as elected or designated members, except that of electing other members of the council.

Attendance
allowance

“14.2 A member appointed by the Commission is entitled, to the extent and under the conditions set by Government regulation, to an attendance allowance and to the reimbursement of reasonable expenses incurred by him in the performance of his duties.

Vacancy

“14.3 Any vacancy occurring during the term of the delegate or of the appointed member shall be filled in accordance with the procedure prescribed by section 14.

Absence

“14.4 Where the delegate or any member appointed by the Commission fails to attend three consecutive meetings of the council

without an excuse considered valid by the council he shall be replaced in accordance with the procedure prescribed by section 14.1.”

c. M-3, ss.
17.1-17.5,
added

238. The following headings and sections are inserted after section 17:

“EXECUTIVE COMMITTEE

Duties and
powers

“**17.1** An executive committee shall see to the day to day management of the business of the Corporation and may exercise any power the council may delegate to it, except the powers the latter is required to exercise by regulation.

Members

“**17.2** The executive committee shall be composed of members elected by the general meeting of the Corporation; at least one member shall be elected from among the members appointed by the Commission and its delegate.

Vacancy

“**17.3** Any vacancy among the members of the executive committee shall be filled according to the procedure prescribed by by-law of the Corporation or, in the case of vacancy in the office of the appointed member or of the delegate of the Commission, it shall be filled by the Commission.

Absence

“**17.4** A member of the executive committee is deemed to have resigned his position if he fails to attend three consecutive meetings without an excuse considered valid by the committee; he shall be replaced as if his position had fallen vacant.

Non-
members

“**17.5** A member of the executive committee who is not a member of the Corporation shall be called to a general meeting of the Corporation in the same manner as the members; he shall be entitled to speak but not to vote.

“EXCLUSIVE PRACTICE AND DEROGATORY ACTS”.

c. M-3, s.
20, am.

239. Section 20 of the said Act is amended by substituting the following for paragraph 1:

“(1) being found guilty by a court of or having pleaded guilty to an offence against the Building Act;”.

c. M-3,
heading,
added

240. The following heading is inserted after section 20:

“REVIEW, APPEAL AND INQUIRY”.

c. M-3, ss.
20.1-23,
replaced

241. The following sections are substituted for sections 20.1 to 23:

Review

“20.1 Any interested party may apply for review of a ruling of the Corporation.

Application

“20.2 An application for review of a ruling must be submitted to the Corporation within 30 days of its date.

Hearing

“20.3 Before ruling on the review, the Corporation shall allow the interested party an opportunity to present his point of view.

Review

“20.4 The person who made the ruling under review may not himself review the ruling.

Powers

“20.5 The Corporation may affirm, reverse or vary the ruling under review.

Appeal

“20.6 Any interested party may appeal to the Provincial Court from a ruling of the Corporation upon any question of law, jurisdiction or fact.

Applicable
provisions

“20.7 Sections 166 to 172 of the Building Act apply *mutatis mutandis* to an appeal under section 20.6.

Inquiry

“20.8 The Commission may, of its own motion or on invitation by the Minister, inquire into any matter related to the administration or to the activities of the Corporation or to the conduct of members of the council; it shall report to the Minister.

Suspension

“20.9 The Minister may, if he finds that the report of the Commission so warrants, order that the powers of the council and of the executive committee be suspended and appoint an administrator who shall exercise those powers for such time as the Minister may determine.

Extension

The Minister may extend the period as he finds necessary.

“ANNUAL REPORT

Report of
activities

“20.10 The Corporation shall submit to the Minister, not later than 31 October each year, a report on its activities for the preceding fiscal year.

Content

The report shall indicate the number of licences issued during the preceding fiscal year, and contain such other particulars as may be required by Government regulation.

Tabling **“20.11** The Minister shall table the report on the activities of the Corporation in the National Assembly, within 30 days of its receipt, if it is sitting, or if it is not sitting, within 30 days of the resumption of its proceedings or the opening of the following session.

