



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 73

An Act to provide for measures to fight crime in the construction industry

Introduction

**Introduced by
Mr. Sam Hamad
Minister of Labour**

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EXPLANATORY NOTES

This bill amends various legislative provisions concerning the conditions that apply to the issue of building contractor and owner-builder licences and the restriction that may be attached to the licences and that prevents the obtention of a public contract. It also amends various penal provisions relating to the construction industry.

Under the bill, the Régie du bâtiment du Québec may, by regulation, determine offences other than those already set out by the Act that, if a person is convicted of them, prevent the issue of a building contractor or owner-builder licence to that person. The bill also prohibits the issue of a licence if certain lenders of the licence applicant or officers of such lenders, or any of a wider range of shareholders of the licence applicant than previously determined, have been convicted of certain offences.

With respect to licences containing a restriction preventing the obtention of a public contract, the bill broadens the notion of public contract, in particular by adding certain bodies, such as state-owned enterprises and universities, that may be party to such contracts. The bill also abolishes the requirement for municipalities to receive a government grant for a construction project in order for a contract related to that project to be considered a public contract.

In addition, the bill increases the amount of certain fines, in particular with respect to false statements for the purpose of obtaining a licence, failure to respect the conditions attached to acting in the capacity of job-site steward, offers of an advantage by an employer to a union representative in the performance of his or her functions, the acceptance of such an advantage by a representative, the refusal to furnish the Commission de la construction du Québec with certain information and the hindering of the work of an employee of the Commission in the exercise of the functions of office.

Finally, the bill adds a penal offence that applies to any person who uses intimidation to cause a slowdown or stoppage of activities on a construction site.

LEGISLATION AMENDED BY THIS BILL:

- Building Act (R.S.Q., chapter B-1.1);
- Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20).

Bill 73

AN ACT TO PROVIDE FOR MEASURES TO FIGHT CRIME IN THE CONSTRUCTION INDUSTRY

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 58 of the Building Act (R.S.Q., chapter B-1.1) is amended

(1) by replacing “or an indictable offence triable only on indictment and connected with the business that the person intends to carry on in the construction industry or, if convicted of such an act or offence,” in subparagraph 8 of the first paragraph by “, an indictable offence triable only on indictment or an offence determined by a regulation of the Board, connected with the business that he intends to carry on in the construction industry or, if convicted of such an offence,”;

(2) by inserting the following subparagraph after subparagraph 8.1 of the first paragraph:

“(8.2) he establishes that none of his lenders or the officers of his lenders have, in the five years preceding the application, been convicted of an offence under a fiscal law, an indictable offence triable only on indictment or an offence determined by a regulation of the Board, connected with the business that they carry on or, if convicted of such an offence, they have obtained a pardon;”;

(3) by inserting “or 8.2” after “subparagraph 8” in the last paragraph;

(4) by adding the following paragraph at the end:

“Subparagraph 8.2 of the first paragraph does not apply to insurers as defined by the Act respecting insurance (chapter A-32) and duly authorized to act in that capacity, financial services cooperatives as defined by the Act respecting financial services cooperatives (chapter C-67.3), trust companies and savings companies as defined by the Act respecting trust companies and savings companies (chapter S-29.01) and duly authorized to act in that capacity, or banks listed in Schedule I or II to the Bank Act (Statutes of Canada, 1991, chapter 46).”

2. Section 60 of the Act is amended

(1) by replacing subparagraphs 6 and 6.1 of the first paragraph by the following subparagraph:

“(6) neither it nor any of its officers or, if it is not a reporting issuer within the meaning of the Securities Act (chapter V-1.1), any of its shareholders has, in the five years preceding the application, been convicted of an offence under a fiscal law, an indictable offence triable only on indictment or an offence determined by a regulation of the Board, connected with the business that the applicant intends to carry on in the construction industry or, if convicted of such an offence, a pardon was granted;”;

(2) by inserting the following subparagraph after subparagraph 7 of the first paragraph:

“(8) it establishes that none of its lenders or the officers of its lenders have, in the five years preceding the application, been convicted of an offence under a fiscal law, an indictable offence triable only on indictment or an offence determined by a regulation of the Board, connected with the business that they carry on or, if convicted of such an offence, they have obtained a pardon;”;

(3) by replacing “6.1” in the last paragraph by “8”;

(4) by adding the following sentence at the end of the last paragraph: “It may also refuse to issue a licence where an officer of a partnership or legal person that holds shares in the partnership or legal person is convicted of an offence described in subparagraph 6.”;

(5) by adding the following paragraph at the end:

“Subparagraph 8 of the first paragraph also applies to lenders and officers of lenders whose loans are granted personally to an officer of the partnership or legal person for the purposes of the partnership or legal person. However, under no circumstances does it apply to insurers as defined by the Act respecting insurance and duly authorized to act in that capacity, financial services cooperatives as defined by the Act respecting financial services cooperatives, trust companies and savings companies as defined by the Act respecting trust companies and savings companies and duly authorized to act in that capacity, or banks listed in Schedule I or II to the Bank Act.”

