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# NATIONAL ASSEMBLY

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FIFTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 53

## Building Act

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### Introduction

Introduced by  
**Mr. Jacques Rochefort**  
Minister of Housing and Consumer Protection

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Québec Official Publisher  
1985

## EXPLANATORY NOTES

*The purpose of this Bill is to ensure the proper quality of building work and the safety of persons who have access to buildings. It is also intended to provide better protection to consumers who acquire buildings or cause building work to be carried out.*

*The Bill brings together and standardizes the many laws that now provide for the drawing up of building and safety standards. It reduces government control over building and sets up procedures intended to enable persons working in the construction industry to accept greater responsibility.*

*The Bill preserves a qualification system for building contractors.*

*It also provides for setting up guaranty plans to compensate consumers where a contractor does not fulfil his contractual obligations.*

*As a matter of administration, the Bill gathers up the duties performed by various agencies or departments and entrusts them to the Commission du bâtiment. It provides for greater participation by contractors and their associations and trade and professional corporations, and by the municipalities in applying the law.*

*It amends the Consumer Protection Act and the Real Estate Brokerage Act with a view to regulating practices in real estate transactions.*

### ACTS AMENDED BY THIS BILL:

- (1) the Act to promote housing construction (R.S.Q., chapter C-64.01);
- (2) the Real Estate Brokerage Act (R.S.Q., chapter C-73);
- (3) the Master Electricians Act (R.S.Q., chapter M-3);
- (4) the Master Pipe-Mechanics Act (R.S.Q., chapter M-4);
- (5) the Act respecting the Ministère de l'Énergie et des Ressources (R.S.Q., chapter M-15.1);

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

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

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

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

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

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

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

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

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

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

**ACTS REPEALED BY THIS BILL:**

(1) the Act respecting pressure vessels (R.S.Q., chapter A-20.01);

(2) the Gas Distribution Act (R.S.Q., chapter D-10);

(3) the Act respecting the conservation of energy in buildings (R.S.Q., chapter E-1.1);

(4) the Act respecting piping installations (R.S.Q., chapter I-12.1);

(5) the Act respecting electrical installations (R.S.Q., chapter I-13.01);

(6) the Stationary Enginemen Act (R.S.Q., chapter M-6);

(7) the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1);

(8) the Act respecting municipal regulation of public buildings (R.S.Q., chapter R-18);



# Bill 53

## Building Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### APPLICATION AND INTERPRETATION

##### DIVISION I

##### APPLICATION

**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.

**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.

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

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

**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).

**5.** This Act shall bind the Government and its Departments and Agencies.

## DIVISION II

### INTERPRETATION

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

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

“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” 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” 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).

**7.** 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.

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

**9.** 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.

## CHAPTER II

### BUILDING WORK

#### DIVISION I

##### APPLICATION

**10.** 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

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

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

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

**14.** 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 and hygiene contained in the Building Code.

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.

**15.** 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 and hygiene contained in the Building Code in respect of building work to any contractor requesting it from him.

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.

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

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

**17.** 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.

He shall, no later than 60 days after the delivery of the building, forward to the owner a certificate of the building work's conformity with the Code.

**18.** Any person supplying a certificate of conformity under sections 14, 16 or 17 shall keep a copy thereof until the expiry of five years from its date.

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

**19.** 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.



**20.** 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.

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

**21.** 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

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

**23.** 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.

**24.** 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.

The program requires approval by the Commission.

### CHAPTER III

#### PUBLIC SAFETY

##### DIVISION I

##### APPLICATION

**25.** 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.

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.

**26.** 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

**27.** 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.

**28.** 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.

**29.** 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.

**30.** 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.

**31.** 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.

**32.** The owner of a building may not change its use or intended purpose without bringing it into accordance with the Building Code.

This section does not apply where the building becomes a building excluded under the first paragraph of section 25 by reason of a change in its use or intended purpose.

### DIVISION III

#### SPECIAL

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

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.

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

**35.** 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.

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

This section does not apply to a municipality, Hydro-Québec, a cooperative covered by 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

**37.** This Chapter applies to a contractor or an owner-builder who constructs or causes to be constructed a building or a civil engineering structure at the place of construction and on site, including preliminary ground preparation work.

