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**DU Québec**

**Part**

**2**

**No. 4**

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**Laws and Regulations**

Volume 147

**Summary**

Table of Contents

Acts 2014

Regulations and other Acts

Draft Regulations

Index

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### Contents

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## Table of Contents

---

Page

---

### Acts 2014

---

8	An Act to amend the Labour Code with respect to certain employees of farming businesses . . .	47
---	---	----

---

### Regulations and other Acts

---

21-2015	Health Insurance Act — Regulation (Amend.) . . . . .	51
---------	--	----

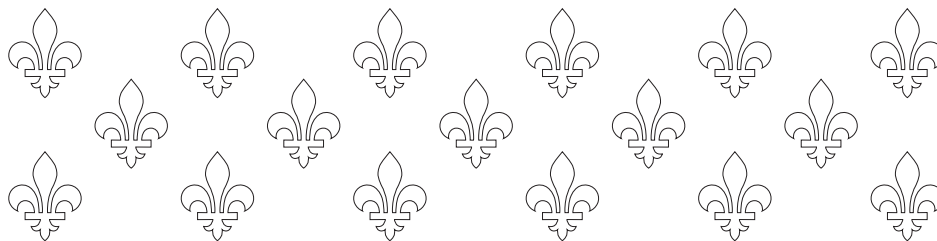
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### Draft Regulations

---

	Individual and Family Assistance Act — Individual and family assistance. . . . .	53
	New Code of Civil Procedure, An Act to establish the... — Mandatory mediation pilot project to recover small claims arising from a consumer contract . . . . .	55





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# NATIONAL ASSEMBLY

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FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 8  
(2014, chapter 9)

## **An Act to amend the Labour Code with respect to certain employees of farming businesses**

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**Introduced 13 June 2014**  
**Passed in principle 30 September 2014**  
**Passed 21 October 2014**  
**Assented to 22 October 2014**

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**Québec Official Publisher  
2014**

## EXPLANATORY NOTES

*This Act amends the Labour Code to introduce special provisions that apply to the employees of an employer who are assigned to a farming business, unless at least three such employees are ordinarily and continuously employed.*

*The Act requires, among other things, that the employer give an association of employees a reasonable opportunity to make representations concerning the employees' conditions of employment. The employer must examine the representations and discuss them with the association's representatives.*

*Diligence and good faith must govern the conduct of the association of employees and the employer at all times.*

*Furthermore, the Act confers jurisdiction on the Commission des relations du travail to hear and determine any complaint alleging a contravention of these special provisions.*

*Lastly, it contains transitional and final provisions.*

## LEGISLATION AMENDED BY THIS ACT:

- Labour Code (chapter C-27).

## Bill 8

### AN ACT TO AMEND THE LABOUR CODE WITH RESPECT TO CERTAIN EMPLOYEES OF FARMING BUSINESSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

- 1.** Section 21 of the Labour Code (chapter C-27) is amended by striking out the fifth paragraph.
- 2.** The Code is amended by inserting the following after section 111.26:

#### “CHAPTER V.3

#### “SPECIAL PROVISIONS APPLICABLE TO FARMING BUSINESSES

“**111.27.** This chapter applies to the employees of an employer who are assigned to a farming business, unless at least three such employees are ordinarily and continuously employed.

Divisions II and III of Chapter II and Chapters III to V do not apply to employees referred to in the first paragraph.

“**111.28.** The employer must give an association of employees of the farming business a reasonable opportunity to make representations about the conditions of employment of its members.

“**111.29.** Considerations relevant in determining whether a reasonable opportunity has been given include the following:

- (1) the timing of the representations relative to concerns that may arise in running a farming business, such as planting and harvesting days, weather conditions, animal health and safety and plant health;
- (2) the frequency and repetitiveness of the representations.

“**111.30.** An association of employees may make its representations verbally or in writing. The employer must examine the representations and discuss them with the association’s representatives.

If representations are made in writing, the employer gives the association of employees a written acknowledgement of having read them.

Diligence and good faith must govern the parties’ conduct at all times.

**“111.31.** The employer or the owner of an agricultural operation is required to allow any representative of an association of employees holding a permit issued by the Commission in accordance with the regulation made for that purpose under section 138 to enter and have access to the place under the employer’s or owner’s control where employees are living.