“PROSECUTIONS AND PENALTIES

Fines **“21.** Whoever is not a member in good standing of the Corporation is liable to a fine of between \$500 and \$1 000 in the case of an individual and to a fine of between \$1 000 and \$2 000 in the case of a corporation, in addition to costs, if:

(1) he carries on business in Québec as a master electrician;

(2) he gives the impression or allows it to be presumed or wrongly believed that he is entitled to carry on the trade of a master electrician or if he wrongfully assumes the style of master electrician or electrical contractor.

Fines **“21.1** Every person who contravenes any provision of section 46, 53, 54, 56, 63, 64, 67 or 69 of the Building Act is guilty of an offence under this Act and the offender is liable to the fine prescribed by section 21, in addition to costs.

Prosecution **“21.2** Any prosecution under sections 21 and 21.1 shall be brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) and this Division.

Notice **“21.3** The prosecution may be commenced by notice of the offence handed to or otherwise served on the offender. The notice has the effect of an information.

Content **“21.4** The notice of offence shall describe the offence, specify the minimum fine and the costs set by Government regulation, advise the offender where payment of the required amount within 30 days may be made and provide all other relevant information.

Payment **“21.5** An offender who pays the required amount at the prescribed place within the time limit is deemed to have pleaded guilty; but such payment does not constitute an admission of civil liability.

Summons On failure to make such payment, the notice of offence shall be laid before a justice of the peace who, if he thinks fit, will issue a summons.

Service of notice **“21.6** Failure to serve a notice of offence may not be pleaded against the prosecutor nor is it necessary to allege or prove that the notice was served.

Maximum
amount

An offender appearing and pleading guilty and proving that such notice was not served, may not be ordered to pay an amount greater than he would have had to pay under the notice of offence.

Prosecution

“22. A prosecution under this Act, except for section 28, may be brought by the Attorney-General, by the Corporation on resolution of the council, by any other person generally or specially authorized by either in that behalf or by any interested party. In the last case sections 21.3 to 21.6 do not apply.

Fines

“22.1 Fines imposed are the property of the Crown and shall be paid into the Consolidated Revenue Fund or, in the case of a prosecution brought by the Corporation, to the Corporation.

Report

In the last case, the Corporation shall, each year, make a report of the convictions to the Attorney-General.

Time limit

“23. The prosecution must be commenced within six months from the time the prosecutor comes to know of the offence.”

c. M-3, s.
31, am.

242. Section 31 of the said Act is amended by replacing paragraph *f* by the following paragraph:

“(f) to owner-builders within the meaning of the Building Act;”.

c. M-3, s.
31.1, added

243. The said Act is amended by inserting, after section 31, the following heading and section:

“FINAL PROVISIONS

Term of
licence

“31.1 Any licence issued under the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1) remains in force until the date on which it would have expired under the said Act and its holder may, until such date, carry out the operations authorized under such licence, subject to this Act or its regulations.”

MASTER PIPE-MECHANICS ACT

c. M-4,
heading,
added

244. The Master Pipe-Mechanics Act (R.S.Q., chapter M-4) is amended by inserting the following heading after its title:

“INTERPRETATION”.

c. M-4, s. 1,
am.

245. Section 1 of the said Act is amended:

(1) by substituting “Commission” for “board of examiners” in the second line of subparagraph *d* of paragraph 5;

(2) by substituting “the Building Code authorized by section 11 of the Building Act (1985, chapter 34)” for “the Plumbing Code applied by the board of examiners” in the second sentence of paragraph 6;

(3) by substituting the following for paragraph 11:

“Commission”
“(11) “Commission” means the Commission du bâtiment du Québec set up under section 87 of the Building Act;”;

(4) by repealing paragraphs 12 and 13.

c. M-4,
heading,
added
246. The following heading is inserted after section 2:

“CREATION OF THE CORPORATION”.

c. M-4, s. 5,
am.
247. Section 5 of the said Act is amended by striking out the words “with the Act respecting building contractors vocational qualifications (chapter Q-1) and”.

c. M-4,
heading,
added
248. The following heading is inserted after section 7:

“PURPOSE”.