**38.** 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, regional or municipal authority;

(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.

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.

**39.** 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).

**40.** 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).

**41.** 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

### LICENSES

#### § 1.—*General*

**42.** 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.

**43.** 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.

**44.** An owner-builder's licence is not required where the applicant:

- (1) has building work carried out by a licensed contractor;
- (2) is a natural person carrying out building work himself on a single-family dwelling, or a civil engineering structure intended for his personal use or the use of his family.

A natural person covered by subparagraph 2 must hold an owner-builder's licence to carry out building work on an installation intended to use gas or on an electrical installation.

#### § 2.—*Application for a licence*

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

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

**47.** 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.

**48.** Subject to any regulation made by the Commission under paragraph 11 and 12 of section 174, 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**

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

**50.** The Commission shall retain the ownership of the licence.

The holder of a licence may not transfer it.

**51.** A licence shall be issued upon payment of such fees as the Commission may by regulation prescribe, and for a term of one year.

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

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

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

(1) he shows that, following examinations prescribed by by-law 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 section 73;

(7) he has furnished the security required under section 82;

(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.

**53.** 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.

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 64, within less than three years or where the natural person held a licence so cancelled or not renewed.

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

**54.** 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 section 73;
- (5) it has furnished the security required under section 82;

(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.

**55.** 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 64 within less than three years;

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

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 64 within less than three years.

**56.** 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 64 within less than three years.

**57.** Subject to any regulation made by the Commission under paragraph 13 of section 174, a partnership or person may not hold more than one licence.

**58.** A person whose head office is outside Quebec and who wishes to carry out building work in Quebec 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.

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

He must also comply with sections 71 to 79 and section 82 and abide by such other conditions as the Commission may by regulation require.

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



After that period, the Provincial Court may, upon motion by a party, make any order it finds necessary and in particular the ruling which in its opinion should have been made in the first place.

Sections 156 to 162 apply *mutatis mutandis* to a motion under the second paragraph.

#### § 4.—*Registers and notices*

**60.** 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.

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

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

**63.** 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.

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

**64.** 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 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 115 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 74, and where the holder has not reimbursed the administrator of the plan.

**65.** 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) its participation in a guaranty plan covered by section 74 is terminated.

**66.** 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.

**67.** 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 participate in its management. In the case of the death of the natural person, the period shall be 90 days.

**68.** 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 124, unless it is renewed by the Commission.

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.

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

It shall deliver its ruling in writing, with reasons.

**70.** The Commission may issue to the trustee in bankruptcy or to the liquidator a temporary contractor's licence permitting the completion of the work covered by the licence.

## CHAPTER V

### FINANCIAL GUARANTEES

#### DIVISION I

##### GUARANTY PLANS

**71.** The Government may, by regulation, require that every contractor selling to a natural person, a non-profit organization or a cooperative, or constructing a new residential building of a class set by regulation of the Government, provide a contract guaranteeing that his contractual obligations will be carried out and that the building will be in accordance with the Building Code.

**72.** The Government may, by regulation, require that every contractor carrying out or causing to be carried out renovation, repair, maintenance or alteration work on a building or on a civil engineering structure for a natural person, a non-profit organization or a cooperative, provide a contract guaranteeing that his contractual obligations will be carried out and that the work will be in accordance with the Building Code.

**73.** A contractor required to provide a guaranty contract shall join a guaranty plan.

**74.** 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.

**75.** The person to whom a guaranty contract is to be offered shall be deemed to have accepted such contract in the absence of a waiver in writing.

**76.** A guaranty plan shall, in particular, provide an arbitration procedure enabling a contractor to attack a refusal or cancellation of his membership by the manager of the plan.

**77.** 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 Master Electricians Corporation or the 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.

**78.** 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 obligations of a contractor and of being in accordance with the Building Code mentioned in section 71 or work covered by section 72 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.

**79.** The Minister may withdraw his authorization of the manager mentioned in paragraph I of section 77 or in section 78 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

**80.** The Government may, by letters patent issued under the Great seal, incorporate a company to manage a guaranty plan. It may also amend previously issued letters patent by supplementary letters patent.