**“111.32.** An association of employees, an employer or an employers’ association that believes that a right conferred by this chapter has not been respected may file a complaint with the Commission.”

**3.** Section 138 of the Code is amended by replacing “section 8 or 9” in subparagraph *a* of the first paragraph by “sections 9, 111.26 and 111.31”.

**4.** Section 141 of the Code is amended by adding the following paragraph at the end:

“An employer who or which fails to acknowledge as representing employees in his or its employ the representatives of an association referred to in Chapter V.3 or to have discussions with them in good faith according to the process provided for in that chapter is guilty of an offence under the first paragraph and liable to the fine prescribed in that paragraph.”

#### TRANSITIONAL AND FINAL PROVISIONS

**5.** Any certification granted under the Labour Code (chapter C-27) between 13 June 2014 and 22 October 2014 with respect to employees who are subject to Chapter V.3 of the Code is null.

The same holds for any petition for certification in progress on 22 October 2014 with respect to such employees and for any recourse brought in connection with such a petition.

**6.** Subdivision 4 of Division IV of the Regulation respecting the exercise of the right of association under the Labour Code (chapter C-27, r. 4) applies, with the necessary modifications, to a permit to enter and have access to the place where employees of a farming business are living until the regulation referred to in section 111.31 of the Labour Code is made by the Government.

**7.** This Act comes into force on 22 October 2014.



## Regulations and other Acts

Gouvernement du Québec

### O.C. 21-2015, 14 January 2015

Health Insurance Act  
(chapter A-29)

#### Regulation — Amendment

CONCERNING the Regulation to amend the Regulation respecting the application of the Health Insurance Act

WHEREAS, under subparagraph (b) of the first paragraph of section 69 of the Health Insurance Act (chapter A29), the Government may, after consultation with the Régie de l'assurance maladie du Québec or upon its recommendation, determine, among the services referred to in section 3 of this Act, those services that must not be considered to be insured, and the frequency with which certain of the services referred to in subparagraph (c) of the first paragraph or in the second paragraph of section 3 may be rendered in order to remain insured services;

WHEREAS, under subparagraph (c) of the first paragraph of section 69 of this Act, the Government may, in like manner, make regulations to determine the oral surgery services that must be considered to be insured for the purposes of subparagraph (b) of the first paragraph of section 3;

WHEREAS under subparagraph (d) of the first paragraph of section 69 of this Act, the Government may also make regulations to determine the services that dentists render and which must be considered to be insured for the purposes of the second paragraph of section 3 with respect to each of the categories of insured persons referred to therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Regulation respecting the application of the Health Insurance Act was published in Part 2 of the *Gazette officielle du Québec* on 19 March 2014, with notice that it could be made by the Government upon expiry of the 45 day period following that publication;

WHEREAS the Régie de l'assurance maladie has been consulted with respect to the amendments;

WHEREAS the comments received were examined;

WHEREAS it is expedient to make that Regulation without any amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Health and Social Services:

THAT the Regulation to amend the Regulation respecting the application of the Health Insurance Act, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,  
*Clerk of the Conseil exécutif*

### Regulation to amend the Regulation respecting the application of the Health Insurance Act

Health Insurance Act  
(chapter A-29, s. 69, 1st par., subpars (b), (c) and (d))

**1.** The Regulation respecting the application of the Health Insurance Act (chapter A29, r. 5) is amended in subparagraph (D) of section 31, in subparagraph (G) of section 35 and in subparagraph (G) of section 36:

(1) by inserting, after “Excision and curettage of intraosseous cyst or granuloma”, the following services:

“Marsupialization of intraosseous cyst

Evacuation of cervicofacial hematoma / seroma”;

(2) by replacing “Palatine fissure” and the list of associated procedures with “Cleft palate” following:

“Cleft palate

— closing of soft palate

— closing of hard palate

— additional lengthening of palate with intravelar myoplasty

— pharyngeal flap to cure velopharyngeal insufficiency

— cure of residual palatal fistula

— reconstruction of alveolar ridge

—primary rhinoplasty in the presence of cleft lip

—secondary rhinoplasty by open or endonasal approach”;