c. M-4, s. 8,
am.
249. Section 8 of the said Act is amended by inserting “to define more specifically the qualifications required to become a master pipe-mechanic, and the obligations and liabilities of the trade” after the word “interests” in the sixth line.

c. M-4,
heading,
added
250. The following heading is inserted after section 8:

“POWERS OF THE CORPORATION”.

c. M-4,
s. 9.1,
heading,
added
251. The said Act is amended by inserting after section 9 the following section and heading:

Inquiry
“**9.1** The Corporation or a person it designates may inquire into any question relating to this Act. For that purpose, the Corporation or the person shall be vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

“POWERS OF THE COUNCIL”.

c. M-4, s.
10, am.
252. Section 10 of the said Act is amended:

(1) by substituting “this Act” for “the Act respecting building contractors vocational qualifications (chapter Q-1)” in the third and fourth lines of the first paragraph;

(2) by repealing the second and third paragraphs.

c. M-4, s.
11, am.

253. Section 11 of the said Act is amended:

(1) by substituting the following subparagraphs for subparagraph *c* of paragraph 1:

“(c) requirements for the practice of the trade;

“(c.1) the qualification, proficiency, admission, discipline, suspension and expulsion of the members of the Corporation;

“(c.2) the subjects covered by the examinations, particularly those pertaining to administrative and technical knowledge or knowledge related to safety on construction sites, requirements governing eligibility for or exemption from an examination or any other method of evaluation;”;

(2) by replacing the words “the entrance dues” in subparagraph *e* of paragraph 1 by the words “the entrance dues and examination fees”;

(3) by inserting the following subparagraphs after subparagraph *i* of paragraph 1:

“(j) the other qualifications required of a natural person applying for a licence for himself or on behalf of a partnership or a corporation, the other conditions to be met and the particulars to be provided;

“(k) the other qualifications required of a natural person, partnership or corporation applying for the issue or the renewal of a licence, the other conditions to be met and the particulars to be provided;

“(l) the cases where a person other than an officer may apply for a licence on behalf of a partnership or legal person;

“(m) the cases where a natural person may apply for a licence on behalf of more than one partnership or corporation;

“(n) the cases where a person may hold a licence while applying for a licence on behalf of a partnership or corporation;

“(o) the cases where a person may hold more than one licence;

“(p) the conditions and procedures for the issue, amendment or renewal of a licence or of a temporary licence, the setting of the fees payable for such issue, amendment or renewal and the determination of cases where such fees may be collected;

“(q) the classes and subclasses of licences and the fees payable for each class or subclass of licence and the determination of the cases where such fees may be collected;”;

(4) by substituting the following for paragraphs 4 and 5:

“(4) set up, by regulation, a plan guaranteeing the discharge of the legal and contractual obligations of a master pipe-mechanic in respect of piping installation work and, in particular the obligation to comply with the Building Code.

Provisions
of regula-
tion

The regulation shall provide in particular that:

(a) the guaranty plan be managed by a person separate from the Corporation, designated by the latter and meeting the qualifications required of a person covered by paragraph 1 of section 81 of the Building Act, and the conditions to be met by such person and the particulars to be provided;

(b) the management of the plan come under the supervision of the Commission.”

c. M-4,
ss. 11.1,
11.2,
replaced
Publication

254. The following sections are substituted for sections 11.1 and 11.2:

“**11.1** Every regulation of the council shall be sent to the Minister who will cause it to be published in the *Gazette officielle du Québec* with a notice indicating that it will be submitted to the Government for approval at the expiry of a period of 60 days from such publication. The Government may amend a regulation thus submitted for approval.

Coming into
force

“**11.2** Every regulation, after approval with or without amendment by the Government, shall come into force on the thirtieth day following its publication in the *Gazette officielle du Québec* or at any later date fixed in the notice or in the final text.

Applicable
provisions

“**11.3** Chapter IV of the Building Act, except for sections 43, 48 and 49, applies *mutatis mutandis* to any applicant for a licence for piping installation work.

Suspension,
cancellation
or refusal

“**11.4** The Commission shall refer to the Corporation if it is of the opinion that facts within its knowledge may warrant the suspension, cancellation or refusal to renew a licence.

