

chapter R-20, r. 8.1

Regulation respecting the labour-referral service licence in the construction industry

Act respecting labour relations, vocational training and workforce management in the construction industry
(chapter R-20, s. 123, 1st par., subpar. 8.7).

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DIVISION I

LICENCE

1. The labour-referral service licence authorizes the association holding it to refer, through the Service de référence de main-d'oeuvre administered by the Commission de la construction du Québec pursuant to section 107.7 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), employees practising the trades and occupations indicated in the licence, in the regions indicated in the licence.

The regions that may be indicated in a licence are those described in the Regulation respecting the hiring and mobility of employees in the construction industry (chapter R-20, r. 6.1).

Despite the first paragraph, an association holding a labour-referral service licence may refer members in a region not covered by its licence when so authorized pursuant to the provisions of a regulation made under subparagraph 8.6 of the first paragraph of section 123 of the Act.

O.C. 1101-2012, s. 1.

2. A licence issued to an association of employees authorizes the association to refer its members.

A licence issued to an association of employers, an association of contractors or a sector-based employers' association within the meaning of section 1 of the Act authorizes the association to refer the employees registered in its referral service.

O.C. 1101-2012, s. 2.

3. Two related associations of employees may not obtain a licence to refer the same employees.

In this Regulation, "related association of employees" means 2 associations of employees, one being affiliated with the other.

O.C. 1101-2012, s. 3.

4. A licence comes into force on the day of its issue or on the later date indicated on it. It is valid for a term of 3 years.

O.C. 1101-2012, s. 4.

5. A licence provides at least the following particulars:

(1) the name and address of the head office of the association holding it and, in the case of an association of employees affiliated to a representative association, the name of the latter association;

(2) the dates on which it comes into force and expires;

(3) all trades, occupations and regions covered;

(4) the name of the respondent.

A licence bears the signature of the Minister of Labour.

O.C. 1101-2012, s. 5.

6. A licence may not be transferred.

O.C. 1101-2012, s. 6.

DIVISION II

ISSUE, AMENDMENT AND RENEWAL

§ 1. — *Conditions of issue*

7. An association must, to obtain a labour-referral service licence, make an application to the Bureau des permis de service de référence de main-d'oeuvre established under section 107.4 of the Act.

O.C. 1101-2012, s. 7.

8. An application may not cover a trade or occupation that is not practised by the association's members or by the employees of the employers represented by the association, as the case may be.

It may not cover a region in which the association does not carry on activities.

O.C. 1101-2012, s. 8.

9. An application is made using the form prescribed by the Bureau and contains

(1) the name of the association, the address of its head office and other contact information;

(2) the region in which the association carries on activities;

(3) the trades or occupations practised by the association's members or the employees of the employers represented by the association, as the case may be, and, in the case of an association of employees, whether there is any related association of employees whose members practise the same trades or the same occupations in a region referred to in paragraph 2;

(4) the name of the association's officers or representatives, specifying their role in it and identifying the person who is designated to act as respondent with the Bureau;

(5) every trade, occupation and region covered by the application.

In this Regulation, "representative" includes any person called upon to determine the employees who will be referred or to join the employees for that purpose.

O.C. 1101-2012, s. 9.

10. An application is signed by the association's chair or by its respondent and accompanied by the following documents:

(1) the association's constituting act, its by-laws and statutes, and a document evidencing that it is affiliated with a representative association, if applicable;

(2) a true copy of the resolution authorizing the application for a licence, which must indicate every trade, every occupation and every region covered;

(3) an affidavit from the association's chair or its respondent stating the existence or absence of criminal or penal convictions during the 5 years preceding the application with respect to each officer or representative of the association in office at the time of the application and, in case of a conviction, the documents evidencing the conviction.

O.C. 1101-2012, s. 10; I.N. 2016-01-01 (NCCP).

11. In addition to the documents provided for in section 10, a related association of employees applying for a licence must send a written agreement in which the 2 related associations confirm that they want the

applicant association to be the one between the two that will be responsible for referring their members concerning any trade, occupation and region covered by the application.

O.C. 1101-2012, s. 11.

§ 2. — *Decision concerning the issue*

12. The decision concerning the issue of the licence is made within 30 days of the application's receipt. However, if observations are required pursuant to the provisions of this Subdivision, the decision is made not later than 30 days after the end of the period allocated for making observations.

An application for a licence is considered received only from the time all the information and documents required under Subdivision 1 have been provided.

O.C. 1101-2012, s. 12.

13. The Bureau issues a licence if all the conditions for its issue are met.

O.C. 1101-2012, s. 13.