(3) by inserting, in the list of services under “Reduction of fractures”, and after what follows “- alveolar bone”, the following procedure:

“opened reduction of bucket handle mandibular fracture”;

(4) by replacing “Insertion of splints” and “Removal of splints”, as well the procedures listed thereunder, with the following services and procedures:

“Mandibular reconstruction plate and bone fixation

—placement of reconstruction plate

—removal of bone fixation (pins, plate or screws) by surgical approach

Intermaxillary fixation and preprosthetic splint”;

(5) by inserting, in the list of services under “Treatment of temporomandibular articulation”, after what follows “- arthroscopy”, the following procedures:

“—injection of botulinum toxin for functional purposes

—implantation of glenoid fossa prosthesis

—implantation of condylar prosthesis

—cure of ankylosis”;

(6) by inserting, after “Emergency opening of the pulp chamber (emergency endodontia)”, the following service and list of procedures:

“Oncology and reconstruction

—neck dissection

—lip repair with Abbé flap or cross lip flap

—correction of post-traumatic or surgical scars

—post-traumatic / cleft lip dermabrasion

—graft by transfer of local pedicled myocutaneous flap

—graft by transfer of regional pedicled flap

—free cutaneous graft, head and neck region

—graft by free microanastomosed flap

—intralesional injection of pharmaceutical agent for non-cosmetic purposes”;

(7) by inserting, after “Anastomosis of a peripheral nerve under a microscope”, the following services:

“Vascular anastomosis under a microscope

Implantation of alloplastic craniomaxillofacial prosthesis to correct congenital, developmental or post-traumatic defects

Craniomaxillofacial distractor”.

**2.** This Regulation comes into force on the 15th day following the date of its publication in the *Gazette officielle du Québec*.

3635

## Draft Regulations

### Draft Regulation

Individual and Family Assistance Act  
(chapter A-13.1.1)

#### Individual and family assistance — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Individual and Family Assistance Regulation, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation makes various enhancements to the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1) regarding exclusions regarding the value of a residence and exclusions of certain sums and indemnities a person receives.

In particular, the proposed amendments tighten up the conditions to be met to be considered a resident in Québec and the rules concerning the consideration of income from room and board.

Lastly, the draft Regulation also amends the assistance granted to persons who stay in a centre that offers addiction services and to their family.

There are no impacts on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Anne Paradis, Direction des politiques de prestations, Ministère de l'Emploi et de la Solidarité sociale, 425, rue Saint-Amable, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1; telephone: 418 646-0425, extension 63289; fax: 418 6441299; email: anne.paradis@mess.gouv.qc.ca

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Employment and Social Solidarity, 425, rue Saint-Amable, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

FRANÇOIS BLAIS,  
*Minister of Employment  
and Social Solidarity*

### Regulation to amend the Individual and Family Assistance Regulation

Individual and Family Assistance Act  
(chapter A-13.1.1, s. 131, pars. 9 and 10, s. 132, pars. 1, 7, 8, 10, 11, 13, 14 and 16, and s. 136)

**1.** The Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1) is amended in section 15 by replacing “of section 20” by “of the first paragraph of section 20, or is absent from Québec for a calendar month.”

**2.** Section 19 is amended by inserting the following after subparagraph 3 of the second paragraph:

“(3.1) an adult who stays in a centre that offers addiction services with accommodations, operated by a community or private organization holding a certificate of compliance issued for that purpose by a health and social services agency pursuant to the Act respecting health services and social services (chapter S-4.2) ceases to be a member of a family from the third month following the beginning of the stay;”

**3.** Section 20 is amended by replacing “a full calendar month, which is a period extending from the first day to the last day of the month” in the second paragraph by “more than 15 days in a calendar month”.