The purpose of the company shall be to manage a guaranty plan covered by section 74.

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.

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

**81.** 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.

[[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

**82.** The Government may, by regulation, require security from any contractor for the purpose of compensating the contractor's clients for building work not covered by a guaranty plan.

The carrying out of the contractual obligations and the breaches of the Building Code for which compensation is due shall be decided by regulation of the Government.

## CHAPTER VI

### COMMISSION DU BÂTIMENT

#### DIVISION I

##### CONSTITUTION AND ORGANISATION

**83.** There shall be a "Commission du bâtiment".

**84.** The Commission shall be a body corporate.

**85.** 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*.

**86.** The Commission shall be administered by a board of up to 15 directors, one of whom shall be chairman. The chairman of the board shall also be managing director of the Commission.

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

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

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

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

**90.** 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.

**91.** 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.

**92.** 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.

**93.** 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.

**94.** The position of chairman and of vice-chairman is full time.

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

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

**97.** 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.

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

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.

**98.** The Commission may hold meetings anywhere in Québec.

**99.** A board decision signed by all members has the same effect as if made at a regular meeting.

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

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

**101.** The Commission shall regulate its own procedure. The rules come into force on the date they are approved by the Government.

**102.** 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

**103.** The purpose of the Commission is to supervise the administration of this Act, particularly with a view to protecting the public.

**104.** In carrying out its purpose, the Commission shall, in particular, have the following responsibilities:

(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 and regional municipal authorities;

(5) to promote the training of persons working in the areas of construction and building safety, 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.

**105.** 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.

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

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



**108.** 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.

**109.** 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.

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

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

**112.** 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.

**113.** A gas distributor's agents checking gas installations or construction work shall have the powers and duties prescribed in sections 105 to 111.

**114.** The Commission may issue a remedial notice advising a person that he is not in conformity with this Act. The notice will indicate the steps required in order to conform to this Act and fix a time limit for compliance.

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

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

**116.** 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.

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.

The site may not be reopened or the installation used until the Commission so permits.

**117.** 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.

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.

**118.** An order against the owner of an immovable may be registered against that immovable.

The Commission may file a copy of the order for registration at the land registry office of the division where the immovable is located.

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.

**119.** 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.

The same applies where it considers that public safety is equally protected.

**120.** 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.

**121.** The Commission may inquire into any matter relating to this Act.

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.

**122.** For purposes of paragraph 3 of section 142, the Commission may request that the Office de la construction du Québec provide the following information, and the Office is authorized to divulge it:

(1) the name, address and social insurance number of a contractor's employees, their qualifications and type of work, the normal work week and amount of overtime for each, the total hours each works in a month, the hourly rate of pay and gross or net earning in a month;

(2) the benefits to each employee in terms of annual vacation and paid holidays as well as any other advantage to which a pecuniary value can be assigned.

### DIVISION III

#### DELEGATION

**123.** 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 64, 115, 124, 125 and 174.

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.

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 64, 115, 124, 125 and 174, to a member of its staff;

(2) the exercise of powers conferred by sections 105 to 110 to any person it may designate.

**124.** 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 42, 45 to 63 and 66 with a view to ensuring that members of the association are qualified.

The Commission may also delegate to the association or group of associations its powers and duties pursuant to sections 12, 14, 15, 18, 19 and 21 with a view to ensuring the quality of construction work done by the contractors.

The agreement may make provision for financing the expenses incurred by the association or group of associations in the application of this Act and allow the association or group of associations to collect and apply for this purpose sums covered by paragraphs 1, 2, 3 and 5 of section 142.

**125.** The Commission may enter into a written agreement with a local or regional municipal authority to delegate to it, within its territory and to the extent specified, its powers and duties pursuant to sections 12 to 21 and 28 to 32, with a view to ensuring the quality of construction work and public safety.

The agreement may make provision for financing the expenses incurred by the authority in the application of this Act and allow the authority to collect and apply for this purpose sums covered by paragraphs 4 and 5 of section 142.

**126.** The delegated authority may, with the consent of the Commission, enter into a written agreement with another municipal authority for the purpose of applying this Act.

**127.** A local or regional municipal authority may enter into a written agreement under this Division with the Commission.