14. The Bureau refuses to issue a licence in the following cases:

- (1) the association does not meet all the conditions for the issue of the licence;
- (2) all the trades, occupations and regions covered by the application are covered by a licence issued to a related association of employees;
- (3) the association has attempted to have a licence issued under false representations or by providing false information;
- (4) the association or one of its officers or representatives has exerted pressure upon, threatened, intimidated or assaulted in any way whatsoever a member of the Government, a member of the personnel of the Minister of Labour or of the department, or an officer or member of the personnel of the Commission for the purpose of being issued a licence.

O.C. 1101-2012, s. 14.

15. The Bureau issues a licence that differs from the licence applied for by the association in the following cases:

- (1) the trades or occupations covered by the application do not totally correspond to the trades or occupations practised by the employees represented by that association or by the employees of the employers it represents, as the case may be;
- (2) the regions covered by the application do not totally correspond to the regions in which the association carries on activities;
- (3) some of the trades, occupations and regions covered by the application are covered by a licence issued to a related association of employees.

O.C. 1101-2012, s. 15.

16. If it intends to refuse to issue a licence or to issue a licence that differs from the one applied for, the Bureau must, within 30 days of receiving the application, give to the association the prior written notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and grant it at least 10 days to present observations.

O.C. 1101-2012, s. 16.

17. If the Bureau refuses to issue the licence or issues a licence different from the one applied for, the Bureau renders a substantiated decision in writing.

O.C. 1101-2012, s. 17.

§ 3. — *Special procedure in absence of agreement provided for in section 11*

18. Despite section 12, an application is deemed validly received even in the absence of the agreement provided for in section 11.

In such a case, the Bureau gives notice to the other related association of employees of the application and, if it has not already received an application to that effect from that association, of its right to apply for a licence and of the consequences of a renunciation. The notice indicates that the related association has a maximum of 10 days and a maximum of 30 days, respectively, to make its intention known and, if applicable, to make an application in accordance with Subdivision 1. A copy of the notice is sent to the applicant association.

Failure to respond or to make an application within the allocated time is equal to a renunciation. The Bureau renders its decision within 30 days of the renunciation, if applicable. Sections 13 to 17 then apply, with the necessary modifications.

O.C. 1101-2012, s. 18.

19. Where both related associations of employees apply for the issue of a licence covering a given trade or occupation in a given region, the Bureau informs them and requires their observations, within the time it allows which may not be less than 10 days. Those observations pertain to the reasons explaining the absence of an agreement provided for in section 11, to the means at the disposal of the association or that it intends to take to fulfil its referral functions effectively, and to any other fact likely to support the licence application.

The decision concerning the issue of the licence is made not later than 30 days after the end of the period allocated to the related associations of employees to present their observations.

Sections 13 to 17 then apply, with the necessary modifications, which include the sending of the prior notice provided for in section 16 to both related associations of employees.

O.C. 1101-2012, s. 19.

§ 4. — *Register*

20. The Bureau publishes on the Internet a register of associations holding a labour-referral service licence, in which it enters the particulars provided for in the first paragraph of section 5.

The register also mentions any penalty imposed under Division IV, in accordance with section 51, and, for 2 years, any refusal to renew.

O.C. 1101-2012, s. 20.

§ 5. — *Amendment*

21. An association holding a licence may apply for an amendment in order to add or remove a trade, occupation or region.

O.C. 1101-2012, s. 21.

22. An application for amendment is made using the form prescribed by the Bureau. It states the reasons for the amendment applied for and contains an update of the information provided for in section 9.

The agreement provided for in section 11 is attached to the application, if applicable.

O.C. 1101-2012, s. 22.

23. The application for amendment is signed by the chair of the association or by its respondent and is accompanied by a true copy of the resolution authorizing the application.

O.C. 1101-2012, s. 23.

24. A new licence valid for 3 years is issued if the application for amendment is granted.

The Bureau may require the return of the licence replaced by the new licence.

O.C. 1101-2012, s. 24.

25. Sections 12 and 16 to 19 apply to an application for amendment, with the necessary modifications.

O.C. 1101-2012, s. 25.

26. The Bureau amends a licence if all the conditions for its issue provided for in sections 7 to 11 are met, with the necessary modifications.

O.C. 1101-2012, s. 26.