**4.** Section 41 is amended

(1) by replacing “3” in subparagraphs 2 and 3 of the first paragraph by “2”; and

(2) by adding the following after subparagraph 3:

“(3.1) when 2 or more rooms are rented or offered for rent if the cohabitation is necessary for, where applicable:

(a) the lessor or a member of the family who occupies the unit to provide constant care to a person who occupies the unit and whose autonomy is significantly reduced because of a physical or mental condition;

(b) a person who occupies the unit to provide constant care to the lessor or a member of the family who occupies the unit and whose autonomy is significantly reduced because of a physical or mental condition;”

**5.** Section 60 is amended by adding the following paragraph at the end:

“The same applies to an independent adult who stays in a centre that offers addiction services with accommodations, operated by a community or private organization holding a certificate of compliance issued for that purpose by a health and social services agency pursuant to the Act respecting health services and social services (chapter S-4.2).”

**6.** Section 61 is amended

(1) by inserting “, after deducting, where applicable, the special benefit provided for in section 82 granted to pay the dwelling expenses for the month of the adjustment” at the end; and

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

“The same applies to an independent adult who stays in a centre that offers addiction services with accommodations, operated by a community or private organization holding a certificate of compliance issued for that purpose by a health and social services agency pursuant to the Act respecting health services and social services (chapter S-4.2).”

**7.** Section 65 is amended by inserting “, an independent adult referred to in the second paragraph of section 60” after the first occurrence of “sheltered”.

**8.** Section 82 is amended

(1) by inserting “, an independent adult referred to in the second paragraph of section 60” after the first occurrence of “sheltered” in the first paragraph;

(2) by replacing “\$325” in the first paragraph by “\$416”.

**9.** Section 114 is amended by adding the following after the first paragraph:

“However, the exclusions provided for in this section do not apply in the case of a claim made following a false declaration concerning the income in question.”

**10.** Section 120 is amended

(1) by replacing “calculated to the extent of 40%, with a minimum of \$85 for 1 person and” by “set at \$125 for 1 person and at”;

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

“The income from room or board for the room whose leasing brings in the lowest income is not taken into account in the calculation of the benefit when 2 or more rooms are rented or offered for rent, except for a lessor referred to in subparagraph 3 or 3.1 of the first paragraph of section 41.”

**11.** Section 138 is amended by adding the following at the end:

“(15) financial assistance received as extra temporary housing, food and clothing costs under a general financial assistance program or a compensation or specific financial assistance program established under the Civil Protection Act (chapter S-2.30).”

**12.** Section 146 is amended by adding the following at the end:

“(10) sums received as compensation for essential movable property under a general financial assistance program or a compensation or specific financial assistance program established under the Civil Protection Act (chapter S-2.30), if the sums are used within 90 days of their receipt;

(11) sums received otherwise than as extra temporary housing, food and clothing costs or as compensation for essential movable property under a program referred to in paragraph 10, if the sums are used within 2 years of their receipt for the purposes for which they were received.”

**13.** Section 147 is amended by replacing “\$90,000” by “\$142,100”.

**14.** Section 148 is amended by inserting “in paragraphs 10 and 11 of section 146 and” after “exclusions” in the first paragraph.

**15.** Section 157 is amended by inserting “, an independent adult referred to in the second paragraph of section 60” after the first occurrence of “sheltered”.

**16.** Section 164 is amended by replacing “\$130,000, increased by \$1,000 for each full year of occupation if the independent adult or family owns the residence” in the first paragraph by “\$203,000”.

**17.** The following Division is added after section 177.5:

**“DIVISION IV  
VARIOUS INCREASES**

**177.6** The amounts provided for in sections 147 and 164 are increased on 1 July of each year based on the percentage variation, between the previous year and the current year, of the standardized medium taxable value of single-family dwellings for the whole of Québec, as published by the Institut de la statistique du Québec.

Where the percentage variation provided for in the first paragraph has more than 2 decimals, only the first 2 are retained and the second is increased by one unit if the third is greater than 4.

Where the amount resulting from the increase provided for in the first paragraph is not a multiple of \$1, it must be rounded to the nearest multiple of \$1 or, if it is equidistant from two such multiples, to the higher thereof.

**177.7** The Minister is to inform the public of the increase under this Division through Part 1 of the *Gazette officielle du Québec* and by such other means as the Minister considers appropriate.”

**18.** Section 185 is amended by inserting “, an independent adult referred to in the second paragraph of section 60” in the second paragraph after the first occurrence of “sheltered”.