Ruling The Corporation shall make a ruling within 60 days following the receipt of the reference from the Commission, after having allowed the latter to make representations.”

c. M-4, s. 12, am. **255.** Section 12 of the said Act is amended:

(1) by substituting “, of a certain number of members of the Corporation, as shall from time to time be determined by the regulations of the Corporation, of a person delegated by the Commission and of a person appointed by it who does not work in the construction industry” for the words “and of a certain number of members of the corporation, as shall from time to time be determined by the regulations of the corporation” in the third, fourth and fifth lines;

(2) by striking out “; but these regulations and amendments thereto shall have force and effect only after having been approved by the Government” in the tenth and eleventh lines.

c. M-4, ss. 12.1-12.4, added **256.** The following sections are inserted after section 12:

Term of office “**12.1** The delegate of the Commission and the member it appoints shall be appointed for the same term as elected or designated members.

Duties and powers The delegate and the appointed member perform the same duties, enjoy the same powers and are subject to the same obligations as elected or designated members, except that of electing the other members of the council.

Attendance allowance “**12.2** The member appointed by the Commission is entitled, to the extent and under the conditions set by Government regulation, to an attendance allowance and to the reimbursement of reasonable expenses incurred by him in the performance of his duties.

Vacancy “**12.3** Any vacancy occurring during the term of the delegate or of the appointed member shall be filled in accordance with the procedure prescribed by section 12.

Absence “**12.4** Where the delegate or any member appointed by the Commission fails, without an excuse considered valid by the council, to attend three consecutive meetings of the council, he shall be replaced in accordance with section 12.1.”

c. M-4, ss. 14.1-14.5, added **257.** The following headings and sections are inserted after section 14:

“EXECUTIVE COMMITTEE

Duties and
powers

“14.1 An executive committee shall see to the day to day management of the business of the Corporation and may exercise any power the council may delegate to it, except the powers the latter is required to exercise by regulation.

Members

“14.2 The executive committee shall be composed of members of the council; at least one member must be elected from the member appointed by the Commission or its delegate.

Vacancy

“14.3 Any vacancy among the members of the executive committee shall be filled by the council or, in the case of vacancy in the office of the appointed member or of the delegate of the Commission, it shall be filled by the Commission.

Absence

“14.4 A member of the executive committee is deemed to have resigned his position if he fails to attend three consecutive meetings without an excuse considered valid by the committee; he shall be replaced as if his position had fallen vacant.

Non-
member

“14.5 A member of the executive committee who is not a member of the Corporation shall be called to a general meeting of the Corporation in the same manner as the members; he shall be entitled to speak but not to vote.

“EXCLUSIVE PRACTICE AND DEROGATORY ACTS”.

c. M-4, s.
15, am.

258. Section 15 of the said Act is amended by substituting the following for subparagraph *c*:

“(c) to owner-builders within the meaning of the Building Act;”.

c. M-4, s.
18, replaced

259. The following is substituted for section 18:

Piping
installation

“18. This Act must not be so construed as to permit a member of the Corporation to carry out piping installation contrary to the Building Act.”

c. M-4, s.
19, am.

260. Section 19 of the said Act is amended by substituting the following for paragraph 1:

“(1) Being found guilty by a court of or having pleaded guilty to an offence against the Building Act;”.

c. M-4, ss.
19.1-21,
replaced

261. The following headings and sections are substituted for sections 19.1 to 21:

“REVIEW, APPEAL AND INQUIRY

- Review “**19.1** Any interested party may apply for review of a ruling of the Corporation.
- Application “**19.2** An application for review of a ruling must be submitted to the Corporation within 30 days of its date.
- Hearing “**19.3** Before ruling on the review, the Corporation shall allow the interested party an opportunity to present his point of view.
- Review “**19.4** The person who made the ruling under review may not himself review the ruling.
- Powers “**19.5** The Corporation may affirm, reverse or vary the ruling under review.
- Appeal “**19.6** Any interested party may appeal to the Provincial Court from a ruling of the Corporation upon any question of law, jurisdiction or fact.
- Applicable provisions “**19.7** Sections 166 to 172 of the Building Act apply *mutatis mutandis* to an appeal under section 19.6.
- Inquiry “**19.8** The Commission may, of its own motion or on invitation by the Minister, inquire into any matter related to the administration or to the activities of the Corporation or to the conduct of the members of the council; it shall report to the Minister.
- Suspension “**19.9** The Minister may, if he finds that the report of the Commission so warrants, order that the powers of the council and of the executive committee be suspended and appoint an administrator who shall exercise those powers for such time as the Minister may determine.
- Extension The Minister may extend the period as he finds necessary.