3. Section 61 of the Act is amended by replacing “or of an indictable offence triable only on indictment and connected with the business that the person intends to carry on in the building trade” in subparagraph 2 of the first paragraph by “, an indictable offence triable only on indictment or an offence under a regulation of the Board, connected with the business that the person intends to carry on in the construction industry”.

4. Section 65.4 of the Act, amended by section 31 of chapter 29 of the statutes of 2006, is replaced by the following section:

“65.4. For the purposes of this subdivision, a public contract is a construction contract and any construction subcontract that relates directly or indirectly to such a contract to which the following bodies are party:

- (1) a government department;
- (2) a body all or part of whose expenditures are provided for in the budgetary estimates tabled in the National Assembly otherwise than under a transferred appropriation;
- (3) a body to which the Government or a minister appoints the majority of the members, to which, by law, the personnel are appointed in accordance with the Public Service Act (chapter F-3.1.1), or whose capital stock forms part of the domain of the State;
- (4) a school board, the Comité de gestion de la taxe scolaire de l'île de Montréal, a general and vocational college, or a university institution referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1);
- (5) a public institution under the Act respecting health services and social services (chapter S-4.2), an agency referred to in that Act, the Corporation d'hébergement du Québec referred to in section 471 of that Act, a public institution under the Act respecting health services and social services for Cree Native persons (chapter S-5), or a regional council established under that Act; or
- (6) a municipality, a metropolitan community, the Kativik Regional Government, a mixed enterprise company under the Act respecting mixed enterprise companies in the municipal sector (chapter S-25.01), an intermunicipal board, a public transit authority, an intermunicipal board of transport, or any other body referred to in section 307 of the Act respecting elections and referendums in municipalities (chapter E-2.2)."

5. Section 185 of the Act is amended by inserting the following paragraph after paragraph 8:

"(8.1) determine, for the purposes of sections 58, 60 and 61, the offences other than offences under a fiscal law or indictable offences triable only on indictment that prevent the issue of a licence by the Board;"

6. Section 196 of the Act is amended by replacing "except paragraph 5" in the first paragraph by "except paragraphs 1, 2 and 5".

7. The Act is amended by inserting the following section after section 196:

"196.1. Any person who contravenes paragraph 1 or 2 of section 194 is liable to a fine of \$650 to \$1,400 in the case of an individual and \$1,400 to \$2,800 in the case of a legal person.

On a second conviction, the minimum and maximum fines are doubled; on any subsequent conviction, they are tripled."

8. Sections 83, 83.1 and 83.2 of the Act respecting labour relations, vocational training and workforce management in the construction industry (R.S.Q., chapter R-20) are amended by replacing “\$200 to \$400 in the case of an individual and \$800 to \$1,600” by “\$400 to \$800 in the case of an individual and \$1,600 to \$3,200”.

9. Section 84 of the Act is amended by replacing “\$650 to \$1,300” by “\$1,300 to \$2,600”.

10. The Act is amended by inserting the following section after section 113:

“113.1. Any person who uses intimidation, threats or coercion to cause a slowdown, disturbance or stoppage of activities on a job site is guilty of an offence and liable to a fine of \$1,000 to \$10,000 for each day or part of a day during which the offence continues.”

11. Section 115 of the Act is amended by replacing “\$700” in the second paragraph by “\$1,500”.

12. Section 115.1 of the Act is amended by replacing “not less than \$200 and not more than \$400 in the case of an individual, and not less than \$800 and not more than \$1,600” by “\$400 to \$800 in the case of an individual and \$1,000 to \$2,000”.

13. Section 119 of the Act is amended by replacing “\$700” by “\$1,400”.

14. Section 122 of the Act is amended by replacing “\$400 to \$1,600 and, in the case of a second or subsequent conviction, to a fine of \$800 to \$3,200” at the end of subsection 2 by “\$1,000 to \$2,500 and, in the case of a subsequent conviction, to a fine of \$1,600 to \$5,000”.

15. This Act comes into force on (*insert the date of assent to this Act*).