**19.** Section 187 is amended by inserting “, an independent adult referred to in the second paragraph of section 60” in the second paragraph after the first occurrence of “sheltered”.

**20.** This Regulation comes into force on 1 May 2015, except sections 4, 10, 13, 16 and 17 which come into force on 1 July 2015.

3634

## Draft Regulation

An Act to establish the new Code of Civil Procedure (2014, chapter 1)

### Regulation to establish a pilot project on mandatory mediation for the recovery of small claims arising out of consumer contracts

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to establish a pilot project on mandatory mediation for the recovery of small claims arising out of consumer contracts, appearing below, may be made by the Minister of Justice on the expiry of 45 days following this publication.

The draft Regulation is within the framework of the amendments made regarding civil procedures by the Act to establish the new Code of Civil Procedure (2014, chapter 1), assented to on 21 February 2014. The draft Regulation provides for the establishment of a pilot project on mandatory mediation in the judicial districts of Gatineau and Terrebonne for a period of three years. Under the pilot project, parties to a case for the recovery of small claims arising out of consumer contracts introduced in those districts during that period must mandatorily participate in a mediation session before the case may be heard by the court.

To date, study of the matter has revealed that the amendments will have no financial impact on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Michel Paquette, Bureau de la sous-ministre, Ministère de la Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Québec (Québec) G1V 4M1; telephone: 418 643-4090; fax: 418 643-3877; email: michel.paquette@justice.gouv.qc.ca

Any person wishing to comment on the matter is requested to submit written comments within the 45-day period to the Minister of Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Québec (Québec) G1V 4M1.

STÉPHANIE VALLÉE,  
*Minister of Justice*

## Regulation to establish a pilot project on mandatory mediation for the recovery of small claims arising out of consumer contracts

An Act to establish the new Code of Civil Procedure (2014, chapter 1, ss. 28 and 836)

### CHAPTER 1 GENERAL

**1.** A pilot project on mandatory mediation for the recovery of small claims arising out of consumer contracts is established for a period of 3 years in the judicial districts of Gatineau and Terrebonne.

Under the pilot project, parties to a case for the recovery of small claims arising out of consumer contracts introduced in those districts during that period must participate in a mediation session before the case may be heard by the court. However, cases concerning fees arising from a contract concluded with a member of a professional order governed by the Professional Code (chapter C-26) are not subject to the pilot project.

For the purposes of this Regulation, a consumer contract is a contract defined in article 1384 of the Civil Code.

**2.** A party may, for a serious reason, be exempted from participating in a mandatory mediation session.

The following constitute a serious reason:

(1) the existence of an order preventing a party from being in the presence of another party;

(2) the fact that the domicile or residence of a party is located outside Québec and Ontario and that consequently, the costs related to the party's participation in the mediation session exceed the possible advantages;

(3) the fact that the parties have already participated in a mediation session for the same dispute.

**3.** Where a case is subject to mandatory mediation, the clerk so notifies the parties and informs them of their right to be exempted from it.

A party who wishes to be exempted from mandatory mediation must make an application in writing to the court not later than 20 days after being notified by the clerk that a case is subject to mediation. The clerk informs the other parties of the application; they then have 10 days to present observations in writing.

The application is decided by a judge in chambers. The decision must state the reasons on which it is based. The clerk informs the parties of the decision rendered.

**4.** Once a party is exempted, the mandatory mediation session does not take place and the case may be heard by the court.

**5.** The decision of the clerk regarding the obligation to participate in mandatory mediation may be revised by a judge in chambers.

The application is subject to the same rules as those prescribed for an application for exemption from mandatory mediation.

## CHAPTER 2 MEDIATION PROCESS

### DIVISION I DESIGNATION OF A MEDIATOR

**6.** The mediator is an advocate or a notary, certified to be a mediator by the professional order of which he or she is a member.

**7.** The clerk draws up a list of the certified mediators who can act within the framework of the pilot project from among those who have their professional domicile in the district concerned and who have expressed an interest in participating in the project to their professional order.

**8.** When a case is ready to be heard, the clerk offers the mediation mandate to a mediator whose name appears on the list, offering mandates to all such mediators in turn.

The clerk may offer two mandates simultaneously to the same mediator.

