

WHEREAS it is expedient to further amend that Regulation;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting fees to be paid under Part IA of the Companies Act was published in Part 2 of the *Gazette officielle du Québec* of 12 June 1996, with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting fees to be paid under Part IA of the Companies Act, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting fees to be paid under Part IA of the Companies Act

Companies Act
(R.S.Q., c. C-38, s. 123.169, par. 1)

1. The Regulation respecting fees to be paid under Part IA of the Companies Act (R.R.Q., 1981, c. C-38, r. 2), amended by the Regulations made by Orders in Council 430-86 dated 9 April 1986, 753-90 dated 30 May 1990, 1250-91 dated 11 September 1991, 1688-92 dated 25 November 1992, 1277-93 dated 8 September 1993 and 1858-93 dated 15 December 1993, is further amended by substituting the following for subparagraphs *a* and *d* of paragraph 1 of section 1:

“(a) a certificate of incorporation: \$383;”

“(d) a certificate of amendment: \$179.”

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

9978

Gouvernement du Québec

O.C. 1171-96, 18 September 1996

Legal Aid Act
(R.S.Q., c. A-14)

Legal aid plan — Conditions of practice procedure, for the settlement of disputes and tariff of fees of advocates

Regulation respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan

WHEREAS under the first paragraph of section 81 of the Legal Aid Act (R.S.Q., c. A-14), the Minister of Justice shall negotiate with the bodies authorized to represent the notaries, advocates, bailiffs or stenographers, the tariffs of fees applicable for the purposes of that Act;

WHEREAS under the second paragraph of that section, the Government may make regulations to ratify an agreement respecting the tariffs of fees applicable for the purposes of that Act or, failing such an agreement, to establish such tariffs, and such regulations may also prescribe which person may determine the fees applicable to services for which no tariff is fixed and may provide a procedure for the settlement of dispute and to what matters the procedure may apply;

WHEREAS it is expedient to replace the Regulation ratifying the Agreement entered into by the Minister of Justice and the Barreau du Québec on 5 June 1990, made by Order in Council 785-90 dated 6 June 1990;

WHEREAS failing the conclusion of an agreement with the Barreau du Québec and in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1) and with paragraph 3 of section 59 of the Act to amend the Legal Aid Act (1996, c. 23), a draft regulation establishing the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan was published on page 3863 of the *Gazette officielle du Québec* dated 21 August 1996, with a notice that it could be made by the Government at the expiry of 15 days from the date of that publication;

WHEREAS the 15-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments incorporating comments that were received following publication in the *Gazette officielle du Québec*;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan

Legal Aid Act
(R.S.Q., c. A-14, s. 81; 1996, c. 23, s. 43, par. 2)

Preliminary

1. For the purposes of this Regulation, the term “legal aid body” means a legal aid centre, a legal aid bureau or the Commission des services juridiques; it includes any organization or person that issues certificates of eligibility for legal aid.

2. This Regulation governs, for the purposes of the legal aid plan, any advocate who agrees to render professional services to a legal aid recipient, with the exception of an advocate who is employed on a full-time basis by a legal aid centre.

CHAPTER I CONDITIONS OF PRACTICE

DIVISION I FREE CHOICE OF AN ADVOCATE

3. A person who is financially eligible may consult an advocate in private practice before submitting an application for legal aid under section 62 of the Act.

4. An application for legal aid may be submitted by the advocate himself on behalf of a person in favour of whom a conditional certificate of eligibility may be issued under the Act. In such case, the application shall be verbal.

5. A legal aid body shall, according to the criteria set forth in the Act, distribute equitably among the advocates the mandates for which recipients wish to be represented by an advocate registered in the legal aid plan but have not chosen a particular advocate.

6. Where there is a substitution of attorney, the legal aid centre shall inform the advocate of record in writing

that the recipient has requested a substitution of attorney and shall inform him of the name of the new attorney.

The preceding provision applies in like manner where the advocate of record or the new attorney is an advocate employed on a full-time basis by a legal aid body.

7. An advocate representing a person for the exercising of a right in respect of which the person becomes a recipient shall retain his mandate, subject to the provisions of the Act.

In such case, the legal aid body issuing the certificate of eligibility shall so inform the advocate of record and shall request his consent to continue the mandate, on the terms set forth by the Act and this Regulation.

DIVISION II PROFESSIONAL FREEDOM

8. The legal aid plan shall respect an advocate’s professional freedom; in particular, the plan shall recognize the advocate’s professional autonomy and shall preserve the personal and privileged nature of his relationship with the recipient.