“ANNUAL REPORT

- Report of activities “**19.10** The Corporation shall submit to the Minister, not later than 31 October each year, a report on its activities for the preceding fiscal year.
- Content The report shall indicate the number of licences issued during the preceding fiscal year, and contain such other particulars as may be required by Government regulation.
- Tabling “**19.11** The Minister shall table the report on the activities of the Corporation in the National Assembly, within 30 days of its receipt,

if it is sitting, or if it is not sitting, within 30 days of the resumption of its proceedings or the opening of the following session.

“PROSECUTIONS AND PENALTIES

Fines

“**20.** Any person who is not a member in good standing of the Corporation is liable to a fine of between \$500 and \$1 000 in the case of an individual or between \$1000 and \$2000 in the case of a corporation, in addition to costs, if:

(1) he carries on business in Québec as a master pipe-mechanic;

(2) he gives the impression or allows it to be presumed or wrongly believed that he is entitled to carry on the trade of a master pipe-mechanic or wrongfully assumes the style of master pipe-mechanic or piping contractor.

Fines

“**20.1** Every person who contravenes any provision of section 46, 53, 54, 56, 63, 64, 67 or 69 of the Building Act is guilty of an offence under this Act and the offender is liable to the fine prescribed in section 20, in addition to costs.

Prosecution

“**20.2** Any prosecution under sections 20 and 20.1 shall be brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) and sections 20.3 to 20.5.

Notice

“**20.3** The prosecution may be commenced by notice of the offence handed to or otherwise served on the offender. The notice has the effect of an information.

Content

“**20.4** The notice of offence shall describe the offence, specify the minimum fine and the costs set by Government regulation, advise the offender where payment of the required amount within 30 days may be made and provide all other relevant information.

Payment

“**20.5** An offender who pays the required amount at the prescribed place within the time limit is deemed to have pleaded guilty; but such payment does not constitute an admission of civil liability.

Summons

On failure to make such payment, the notice of offence shall be laid before a justice of the peace who, if he thinks fit, will issue a summons.

Service of notice

“**20.6** Failure to serve a notice of offence may not be pleaded against the prosecutor nor is it necessary to allege or prove that the notice was served.

Maximum
amount

An offender appearing and pleading guilty and proving that such notice was not served, may not be ordered to pay an amount greater than he would have had to pay under the notice of offence.

Prosecution

"21. A prosecution under this Act, except for section 27, may be brought by the Attorney-General, by the Corporation upon a resolution of the council, or by any other person generally or specially authorized by either in that behalf, or by any interested party. In the last case, sections 20.3 to 20.6 do not apply.

Fines

"21.1 Fines imposed are the property of the Crown and shall be paid into the Consolidated Revenue Fund or, in the case of a prosecution brought by the Corporation, to the Corporation.

Report

In the last case, the Corporation shall, each year, make a report of the convictions to the Attorney-General.

Time limit

"21.2 The prosecution must be commenced within six months from the time the prosecutor comes to know of the offence."

c. M-4, s.
29.1, added

262. The following heading and section are inserted after section 29:

“FINAL PROVISIONS

Term of
licence

"29.1 Any licence issued under the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1) remains in force until the date on which it would have expired under the said Act and its holder may, until such date, carry out the operations authorized under such licence, subject to this Act or its regulations."

ACT RESPECTING THE MINISTÈRE DE
L'ÉNERGIE ET DES RESSOURCES

c. M-15.1, s.
12, am.