**9.** In no case may a mediator transfer his or her mandate to another mediator. If unable to carry out a mandate, the mediator so informs the clerk, who then offers it to another mediator.

**10.** The professional order who certified a mediator must inform the clerk when that mediator ceases to carry out his or her professional activities or is no longer authorized to carry them out.

The clerk removes the name of that mediator from the list of mediators who can act within the framework of the pilot project and so informs the mediator.

If a mandate had been given to that mediator, the clerk so informs the parties in writing and offers the mandate to another mediator.

**11.** If a mediator does not comply with the provisions of this Regulation, the clerk may end his or her mandate.

Before doing so, the clerk must notify the mediator in writing as prescribed by section 5 of the Act respecting administrative justice (chapter J-3) and allow the mediator at least 10 days to present observations.

If the clerk decides to end the mandate, he or she so informs the mediator and the parties. He or she then offers the mandate to another mediator.

**12.** The fees payable to a mediator to carry out a mandatory mediation mandate within the framework of the pilot project are paid by the Ministère de la Justice. The fees are the same as those payable to a mediator to carry out a mediation mandate under the Regulation respecting the mediation of small claims (chapter C-25, r. 8).

However, despite sections 13 and 14 of the above-mentioned Regulation, if a mediator holds a session pursuant to the second paragraph of section 15 of this Regulation, he or she may receive fees for the session.



Travelling expenses, research fees, communication expenses, and any other fees, costs or expenses are paid by the mediator. He or she may not request directly or indirectly that the parties pay or reimburse such expenses.

## **DIVISION II** ROLE AND DUTIES OF A MEDIATOR

**13.** A mediator helps the parties to engage in dialogue, clarify their views, define the issues in dispute, identify their needs and interests, explore solutions and reach, if possible, a mutually satisfactory agreement.

The mediator must be capable of acting impartially and diligently and in accordance with the requirements of good faith. He or she is required to draw the parties' attention to any conflict of interest or any situation that may be seen to create a conflict of interest or that may cast doubt on the mediator's impartiality. He or she must inform the clerk of any such conflict or situation as soon as possible.

**14.** The mediator has a duty to treat the parties fairly, and must see that each party has an opportunity to argue its case.

The mediator may suspend a mediation session at any time, in the interests of the parties or of one of the parties. He or she may also end the mediation session if warranted by the circumstances, in particular if the mediator is convinced that the mediation process is doomed to failure or is likely, if continued, to cause prejudice to one of the parties.

**15.** In the absence of a party from a mandatory mediation session, the mediator must wait a minimum of 30 minutes after the scheduled time for the mediation session to begin before noting the default of the party and cancelling the session.

If the absence of a party is justified by a serious reason, the mediator may schedule a new session with the other parties' consent.

## **DIVISION III** RIGHTS AND DUTIES OF THE PARTIES

**16.** The parties must participate in a mediation session to which they are summoned by the mediator.

They are required to participate in the process in good faith, to be transparent with each other, including as regards the information in their possession, and to co-operate actively in searching for a solution.

**17.** At a mandatory mediation session, the parties may, if all consent, even tacitly, bring persons who, while neither experts nor advisers, may make a contribution that is useful for the orderly progress of the mediation process and in resolving the dispute. The parties are required to ensure that the persons who have the authority to make a settlement agreement are present or can be reached in sufficient time to give their consent.

The mediator may, however, restrict the presence or participation of certain persons.

## **DIVISION IV** CONFIDENTIALITY OF MEDIATION

**18.** The mediator and the mediation participants must preserve the confidentiality of anything said, written or done during a mandatory mediation process, subject to any agreement between them on the matter or to any special provisions of the law.

The mediator or the parties may provide information for research, teaching or statistical purposes or in connection with an evaluation of the pilot project on mandatory mediation and its results without it being a breach of the mediator or the parties' duty of confidentiality, provided no personal information is revealed.

**19.** The mediator and mediation participants cannot be compelled, in arbitration, administrative or judicial proceedings, whether related or unrelated to the dispute, to disclose anything they hear or learn in the course of the mediation process. Nor can the mediator and mediation participants be compelled to produce a document prepared or obtained in the course of the mediation process, unless the law requires its disclosure, a person's life, safety or personal integrity is at stake or its disclosure is necessary for the mediator to be able to defend against a claim of professional misconduct. No information given or statement made in the course of the mediation process may be admitted in evidence in such proceedings.