9. Under the legal aid plan an advocate shall maintain his professional autonomy. It is his responsibility to determine which services he must render within the context of a legal aid mandate, while acting in the best interests of the recipient.

An advocate shall comply with the mandate he receives from the legal aid body on behalf of the recipient; the conditions of the mandate are intended to identify the type of legal aid required by the recipient.

10. The legal aid body shall refrain from intervening in the conduct of the advocate’s mandate; however, it may satisfy itself that the mandate is fulfilled. The conduct of the advocate’s mandate includes recourse to any expert reports that, according to recognized professional practices, may be justified by the nature and scope of the case, in conformity with the Act and the Regulations. The advocate shall obtain the authorization of the general manager of the legal aid centre before having recourse to expert reports. The general manager shall fix a maximum amount for the advocate’s fees and the fees for expert reports.

11. An advocate is at liberty to accept a legal aid mandate.

12. He may terminate any mandate in accordance with recognized standards of practice; in such case, he shall so inform the legal aid body and the recipient in writing.

13. The advocate shall render an account to the recipient of the conduct of his mandate and shall report to the legal aid body from which he received the mandate concerning the professional services that he has rendered.

In communicating with the Commission or a legal aid body, the advocate shall respect professional secrecy.

DIVISION III REMUNERATION

14. Every legal service rendered in accordance with the provisions of the Act and this Regulation shall be remunerated according to the tariff appearing in Schedule I to this Regulation.

A professional service related to the exercise of a right consequential to a statute or a regulation and for which this Regulation does not prescribe a rate or the payment of a special consideration is subject to a remuneration.

In such case, the legal aid body shall evaluate the advocate's statement of fees and fix the amount of remuneration. Such decisions may be the subject of a dispute.

15. The advocate shall forward his statement of fees to the legal aid body from which he received his mandate within three years following the end of that mandate. That deadline is mandatory. Payment shall be made within 45 days following receipt of the statement.

In the cases determined by regulation, the statement of fees shall be forwarded to the Commission and shall be paid by it within that same deadline.

16. A statement of fees may be an interim or final account. Statements shall be submitted on the form provided by the Commission.

An interim account covers professional services rendered in a case ready for hearing at 30 June of a given year.

17. Any amount due and unpaid on a statement of fees drawn up in accordance with the Act and this Regulation shall commence to bear annual interest 45 days after it is received by the legal aid body or the Commission, as the case may be.

The interest rate shall be equal to the discount rate of the Bank of Canada in force on 1 April and 1 October each year, plus one and one-half percent (1.5 %). The rate thus fixed shall be in force for the following six months.

18. A statement of fees is complete when it mentions the services rendered according to the nomenclature in the tariff in Schedule I and is supported by all the vouchers.

19. Disbursements are a part of the statement of fees and include fees for expert reports and other fees pertaining to proceedings incidental to the legal aid mandate.

Notwithstanding the foregoing, disbursements may appear on a separate statement where they exceed \$150.

20. An advocate shall receive no reimbursement for travel and parking within a radius of 25 km from his office.

He shall receive \$0.34 per kilometre travelled outside that radius as well as reimbursement for the cost of parking.

Notwithstanding the foregoing, the legal aid body shall reimburse the real cost of travel where it is less than what is provided for in the preceding paragraph.

For the purposes of this section, the office of an advocate who accepts a mandate to be conducted outside his judicial district is deemed to be situated in the chief town of that other district.

21. Where the tariff in Schedule I provides for a flat-rate fee for a series of services and a part of the mandate is carried out by an advocate employed by a legal aid body, the advocate in private practice is entitled to the part of the flat-rate fee corresponding to the services that he has rendered.

22. Where the mandates issued in the name of an advocate during a given fiscal period have generated fees for a total exceeding \$125 000, the fees payable to him for the services that he renders within the scope of those mandates and exceeding that amount shall be reduced by 35 %.

23. An advocate representing a recipient in respect of whom legal aid is suspended or withdrawn shall be remunerated according to the provisions of this Regulation for the services rendered before the receipt of a notice from the legal aid body, sent by mail or by telecommunications, informing him of the cessation of legal aid and the reasons for the decision.

The preceding disposition also applies where the recipient chooses to dispense with legal aid.

24. In a case where legal aid ceases, the advocate may nevertheless include in his statement of fees services that were rendered after receipt of the notice from the legal aid body but were necessary to safeguard the person's rights or were required by a court.

25. Where a legal aid body refuses to pay a statement of fees, it shall, within the period allotted for payment of the statement, so notify the advocate in writing, and that notice shall state the reasons for its refusal.