The authority 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.

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

**128.** The terms and conditions of delegation to an authority, association or group of associations shall be set forth in the agreement.

**129.** 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.

**130.** The agents of any association or group of associations charged with the application of this Act have the powers and duties prescribed in sections 105 to 111.

The agents of any municipal authority charged with the application of this Act have the powers and duties prescribed in sections 105 to 111 and 114 to 120.

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

## DIVISION IV

## DOCUMENTS, ACCOUNTS AND REPORTS

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

**133.** 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.

**134.** 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.

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

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

**135.** 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 133, proves itself.

**136.** Neither the Commission, nor a board member, vice-chairman, staff member or any person delegated under sections 124 or 125 may be sued for an official act done in good faith in the performance of duty.

**137.** Except on a question of jurisdiction, no action under section 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.

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.

**138.** 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.

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.

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

**140.** 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.

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

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

**142.** 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 a percentage of total employee wages paid, 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) fees for approval, permission, review and checking charged by the Commission.

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

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

**145.** 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).

**146.** 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.

**147.** 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.

**148.** 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.

[[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]].

**149.** The Commission's fiscal year ends on 31 March.

## CHAPTER VII

### REVIEW AND APPEAL

#### DIVISION I

##### REVIEW

**150.** Any interested party may apply for review of a ruling of the Commission or of an authority covered by section 125 where such ruling:

(1) was delivered under section 115 or 116;

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

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

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

**153.** The person who made the ruling under review may not himself review the ruling.

**154.** The Commission may affirm, reverse or vary the ruling under review.

## DIVISION II

### APPEAL

**155.** 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 an authority covered by section 125 where such ruling:

(1) was delivered under section 115 or 116;

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

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

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 ruling of the Commission or the authority.

**157.** On service of the notice of motion, the Commission or the authority shall forward to Provincial Court the file regarding the ruling under appeal.

**158.** The appeal shall be heard and decided in priority.

**159.** 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 authority, after permitting the parties to be heard.



**160.** The appeal shall not stay enforcement of the ruling of the Commission or the authority. In the matter of a licence, the court may decide otherwise.

**161.** No appeal lies from a ruling of the Provincial Court.

**162.** The Provincial Court may, in the manner prescribed by section 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

**163.** The Government shall by regulation adopt a Building Code.

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.

**164.** 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.

**165.** The Government shall by regulation adopt a Safety Code.

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

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.

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

**167.** 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.

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

**169.** The Government shall publish a draft regulation made under sections 163 and 165 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.

**170.** 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*

**171.** 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 9;

(3) fix the charges due from a subsequent purchaser requesting a copy of the certificate of compliance under section 18;

(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 offer a contract guarantee 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) set the content and procedures for making guaranty contracts offered under a guaranty plan, in particular:

(a) the contractual obligations of the contractor and 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 77 or by section 78, 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 Commission 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 Commission;

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

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

(b) the maximum charge that may be made for permitting a person to benefit from a guaranty contract;

(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;

(11) decide the cases where security is to be required of the contractor within the meaning of section 82, and decide the procedures, amount and form thereof, and the method of dealing with it, and specify the contractual obligations of the contractor and the breaches of the Building Code for which compensation is due;

(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 127;

(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.

The requirements of the regulations made under the first paragraph may vary with the classes of persons, contractors, owner-builders, owners of buildings, of facilities intended for use by the public or of installations independent of a building to which the regulations apply.

**172.** 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.

**173.** 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*

**174.** The Commission may, by regulation:

(1) determine the form and content of the certificates prescribed in sections 14 to 17;

(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 19 and 20, 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 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;

(9) 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;

(10) determine any other qualifications that a natural person applying for a licence 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) permit a natural person to apply for a licence on behalf of more than one partnership or corporation;

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

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

(14) 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;

(15) 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;

(16) 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;

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

(18) set, for determining the levy, a minimum fixed amount payable by each contractor and each owner of a building, facility intended for use by the public or installations independent of a building;

(19) set, for the determining of the levy payable by each contractor, a fixed amount or a percentage of the total of the wages that a contractor will pay to his employees, or both together, as well as determine the maximum wage subject to such levy and the minimum wage paid by the contractor to make him subject to the levy and to fix the percentage in relation to the classes or subclasses of the building work carried out by the contractor;