**20.** Despite section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), no one has a right of access to a document contained in a mediation record, or the right to object to the use of a document in the course of a mediation process on the grounds that it may contain personal information.

## **DIVISION V** CONDUCT OF MEDIATION

**21.** The mediator must hold a mandatory mediation session within 30 days following the date on which written confirmation of his or her mandate is given by the clerk.

Where the mandatory mediation session has not been held within that period, the clerk asks the mediator to explain the reasons for the delay. If the reasons justify it, the clerk may give an extension of 15 days. Failing that, the mandate is withdrawn from the mediator and offered to another mediator.

**22.** The mediator communicates with the parties to agree on a date and time for the mediation session.

A party's failure to agree on the moment such session is to be held is a failure to participate to the mediation process.

**23.** The mediation session is held at the place determined by the mediator.

**24.** Before starting the mediation process, the mediator informs the parties of a mediator's role and duties, and determines with them the rules applicable to and the length of the mediation process.

**25.** The mediator may communicate with each party separately, but in that case is required to inform the parties.

No information relevant to the mediation received from a party may be disclosed by the mediator, without that party's consent, to the other party.

#### **DIVISION VI** **FAILURE OF A PARTY TO PARTICIPATE** **IN MEDIATION**

**26.** Where the mediator notes the absence of a party at a mandatory mediation session or the failure of a party to agree on the moment such a session is to be held, the mediator files with the court office a report stating that it was impossible to proceed with the mandatory mediation and identifying the faulty party.

The case may then be heard by the court.

**27.** The court may penalize a party's failure to participate in the mandatory mediation session, as noted by the mediator.

The court may condemn the faulty party to pay the legal costs, namely the court costs, including witness indemnities and allowances and any expert fees, where applicable. The court may also condemn the party to pay damages to the other parties, to compensate any loss and expenditure incurred because of their participation in the mandatory mediation session. Lastly, the court may, if the faulty party is the creditor, reduce or cancel the interest payable to that party.

Expert fees include the costs related to the drafting of the report and, if applicable, preparing testimony, and remuneration for the time spent testifying and, to the extent useful, attending the trial.

#### **CHAPTER 3** **RESULTS OF MEDIATION**

**28.** If the mandatory mediation ends the dispute, the mediator sends to the clerk, within 10 days of the mediation session, a document attesting that the mandatory mediation session was held, signed by the parties.

The parties file with the court office either a notice that the case has been settled or the signed settlement agreement.

**29.** If the mandatory mediation does not end the dispute, the mediator sends to the clerk, within 10 days of the mediation session, a report giving an account of the facts, the positions of the parties and the questions of law raised.

The case may then be heard by the court.

#### **CHAPTER 4** **TRANSITORY AND FINAL**

**30.** For the duration of the pilot project, despite any agreement to the contrary, the competent territorial jurisdiction to recover small claims arising from a consumer contract in the judicial districts of Gatineau and Terrebonne is that of the domicile or residence of the consumer, whether the consumer is the plaintiff or the defendant.

**31.** This Regulation comes into force on *[to determine]*.

3636



## Index

Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified

	<b>Page</b>	<b>Comments</b>
Health Insurance Act — Regulation . . . . . (chapter A-29)	51	M
Individual and Family Assistance Act — Individual and family assistance. . . . . (chapter A-13.1.1)	53	Draft
Individual and family assistance . . . . . (Individual and Family Assistance Act, chapter A-13.1.1)	53	Draft
Labour Code with respect to certain employees of farming businesses, An Act to amend the. . . . . (2014, Bill 8)	47	
Labour Code, amended. . . . . (2014, Bill 8)	47	
Mandatory mediation pilot project to recover small claims arising from a consumer contract . . . . . (An Act to establish the new Code of Civil Procedure, 2014, chapter 1)	55	Draft
New Code of Civil Procedure, An Act to establish the... — Mandatory mediation pilot project to recover small claims arising from a consumer contract . . . . . (2014, chapter 1)	55	Draft

