Licence security requirements to be hiked shortly

August 17, 2016

Author

Laurence Bich-Carrière

Partner, Lawyer

Effective September 18, 2016, anyone wishing to obtain a general contractor licence will be required to first provide security of at least $40,000. The amount will be $20,000 for specialized contractors. Effective January 21, 2017, the *Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders* also amends the description of the work authorized for some contractors specialized in heating, ventilation and refrigeration.

On July 20, 2016, following a lengthy review period, particularly before the Régie du bâtiment du Québec (Board), the government passed a regulation to amend the *Regulation respecting the professional qualification of contractors and owner-builders*.[1] The amendments mainly deal with two matters.

Firstly, as indicated at the outset, the amount of the security required to be provided by contractors under law[2] will be doubled, effective September 18, 2016.[3]The increase aims to reflect that of the value of contracts since such obligation was introduced. However, the purpose and mechanics of the security remain the same: it aims to compensate clients who sustain a loss following non-performance or performance of construction work if the loss results directly from instalments paid, failure to carry out construction work or faulty work or defects discovered in the year following completion of the work. The security does not cover the claims of persons who took part in the construction work, damages resulting from delays in construction work, damages for moral injury or punitive damages.[4] In addition, the client who suffered a loss must obtain a judgment before making a claim before the Board. However, the exemption for contractor dealing in new residential buildings covered by a guaranty plan, Class I or II remains.[5]

The increase of the security threshold is only effective for the provision of a new security or upon renewal of a licence: a contractor who currently holds a licence is required to provide the new amount of security only from the expiry date of the payment of the fees and charges payable to maintain the contractor's licence.[6] The new security will then replace the former security without it

Copyright (c) Lavery, de Billy, S.E.N.C.R.L. - L.L.P.

being necessary to give the notice otherwise required by law.[7]

Secondly, the amending regulation makes some adjustments to the description of the work which holders of some licence subclasses, regarding heating, ventilation and refrigeration work. Many of those adjustments concern language: “warm air” and “hot water and steam” systems will be referred to respectively as “pulsed air” and “hydronic” systems. As to substance, two amendments, scheduled to come into force on January 21, 2017[8] must be noted. One is that contractors who specialize in natural gas burners will also be allowed to perform work on propane burners. This amendment, which concerns subclasses 15.2 and 15.4 of Schedule II, reflects the harmonization of applicable standards within the industry. Also, a contractor who perform works on systems which allows both heating and air-conditioning, whether on a pulsed air or hydronic system, must henceforth hold the necessary competences for both systems. This amendment concerns subclasses 15.1, 15.1.1, 15.4, 15.4.1, 15.7, 15.8, 15.9 and 15.10 of Schedule II.

In case of doubt as to the determination of the relevant subclass, the client relations department of the Régie du bâtiment du Québec should be consulted. Lavery has the necessary knowledge and experience to assist you in your dealings with the Board. Do not hesitate to contact us.

---

1. Order in council 703-2016 dated July 6, 2016, GOQ.II.2968, rectified by GOQ.II.4711 [the Order in council] adopting the draft *Regulation to amend the Regulation respecting the professional qualification of contractors and owner-builders*, GOQ.II.2359 dated July 22, 2015 amending the *Regulation respecting the professional qualification of contractors and owner-builders*, CQLR c B-1.1, r 9 [the Regulation].
2. *Building Act*, CQLR c. B-1.1, section 84.
3. Order in council, sections 1 and 11(1).
4. Regulation, section 25.
5. Regulation, section 26.
6. Order in council, section 11(2).
7. Order in council, section 10.
8. Order in council, section 11 para. 1.

Copyright (c) Lavery, de Billy, S.E.N.C.R.L. - L.L.P.