263. Section 12 of the Act respecting the Ministère de l'Énergie et des Ressources (R.S.Q., chapter M-15.1) is amended by substituting the following for paragraph 15:

"(15) the control of the quality of energy production and of the safe distribution of petroleum products;"

ACT RESPECTING THE MINISTÈRE DE L'HABITATION
ET DE LA PROTECTION DU CONSOMMATEUR

c. M-15.3, s.
7, replaced

264. The following is substituted for section 7 of the Act respecting the Ministère de l'Habitation et de la Protection du consommateur (R.S.Q., chapter M-15.3):

Government
policies

“7. The Minister shall prepare policies connected with housing, consumer protection and building, and propose them to the Government; he shall coordinate the carrying out of such policies.

Duties

He is also responsible for the administration of statutes respecting housing, consumer protection, real estate brokerage and building.”

c. M-15.3, s.
8, am.

265. Section 8 of the said Act is amended by substituting the following for paragraph 5.1:

“(5.1) ensuring the quality of construction work in buildings, facilities intended for use by the public or installations independent of a building;

“(5.2) ensuring the safety of persons who have access to a building, to a facility intended for use by the public or to an installation independent of a building;

“(5.3) granting better protection to consumers in the field of real estate;”.

SUMMARY CONVICTIONS ACT

c. P-15, s.
63.5, am.

266. Section 63.5 of the Summary Convictions Act (R.S.Q., chapter P-15) is amended by substituting “chapter IV of the Building Act (1985, chapter 34), the Master Electricians Act (chapter M-3), the Master Pipe-Mechanics Act (chapter M-4)” for “the Act respecting building contractors vocational qualifications (chapter Q-1)” in the fifth and sixth lines.

FIRE PREVENTION ACT

c. P-23,
s. 4, am.

267. Section 4 of the Fire Prevention Act (R.S.Q., chapter P-23) is amended by substituting “Building Act (1985, chapter 34)” for “Public Buildings Safety Act (chapter S-3)” in the first and second lines of subparagraph *b* and in the second line of paragraph *d*.

ACT RESPECTING PROBATION AND HOUSES OF DETENTION

c. P-26, s.
19.7, am.

268. Section 19.7 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is amended by substituting “chapter IV of the Building Act (1985, chapter 34), the Master Electricians Act (chapter M-3), the Master Pipe-Mechanics Act (chapter M-4)” for “the Act respecting building contractors vocational qualifications (chapter Q-1)” in the fifth and sixth lines.

CONSUMER PROTECTION ACT

c. P-40.1, s. 1, am. **269.** Section 1 of the Consumer Protection Act (R.S.Q., chapter P-40.1) is amended by substituting the following for paragraph *d*:

“goods” “(d) “goods” means any moveable property and, to the extent required for the application of section 6.1, any immoveable property;”.

c. P-40.1, s. 6, am. **270.** Section 6 of the said Act is amended by adding “, subject to section 6.1;” at the end of paragraph *b*.

c. P-40.1, s. 6.1, added **271.** The following is inserted after section 6:

Applicable provisions “**6.1** This title, title II respecting business practices, sections 264 to 267 and 277 to 290 of title IV, chapter I of title V and paragraphs *c*, *k* and *r* of section 350 also apply to the sale, lease or construction of an immoveable, but not to the acts of a broker or his agent governed by the Real Estate Brokerage Act (R.S.Q., chapter C-73) or to the leasing of an immoveable governed by articles 1650 to 1665.6 of the Civil Code of Lower Canada.”

c. P-40.1, s. 215, am. **272.** Section 215 of the said Act is amended by inserting the following in the first line after “sections 219 to 251”: “or, in case of the sale, lease or construction of an immoveable, in sections 219 to 222, 224 to 230, 232, 235, 236 and 238 to 243.”

c. P-40.1, s. 253, am. **273.** Section 253 of the said Act is amended by inserting the following at the end of the first line after “advertiser makes use of”: “a prohibited practice in case of the sale, lease or construction of an immoveable or, in any other case, of”.