(20) 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 percentage in relation to their use;

(21) prescribe the form and content of the report to be forwarded by a contractor as well as the time limit within which it must be forwarded;

(22) 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;

(23) set a time limit within which a contractor shall forward to it an estimate of gross wages that he intends to pay his employees, for each period the Commission shall determine;

(24) 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;

(25) prescribe the form and content of the annual statement that a contractor must forward to it;

(26) 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;

(27) prescribe the form, content and manner of forwarding of the register of wages that each contractor must place at its disposal;

(28) 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;

(29) determine the cases where it may enter into an agreement with a contractor 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 21 and the payment of the levy under paragraph 3 of section 142;

(30) 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 22 and the payment of the levy under paragraph 4 of section 142;

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



(32) determine which of the provisions of a regulation adopted under this section shall in case of breach be sanctioned under paragraph 7 of section 180.

A regulation adopted under subparagraphs 18 to 20 shall take into account the expense incurred by the Commission by reason of the kind of activity carried on by the different contractors or owners of buildings, facilities intended for use by the public or installations independent of a building.

Where the Commission has failed to adopt a regulation covered by subparagraphs 16 to 31 within a time deemed reasonable by the Government, the latter may make such regulation itself.

**175.** 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.

**176.** 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

**177.** Prior to publication of a notice pursuant to section 169 or 175, the Minister shall consult the Commission and the most representative associations of local and regional municipal authorities on the content of a code or regulation.

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

**179.** A by-law made by a local or regional municipal authority dealing with any matter already prescribed by the Building Code, the Safety Code or a regulation made under section 171 may not have the effect of setting standards that are equivalent to those of the Codes or regulation, nor of restricting their scope or application.

## CHAPTER IX

## OFFENCES

**180.** 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 14 to 17 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 14, 15, 18 to 24, 29 to 31, 33, 34, 44, 47, 48, 50, 57, 61, 63, 73, 78, or 112 or any regulatory provision sanctioned under paragraph 32 of section 174.

**181.** 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.

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.

**182.** Any offence under section 180 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.

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.

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.

**183.** An offence against sections 42, 43 or 58 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.

**184.** Failure to comply with an order made under sections 115 or 116 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.

**185.** 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.

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.

**186.** 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 known that his act or omission would probably result in assistance towards the commission of the offence.

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.

**187.** Any prosecution shall be brought in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) and this Chapter.

**188.** A prosecution by a local or regional municipal authority may be brought in a municipal court having jurisdiction in the area where the offence was committed.

The costs shall be the property of the municipality to which is attached the municipal court hearing the case.

**189.** 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.

**190.** 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.

**191.** 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.

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.

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

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.

**193.** Sections 189 to 192 do not apply in the case of a subsequent conviction within two years of a first conviction for the same offence.

**194.** A prosecution under this Act may be brought by the Attorney-General, by the Commission or by a local or regional municipal authority, where an agreement has been entered into under section 125, or by any person generally or specifically authorized by any of them in that behalf, or by any interested party.

**195.** 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.

**196.** Fines imposed are the property of the Crown and shall be paid into the Consolidated Revenue Fund.

**197.** A prosecution must be commenced within six months from the time the prosecutor comes to know of the offence.

**198.** No evidence may be led to show that an enquiry 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

**199.** 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).

**200.** Any provision of a regulation made under the Acts covered by sections 199 and 263 remains in force in so far as it is consistent with this Act.

**201.** Sections 2 to 6, 8 to 13, 19 to 27, 61 to 71 and Schedules B and C of the Regulation respecting stationary enginemen (R.R.Q., 1981, chapter M-6, r. 1) remain in force in so far as they are consistent with any regulation made under the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5).

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

**202.** 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, remains in force in so far as it is consistent with the Act respecting manpower vocational training and qualification.

The Order is deemed to have been made under the Act respecting manpower vocational training and qualification and a certificate issued under the Order has the effect of a certificate of qualification required by that Act.