The preceding provision governs the Commission in cases where it assumes the payment of fees.

26. A refusal to pay fees shall be founded upon the non-compliance of the fees claimed under the provisions of the Act and this Regulation.

CHAPTER II PROCEDURE FOR THE SETTLEMENT OF DISPUTES

27. A dispute means any disagreement concerning the interpretation or the application of this Regulation, including any disagreement concerning a statement of fees.

28. A dispute may not be founded on a matter within the disciplinary jurisdiction of the Barreau du Québec.

29. Before submitting a dispute according to section 32, an advocate may refer the matter for conciliation by means of a notice in writing to the body refusing payment of his statement of fees and to the section of the Barreau du Québec to which he belongs.

30. Within 15 days following receipt of the notice, the general manager of the regional centre and the bâtonnier of the section shall each designate an advocate.

31. Within 30 days following their designation, the advocates so appointed and the advocate who is the claimant shall meet, examine one another's claims and endeavour to reach an agreement.

32. A dispute shall be submitted by the advocate by means of a notice addressed to the regional centre or the Commission, as the case may be. The notice shall contain a summary statement of the facts and the relief sought.

A dispute concerning contested fees shall be submitted within six months following receipt of a notice of

refusal to pay or the claim for a reimbursement; in such case, a copy of the notice of dispute shall be forwarded to the regional centre.

33. Referral for conciliation interrupts the prescription of six months.

34. Upon receipt of a notice of dispute, the regional centre or the Commission, as the case may be, shall give its answer in writing.

35. If the advocate is dissatisfied with the answer, or if no answer is forwarded to him within 30 days following submission of the notice of dispute, the advocate shall submit the dispute for arbitration by means of a letter addressed to the Chief Justice of the Court of Québec within six months. A copy of the letter shall be sent by the advocate to the regional centre or the Commission, as the case may be. The Chief Justice or the Senior Associate Chief Justice of the Court of Québec, as the case may be, shall designate one of the judges of that Court to act as arbitrator.

36. The Barreau du Québec may directly submit any dispute of general interest for arbitration; in such case, it shall so notify the Commission.

In particular, any alleged infringement of the provisions relating to the free choice of an advocate or professional freedom may be the subject of a dispute of general interest.

37. The arbitrator has jurisdiction, to the exclusion of any court, to rule on a dispute within the meaning of this Regulation. He may uphold, modify or rescind the disputed decision and, by the terms of his award, order a payment or a reimbursement, assess compensation, restore a right or make any other order he considers fair in the circumstances.

Notwithstanding the foregoing, the arbitrator may not modify the provisions of this Regulation. The arbitrator's award is final and binding on the parties.

38. The arbitrator may issue an interim award at any time.

39. Stenography and tape recording fees, if any, shall be borne by the regional centre or the Commission, as the case may be.

40. The arbitrator shall forward any award by registered letter to the parties and to the Barreau du Québec.

CHAPTER III MISCELLANEOUS

DIVISION I COMMITTEES

41. The Minister of Justice, the Commission and the Barreau du Québec shall from time to time form any tripartite committee that proves useful to the proper functioning of the legal aid plan; they shall determine the committee's mandate and procedure.

42. The number of representatives of the Bar sitting on such tripartite committee shall equal the total number of representatives of the Minister and the Commission.

43. A tripartite committee shall obtain from the Commission the documents, statistics and information that it requires in the conduct of its mandate.

44. The Commission shall place the necessary support staff at the disposal of the tripartite committee and shall assume the staff's remuneration.

45. Within each regional legal aid centre, a tripartite committee shall be set up and shall be composed of the bâtonnier or bâtonniers of the section or sections whose territory coincides with or intersects that of the regional centre, of an equal number of representatives of the centre and of one representative of the Ministère de la Justice.

The mandate of that committee is to conduct inquiries and to issue any recommendation deemed useful in respect of any complaint by an advocate submitted by the bâtonnier of his section and pertaining to

(a) the exercise by a recipient of his right to choose an advocate who is not in the employ of a legal aid body;

(b) the administrative practices of the centre with respect to financial eligibility; or

(c) any alleged deviation from the provisions of section 69 of the Act.

That regional committee may also refer cases to a provincial tripartite committee provided for in sections 41 to 44 and composed of the Deputy Minister of Justice, the chairman of the Commission, the bâtonnier and the vice-president of the Barreau du Québec.

DIVISION II CONSULTATION

46. The Minister shall consult the Barreau du Québec concerning any regulation that the Commission submits to him for approval by the Government.