ACT RESPECTING THE RÉGIE DE L'ÉLECTRICITÉ
ET DU GAZ

c. R-6, s. 19, am. **274.** Section 19 of the Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6) is amended by striking out paragraph *c*.

c. R-6, s. 23.1, added **275.** The following is inserted after section 23:

Unsafe installations “**23.1** Where the Commission du bâtiment du Québec considers that the installations of an electricity distributor are unsafe, it may recommend that the Board amend, not renew or cancel any license issued under section 21.”

c. R-6, s. 32, am. **276.** Section 32 of the said Act is amended by replacing the third paragraph by the following paragraph:

Revocation of right “The Government may, on the recommendation of the Board or of the Commission du bâtiment du Québec following an inquiry made by such body, revoke the right in the public interest.”

c. R-6, s. 32.1, added **277.** The following is inserted after section 32:

Safety “**32.1** Where the Commission du bâtiment du Québec considers that a gas conveyance or distribution system is unsafe, it may recommend to the Government the non-renewal or revocation of the exclusive right granted under section 32.”

c. R-6, s. 37, am. **278.** Section 37 of the said Act is amended by replacing the second paragraph by the following paragraph:

Applicable provisions “Sections 24 to 36 apply, *mutatis mutandis*, to the undertakings referred to in the first paragraph.”

ACT RESPECTING THE RÉGIE DU LOGEMENT

c. R-8.1, s. 78, am. **279.** The following is substituted for the first paragraph of section 78 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1):

Inspection report “**78.** A commissioner may decide that a report of inspection signed by an inspector of the Board, a person appointed by the Commission du bâtiment du Québec to investigate under the Building Act (1985, chapter 34), a municipal inspector or an inspector appointed under the Act respecting occupational health and safety (chapter S-2.1), the Environment Quality Act (chapter Q-2), the Act respecting the Société d’habitation du Québec (chapter S-8), shall be accepted in lieu of the testimony of such inspector.”

ACT RESPECTING LABOUR RELATIONS IN THE CONSTRUCTION INDUSTRY

c. R-20, s. 82, am. **280.** Section 82 of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) is amended by substituting “Building Act (1985, chapter 34)” for “Act respecting building contractors vocational qualifications (chapter Q-1)” in the first and second lines of subparagraph *b.1*.

c. R-20, s. 92, am. **281.** Section 92 of the said Act is amended by substituting “Building Act, the Master Electricians Act (R.S.Q., chapter M-3) or the Master Pipe-Mechanics Act (R.S.Q., chapter M-4)” for “Act

respecting building contractors vocational qualifications (chapter Q-1)” in the sixth and seventh lines of the second paragraph of subsection 4.

PUBLIC BUILDINGS SAFETY ACT

c. S-3, s. 1,
Div. II-VIII,
repealed **282.** The Public Buildings Safety Act (R.S.Q., chapter S-3) is amended by repealing section 1 and Divisions II to VIII.

c. S-3, s.
2.1, added **283.** The following is inserted after section 2:
Effect **“2.1** This Act shall have effect only for the application of the following provisions:

- (1) section 16 of the Architects Act (R.S.Q., chapter A-21);
- (2) sections 69 and 71 of the Act to secure the handicapped in the exercise of their rights (R.S.Q., chapter E-20.1);
- (3) section 2 of the Engineers Act (R.S.Q., chapter I-9);
- (4) subparagraph 10 of paragraph 42 of section 336 of the Charter of the City of Québec (1929, chapter 95).”

ACT RESPECTING SAFETY IN SPORTS

c. S-3.1, s.
25, am. **284.** Section 25 of the Act respecting safety in sports (R.S.Q., chapter S-3.1) is amended by substituting the following for the second paragraph:

Powers **“The appointment carries the powers prescribed in sections 112 to 117 of the Building Act (1985, chapter 34).”**

DIVISION II

FINAL

Personnel **285.** The personnel of the Ministère de l’Habitation et de la Protection du consommateur charged with the administration of the Stationary Enginemen Act shall become the personnel of the Ministère de la Main-d’oeuvre et de la Sécurité du revenu, as may be decided by the Government.