## ACT TO PROMOTE HOUSING CONSTRUCTION

**203.** Section 1.1 of the Act to promote housing construction (R.S.Q., chapter C-64.01) is amended by substituting “Building Act (1985, [*insert the chapter number of the Act in the 1985 Statutes of Québec*]), 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.

**204.** Section 8.1 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

**205.** The Real Estate Brokerage Act (R.S.Q., chapter C-73) is amended by inserting the following Division after section 9:

## “DIVISION III.1

## “RULES RESPECTING CERTAIN REAL ESTATE BROKERAGE CONTRACTS

“**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.

“**9.2** The contract binds the natural person only when it is recorded in a document signed by himself and the broker.

“**9.3** The contract has effect only upon receipt by the natural person of a duplicate of the contract signed by the broker.

“**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.

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

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

**“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.

**“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.

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

(1) the sale, rental or exchange is made with a person represented by the broker and with whom negotiations were undertaken during the term of the contract; and

(2) the transaction is carried out not more than 120 days after the expiry date of the contract.

**“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.

**“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.

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

**“9.11** A broker may not demand any remuneration after rescission of a contract effected in accordance with section 9.10.

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

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

**206.** The following is inserted after section 11:

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

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.”.

**207.** The following is substituted for section 12:

**“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.

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.”

**208.** Section 13 is amended:

(1) 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.”;



(2) 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.”

**209.** The first paragraph of section 20 is amended:

(1) by substituting the following for subparagraph *e*:

“(e) the occupations, professions and businesses considered incompatible with holding a permit or registration certificate or with acting as a representative for the purposes of the Act;”;

(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.”

#### MASTER ELECTRICIANS ACT

**210.** 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 11 of the Building Act (1985, chapter [*insert the chapter number of the Act in the 1985 Statutes of Québec*])” 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” 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.

**211.** Section 5 is amended by striking out “with the Act respecting building contractors vocational qualifications (chapter Q-1) and”.

**212.** Section 9 is amended by inserting “to define more specifically the qualifications for being a master electrician” in the fifth line after “interest to them”.

**213.** Section 11 is repealed.

**214.** Section 12 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 inserting “entrance dues and examination fees” in subparagraph *e* of paragraph 1 after the word “assessment”;

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

“(j) 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;

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

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

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

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

“(o) 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;

“(p) 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 obligations of a master electrician in respect of work related to electrical installations and compliance of such work with the Building Code.

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 77 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.”.

**215.** The following sections are substituted for sections 12.1 to 13:

“**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.

“**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.

“**13.** Chapter IV of the Building Act, except for sections 43 and 44, applies *mutatis mutandis* to any applicant for a licence for work on electrical installations.

“**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.

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.”

**216.** Section 14 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 three persons appointed by the latter who are not building

contractors” 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.

**217.** The following sections are inserted after section 14:

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

The delegate and the appointed members 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.

**“14.2** Members appointed by the Commission are 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 them in the performance of their duties.

**“14.3** Any vacancy occurring during the term of a delegate or of an appointed member shall be filled in accordance with the procedure prescribed by section 14.1.

**“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.”

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

#### “EXECUTIVE COMMITTEE

**“17.1** An executive committee shall see to the current 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.

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

**“17.3** Any vacancy among the members of the executive committee shall be filled according to the procedure prescribed for the appointment of the member to be replaced.

**“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.

**“17.5** Members of the executive committee who are not members of the Corporation shall be called to a general meeting of the Corporation as if they were members; they are entitled to speak but not to vote.

EXCLUSIVE PRACTICE AND DEROGATORY ACTS”.

**219.** Section 20 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;”.

**220.** The following heading is inserted after section 20:

“REVIEW, APPEAL AND INQUIRY”.

**221.** The following sections are substituted for sections 20.1 to 23:

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

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

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

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

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

**“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.

**“20.7** Sections 156 to 162 of the Building Act apply *mutatis mutandis* to an appeal under section 20.6.

**“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.

**"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.

The Minister may extend the period as he finds necessary.

#### "ANNUAL REPORT

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

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.

**"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

**"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.

**"21.1** An offence against any provision of sections 42, 47, 48, 50, 57, 58, 61 or 63 of the Building Act shall be an offence under this Act and the offender is liable to the fine prescribed by section 21, in addition to costs.