27. The Bureau refuses to amend a licence in the following cases:

(1) the association does not meet all the conditions for the issue of a licence provided for in sections 7 to 11, with the necessary modifications;

(2) all the trades, occupations and regions whose addition is applied for are covered by a licence issued to a related association of employees;

(3) the association has attempted to obtain the amendment of the licence under false representations or by providing false information;

(4) the association or one of its officers or representatives has exerted pressure upon, threatened, intimidated or assaulted in any way whatsoever a member of the Government, a member of the personnel of the Minister of Labour or of the department, or an officer or member of the personnel of the Commission, with a view to obtaining a licence amendment.

O.C. 1101-2012, s. 27.

28. The Bureau issues an amended licence different from that applied for by the association in the following cases:

(1) the trades or occupations whose addition is applied for do not totally correspond to the trades or occupations practised by the employees represented by that association or by the employees of the employers it represents, as the case may be;

(2) the regions whose addition is applied for do not totally correspond to the regions in which the association operates;

(3) some of the trades, occupations and regions whose addition is applied for are covered by a licence issued to a related association of employees.

O.C. 1101-2012, s. 28.

§ 6. — *Renewal*

29. A licence is renewable on the conditions provided for in sections 7 to 11, with the necessary modifications.

O.C. 1101-2012, s. 29.

30. The Bureau sends the association a notice indicating the date of expiry of its licence at least 60 days before it expires.

Failure to receive the notice does not release the association from its obligations.

O.C. 1101-2012, s. 30.

31. The association must send its application for renewal of its licence at least 30 days before the date on which the licence expires.

O.C. 1101-2012, s. 31.

32. Despite section 29, an association that makes its application for renewal within the time allowed is exempted from providing a document already provided with a previous application, if the association certifies that the information in the document is still accurate. However, in every other case, the application is accompanied by the statement provided for in paragraph 3 of section 10.

O.C. 1101-2012, s. 32.

33. Sections 12, 16 and 17 apply to an application for renewal, with the necessary modifications.

O.C. 1101-2012, s. 33.

34. The Bureau renews a licence if all the conditions for its issue provided for in sections 7 to 10 are met, with the necessary modifications.

O.C. 1101-2012, s. 34.

35. The Bureau refuses to renew a licence in the following cases:

(1) the association does not meet all the conditions for the issue of a licence provided for in sections 7 to 10, with the necessary modifications;

(2) the association or one of its officers or representatives, in any capacity whatsoever, in office at the time of the application, has been found guilty, during the 5 years preceding the application, of a criminal or penal offence which, in the opinion of the Bureau, is related to labour referral or union placement;

(3) the association has attempted to obtain the renewal of the licence under false representations or by providing false information;

(4) the association or one of its officers or representatives has exerted pressure upon, threatened, intimidated or assaulted in any way whatsoever a member of the Government, a member of the personnel of the Minister of Labour or of the department, or an officer or member of the personnel of the Commission, with a view to obtaining a licence renewal.

O.C. 1101-2012, s. 35.

36. The Bureau may renew and amend an association's licence at the same time if application is made in accordance with the provisions of subdivision 5 or, failing that, to remove trades, occupations or regions if

they no longer correspond to the trades, occupations or regions indicated in the application for renewal pursuant to section 9.

O.C. 1101-2012, s. 36.

DIVISION III

STANDARDS APPLICABLE TO ASSOCIATIONS HOLDING A LICENCE

§ 1. — *General*

37. In the course of its activities, an association holding a licence must comply with the standards provided for in this Division.

O.C. 1101-2012, s. 37.

§ 2. — *Keeping of a register and relations with the Bureau*

38. An association must establish and maintain a register of the requests received and referrals made between 1 January and 31 December of each year.

The association must keep any established register for 3 years.

O.C. 1101-2012, s. 38.

39. An association must allow the Bureau to have access to its registers and give the Bureau a copy upon request.

O.C. 1101-2012, s. 39.

40. An association must inform the Bureau without delay of any change in information or a document required by this Regulation, particularly in case of a change of officer or representative.

O.C. 1101-2012, s. 40.

41. An association must respond to any request, within the time and on the conditions indicated by the Bureau, pertaining to the updating of the information or documents concerning the association.

O.C. 1101-2012, s. 41.

§ 3. — *Ethics*

42. In all its activities pertaining to labour referral, an association must act according to the requirements of good faith, particularly by adopting a conduct free of any form of discrimination and intimidation.

O.C. 1101-2012, s. 42.

43. An association may not, in respect of an employee,

(1) advantage or penalize the employee, particularly for a reason related to his or her participation in the association's activities or governing bodies;

(2) penalize the employee for exercising a right granted by the Act or a regulation thereunder.

O.C. 1101-2012, s. 43.