Personnel **286.** The personnel of the Ministère de l’Habitation et de la Protection du consommateur discharging duties in the areas transferred to the Commission du bâtiment du Québec and in office on (*insert date of coming into force of this section*) shall become the personnel of the Commission du bâtiment du Québec, as may be decided by the Government.

Personnel

287. The personnel of the Régie des entreprises de construction du Québec in office on (*insert date of coming into force of this section*) shall become the personnel of the Commission du bâtiment du Québec.

Records and documents

288. The records and other documents of the Ministère de l'Habitation et de la Protection du consommateur relevant to the administration of the Acts covered by sections 214 and 282, of the Régie de l'électricité et du gaz relevant to the administration of the legislative provisions covered by section 294, and of the Régie des entreprises de construction du Québec shall become the records and documents of the Commission du bâtiment du Québec except as otherwise decided by the Government.

Pending matters

289. Matters pending before the Régie des entreprises de construction du Québec shall be continued and disposed of by the Commission du bâtiment du Québec except as otherwise decided by the Government.

Pending matters

290. Matters pending before the Labour Court under the Act respecting building contractors vocational qualifications shall be continued and disposed of by that court under the said Act.

Licence

291. A licence issued under the Act respecting building contractors vocational qualifications or the second paragraph of section 20 of the Act respecting electrical installations shall remain in force until the date on which it would have expired under that Act and its holder may conduct any business authorized under that licence until that date, subject to this Act or its regulations.

Licence

The same shall apply to a licence issued under the third paragraph of section 20 of the Act respecting electrical installations but only for electrical installation work carried out on electrical installations owned by the manufacturer of fixed prefabricated constructions.

Licence

292. A licence issued to a partnership or legal person under the Act respecting building contractors vocational qualifications shall remain in force until the date on which it expires even if the person authorizing the partnership or legal person is not an officer within the meaning of section 45.

Commission du bâtiment du Québec

293. The Commission du bâtiment du Québec shall replace the Régie des entreprises de construction du Québec and shall take over the rights and duties of the latter.

Commission
du bâtiment
du Québec

294. The Commission du bâtiment du Québec shall also take over the rights and duties of the Régie de l'électricité et du gaz under the Gas Distribution Act and paragraph *c* of section 19 and section 37 of the Act respecting the Régie de l'électricité et du gaz (R.S.Q., chapter R-6).

Identifica-
tion

295. The Commission is authorized to use any existing document or means of identification in the name of the Régie des entreprises de construction du Québec until they have been replaced by documents or means of identification prepared in the name of the Commission du bâtiment du Québec.

Identifica-
tion

The same shall apply to any document or means of identification of the Ministère de l'Habitation et de la Protection du consommateur relevant to the administration of the Acts listed in sections 214 and 282.

Appropriations

296. Any appropriations granted to the Ministère de l'Habitation et de la Protection du consommateur for matters transferred to the Minister of Labour and Income Security are transferred to the Ministère de la Main-d'oeuvre et de la Sécurité du revenu, as may be decided by the Government.

Appropriations

297. Any appropriations granted to the Ministère de l'Habitation et de la Protection du consommateur for matters transferred to the Commission du bâtiment du Québec are transferred to the Commission du bâtiment du Québec, as may be decided by the Government.

Minister
responsible

298. The Minister of Housing and Consumer Protection is responsible for the administration of this Act.

General
system

299. The Commission du bâtiment du Québec shall study the possibility of introducing a general system for reports of building work and the collection of any amount payable under an Act applicable in the building field.

Report

The Commission shall report its findings and recommendations to the Minister not later than (*insert date that is two years after the coming into force of this section*).

Task

The Government may extend the date, add details and specify the manner of performance of the Commission's task.

Exception

300. This Act shall have effect notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 of the Parliament of the United Kingdom statutes of 1982).

Coming into
force

301. This Act shall come into force on the date to be fixed by proclamation of the Government, except the sections excluded by the proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.

Coming into
force

Notwithstanding the foregoing, sections 77 and 78 shall not come into force before 1 July 1986.

Proclama-
tion

A proclamation shall state which provisions of the Acts listed in sections 214 and 282 are replaced by the sections of this Act that are brought into force by such proclamation.

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