**"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.

**“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.

**“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.

**“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.

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.

**“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.

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.

**“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.

**“22.1** Fines imposed are the property of the Crown and shall be paid into the Consolidated Revenue Fund.

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

#### MASTER PIPE-MECHANICS ACT

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

“INTERPRETATION”.

**225.** Section 1 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, [*insert the chapter number of the Act in the 1985 Statutes of Québec*])” 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:

“(11) “Commission” means the Commission du bâtiment set up under section 83 of the Building Act;”;

(4) by repealing paragraphs 12 and 13.

**226.** The following heading is inserted after section 2:

“CREATION OF THE CORPORATION”.

**227.** Section 5 is amended by striking out the words “with the Act respecting building contractors vocational qualifications (chapter Q-1) and”.

**228.** The following heading is inserted after section 7:

“PURPOSE”.

**229.** Section 8 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.

**230.** The following heading is inserted after section 8:

“POWERS OF THE CORPORATION”.

**231.** The following heading is inserted after section 9:

“POWERS OF THE COUNCIL”.

**232.** Section 10 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.

**233.** Section 11 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 inserting “the entrance dues and examination fees” after the word “assessment” in subparagraph *e* of paragraph 1;

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

“(j) 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;

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

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

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

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

“(o) 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;

“(p) 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 obligations of a master pipe-mechanic in respect of piping installation work and compliance of such work with the Building Code.

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 77 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.”.

**234.** 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.

“**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.

“**11.3** Chapter IV of the Building Act, except for sections 43 and 44, applies *mutatis mutandis* to any applicant for a licence for piping installation work.

“**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.

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.”

**235.** Section 12 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 three persons appointed by the latter and who are not building contractors” 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.

**236.** The following sections are inserted after section 12:

**“12.1** The delegate of the Commission and the members appointed by the Commission shall be appointed for the same term as the elected or designated members.

The delegate and the appointed members shall perform the same duties, enjoy the same powers and be subject to the same obligations as the latter, except that of electing the other members of the council.

**“12.2** The members appointed by the Commission shall be 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 them in the performance of their duties.

**“12.3** Any vacancy occurring during the term of a delegate or of an appointed member shall be filled in accordance with the procedure prescribed by section 12.1.

**“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.”

**237.** The following headings and sections are inserted after section 14:

#### “EXECUTIVE COMMITTEE

**“14.1** An executive committee shall see to the current administration of the business of the Corporation and may exercise any power delegated to it by the council, except the powers that the latter is required to exercise by regulation.

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

**“14.3** Any vacancy among the members of the executive committee shall be filled in accordance with the procedure prescribed for the appointment of the member to be replaced.

**“14.4** A member of the executive committee shall be 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.

**“14.5** Members of the executive committee who are not members of the Corporation shall be called to a general meeting of the Corporation in the same manner as the members; they shall have the right to speak but not to vote.

“EXCLUSIVE PRACTICE AND DEROGATORY ACTS”.

**238.** Section 15 is amended by substituting the following for subparagraph c:

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

**239.** The following is substituted for section 18:

**“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.”

**240.** Section 19 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;”.

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

“REVIEW, APPEAL AND INQUIRY

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

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

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

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

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

**“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.

**“19.7** Sections 156 to 162 of the Building Act apply *mutatis mutandis* to an appeal under section 19.6.

**“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.

**“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.

The Minister may extend the period as he finds necessary.

#### “ANNUAL REPORT

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

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.

**“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

**“20.** Any person who is not a member in good standing of the Corporation is liable to a fine of between \$500 and \$1000 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.

**“20.1** An offence against any provision of sections 42, 47, 48, 50, 57, 58, 61 or 63 of the Building Act shall be an offence under this Act and the offender is liable to the fine prescribed in section 20, in addition to costs.

**“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.

**“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.

**“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.

**“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.

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.

**“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.

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.

**“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.

**“21.1** Fines imposed are the property of the Crown and shall be paid into the Consolidated Revenue Fund.

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

**“242.** The following heading and sections are inserted after section 29:

“FINAL

**“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.

**“29.2** The right given to a contractor who has not yet availed himself of section 78 of the Act respecting building contractors vocational qualifications is continued until 30 April 1987.”