44. An association may not require the payment of specific fees for a referral or for registration in a referral service.

O.C. 1101-2012, s. 44.

45. Every association must adopt a code of ethics and internal management rules in matters of referral, in particular with respect to its referral criteria, which must be posted on its website. The code of ethics must contain at least the items mentioned in sections 42 and 43.

The code and rules are sent to the Bureau within 6 months of the issue of the licence. An update is also sent within 6 months of a renewal. Failure to send the code and rules entails suspension of the licence under subparagraph 2 of the first paragraph of section 46.

The code and rules are made accessible through the register published in accordance with section 20.

O.C. 1101-2012, s. 45.

DIVISION IV

ADMINISTRATIVE PENALTIES

46. The Bureau may, for the time it determines, suspend or restrict a licence in the following cases:

- (1) the association no longer meets the conditions for the issue of the licence;
- (2) the association contravenes a standard in Division III;
- (3) the association has obtained the issue, amendment or renewal of a licence, or the lifting of a licence suspension or restriction, under false representations or by providing false information;
- (4) the association or one of its officers or representatives, exerted pressure upon, threatened, intimidated or assaulted in any way whatsoever a member of the Government, a member of the personnel of the Minister of Labour or of the department, or an officer or member of the personnel of the Commission, in connection with labour referral.

A restriction may include a prohibition to refer employees for a particular trade or occupation or in a region, or may prohibit a person from acting on behalf of an association holding a licence. A prohibition concerning a person may apply to several licence holders.

O.C. 1101-2012, s. 46.

47. The Bureau may extend a licence suspension or restriction for the time it determines.

O.C. 1101-2012, s. 47.

48. The Bureau may revoke a licence for a reason provided for in section 46 if the seriousness of the offence warrants it, in particular if the association or one of its officers or representatives, in any capacity whatsoever, is found guilty of a criminal or penal offence which, in the opinion of the Bureau, is related to labour referral or union placement.

O.C. 1101-2012, s. 48.

49. The Bureau must, before making a decision under section 46, 47 or 48, give in writing to the association the prior notice prescribed by section 5 of the Administrative Justice Act (chapter J-3) and grant it at least 10 days to submit observations.

The Bureau must render a substantiated decision in writing within 30 days of the end of the time granted to submit observations.

O.C. 1101-2012, s. 49.

50. The Bureau may revoke a licence without prior notice if the association informs it in writing that it has ceased all referral activities.

O.C. 1101-2012, s. 50.

51. A penalty imposed under this Division is made public by entering it in the register of associations holding a labour-referral licence kept by the Bureau.

Such an entry must appear in the register for the term of the penalty or, in the case of a revocation, for 2 years.

O.C. 1101-2012, s. 51.

52. Imposing a restriction regarding a trade, occupation or region entails the issue of a new licence valid for the term of the restriction, which replaces the licence initially issued.

When the restriction ends before the date on which the replaced licence would have expired, that licence is returned to the association if the Bureau requires its return in accordance with section 53.

O.C. 1101-2012, s. 52.

53. The Bureau may require the return of every licence that is suspended, revoked or replaced.

O.C. 1101-2012, s. 53.

54. An association may request the lifting of a suspension or restriction if new facts likely to warrant a different decision may be raised. Section 49 then applies.

O.C. 1101-2012, s. 54.

55. An association whose licence has been revoked under a decision made pursuant to section 48 for less than 2 years may not make an application for a licence, unless the association raises new facts likely to warrant a different decision.

The foregoing also applies when the association has been denied the issue of a licence or its renewal for a reason provided for in paragraph 3 or 4 of section 14 or 35.

O.C. 1101-2012, s. 55.

56. An association of employees may not apply for a licence for the purpose of referring employees who may no longer be referred by reason of a penalty imposed pursuant to section 46, 47 or 48 to a related association of employees.

Such prohibition is valid for the term of the penalty, or for 2 years in the case of a licence revocation.

O.C. 1101-2012, s. 56.

DIVISION V

RECOURSE BEFORE THE ADMINISTRATIVE LABOUR TRIBUNAL

57. An association that believes it has been wronged by a decision rendered by the Bureau pursuant to this Regulation may, within 30 days of being notified of the decision, contest it in writing before the Administrative Labour Tribunal.

Such contestation is a matter that must be heard and decided by preference.

O.C. 1101-2012, s. 57.

58. *(Omitted).*

O.C. 1101-2012, s. 58.

UPDATES

O.C. 1101-2012, 2012 G.O. 2, 3237

S.Q. 2015, c. 15, s. 237