ACT RESPECTING THE MINISTÈRE DE  
L'ÉNERGIE ET DES RESSOURCES

**243.** 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

**244.** 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):

**“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.

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

**245.** Section 8 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;”.

#### SUMMARY CONVICTIONS ACT

**246.** 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 [*insert chapter number of the Act in the 1985 Statutes of Québec*]), 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

**247.** Section 4 of the Fire Prevention Act (R.S.Q., chapter P-23) is amended by substituting “Building Act (1985, chapter [*insert chapter number of the Act in the 1985 Statutes of Québec*])” 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

**248.** 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 [*insert chapter number of the Act in the 1985 Statutes of Québec*]), 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

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

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

**250.** Section 6 is amended by adding “, subject to section 6.1;” at the end of paragraph *b*.

**251.** The following is inserted after section 6:

**“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 immovable, but not to the acts of a broker governed by the Real Estate Brokerage Act (R.S.Q., chapter C-73) or to the leasing of an immovable governed by articles 1650 to 1665.6 of the Civil Code of Lower Canada.”.

**252.** Section 215 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 immovable, in sections 219 to 222, 224 to 230, 232, 235, 236 and 238 to 243.”.

**253.** Section 253 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 immovable or, in any other case, of”.

ACT RESPECTING THE RÉGIE DE L'ÉLECTRICITÉ  
ET DU GAZ

**254.** 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*.

**255.** The following is substituted for section 21:

**“21.** No electricity distributor may produce, sell or distribute electricity in Québec unless he is the holder of a current license obtained from the Board upon the recommendation of the Commission du bâtiment and payment of the required duties.

Such license shall be issued on the first of May of each year and shall expire on the 30th of April following, unless the Board has previously cancelled it.

A provisional license for a period of less than 12 months, may also be issued upon the recommendation of the Commission and payment of the required duties.”.

**256.** The following is inserted after section 23:

**“23.1** Where the Commission du bâtiment 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.”

**257.** Section 32 is amended by substituting the following for the first paragraph:

“No person shall distribute gas unless he has obtained the exclusive right to do so from the Government, upon the recommendation of the Board and of the Commission du bâtiment.

Such right shall be granted for a territory determined by the Government upon the recommendation of the Board.”.

**258.** The following is inserted after section 32:

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

**259.** Section 37 and subdivision 3 entitled “Respecting steam, heat, light or motive power produced otherwise than by electricity” are repealed.

#### ACT RESPECTING THE RÉGIE DU LOGEMENT

**260.** 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):

“**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 to investigate under the Building Act (1985, chapter (*insert chapter number of the Act in the 1985 Statutes of Québec*)), 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

**261.** 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 (*insert chapter number of the Act in the 1985 Statutes of Québec*))” for “Act respecting building contractors vocational qualifications (chapter Q-1)” in the first and second lines of subparagraph *b.1*.

**262.** Section 92 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

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

**264.** The following is inserted after section 2:

“**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

**265.** 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:

“The appointment carries the powers prescribed in sections 105 to 110 of the Building Act (1985, chapter [*insert chapter number of the Act in the 1985 Statutes of Québec*]).”

## DIVISION II

## FINAL

**266.** 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.

**267.** 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 and in office on (*insert date of coming into force of this section*) shall become the personnel of the Commission du bâtiment, as may be decided by the Government.

**268.** 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.

**269.** 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 199 and 263, of the Régie de l'électricité et du gaz relevant to the administration of the legislative provisions covered by section 274, and of the Régie des entreprises de construction du Québec shall become the records and documents of the Commission du bâtiment except as otherwise decided by the Government.

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

**271.** 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.

**272.** 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.

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.

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

**274.** The Commission du bâtiment 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).

**275.** 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.

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 199 and 263.

**276.** 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.

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

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

**279.** The Commission du bâtiment 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.

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*).

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

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

**281.** 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.

Notwithstanding the foregoing, sections 71 and 72 shall not come into force before 1 July 1987.

A proclamation shall state which provisions of the Acts listed in sections 199 and 263 are replaced by the sections of this Act that are brought into force by such proclamation.

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