47. The Minister shall consult the Barreau du Québec concerning the draft of any regulation respecting the exclusivity of services referred to in section 52 of the Legal Aid Act that he intends to propose to the Government for adoption. He shall also inform the Bar of the facts that warrant the adoption of such regulation.

48. The Commission shall consult the Barreau du Québec concerning the draft of any directive respecting an application for or the granting of a certificate of qualification or the services of an advocate.

49. The Commission shall consult the Barreau du Québec when implementing necessary administrative mechanisms to ensure the exercise of the free choice of an advocate.

50. The Commission shall consult the Barreau du Québec where it intends to draft or modify the forms that an advocate must fill out for the purposes of the legal aid plan.

51. This Regulation replaces the Regulation ratifying the Agreement entered into on 5 June 1990, made by Order in Council 785-90 dated 6 June 1990.

52. Mandates issued before 17 October 1996 continue to be governed by the Regulation ratifying the Agreement entered into on 5 June 1990.

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

SCHEDULE 1

(s. 14)

PART 1

GENERAL RULES OF INTERPRETATION AND APPLICATION

CONDUCT OF THE MANDATE

Advice

1. The fees of an advocate mandated by a legal aid body as a consultant shall be subject to an application for a special consideration.

Professional assistance

2. In a case warranting assistance by junior counsel, the junior counsel shall receive fees equivalent to one-fifth of the fees of the advocate assuming the mandate, for the services in respect of which his assistance was required.

An advocate wishing to be so assisted shall obtain prior authorization from the legal aid body.

This section does not apply in cases where this Schedule provides for professional assistance and fixes the applicable fees.

Special consideration

3. Payment for the professional services of an advocate may exceed the fees prescribed in the tariff where the legal aid mandate is of an exceptional nature owing to the circumstances of the work or the complexity of the case.

In such case, the advocate shall submit an application for a special consideration with his statement of fees, according to the form provided by the Commission.

4. The Commission shall examine the application and shall fix the amount of the excess fees. Such decisions may be subject to dispute in accordance with Chapter II of this Regulation.

5. In reviewing a decision concerning the expediency of granting a special consideration, the arbitrator shall verify whether the legal aid mandate is of an exceptional nature owing to the circumstances of the work or the complexity of the case.

6. In reviewing a decision concerning the amount of the excess fees, the arbitrator shall be guided by the precedents in the application of section 15 of the Tariff of judicial fees relating to a special fee (R.R.Q., 1981, c. B-1, r. 13).

7. Sections 3 to 6 apply *mutatis mutandis* in respect of professional services for which this Schedule expressly prescribes the payment of a special consideration.

PART 2

Special rules of interpretation and application in civil matters

8. The words “application”, “case” or “action” mean a proceeding, whether it is commenced by a writ, motion, joint factum or any other originating document.

9. The word “proof” means the examination of a party or a witness as well as the presentation before the court of any document containing an admission of facts, followed by an address.

10. The word “contestation” includes any opposition to an application by another party.

11. An advocate who accepts a mandate from a legal aid body shall apply for costs in his statement of claim.

12. Where the advocate of a recipient is entitled to costs awarded against an adverse party who is not a recipient, the advocate may either collect his costs from the adverse party or claim payment from the legal aid body from which he received his mandate, in accordance with this Schedule.

13. The collecting of costs from an adverse party has the effect of a discharge by the advocate in favour of the legal aid body from which he received his mandate.

Where the advocate chooses to claim payment from the legal aid body, he shall subrogate that body in his rights up to the amount of his bill of costs.

14. An advocate shall receive a fixed amount of \$10 as a reimbursement of his record administration costs, including the cost of photocopies, facsimile copies, messenger services, stamps and case-law research.

PART 3

GENERAL CIVIL TARIFF

Classes of actions

15. I — An application in which the amount or value in dispute is less than \$1 000;

II — An application in which the amount or value in dispute

(a) is \$1 000 or more but less than \$3 000;

(b) is \$3 000 or more but less than \$10 000;

III — An application in which the amount or value in dispute

(a) is \$10 000 or more but less than \$25 000;

(b) is \$25 000 or more but less than \$50 000;

IV — An application in which the amount or value in dispute is \$50 000 or more.

16. For proceedings or actions not provided for specifically by the tariff but governed by the Code of Civil Procedure, the fees are fixed according to the provisions of this Regulation in respect of similar proceedings or actions. Such proceeding or action in which the amount or value in dispute is indeterminable or inexistent falls under Class II-A.

17. Hypothecary actions are considered to be purely personal actions.

18. In an action by a creditor to enforce a right to become the absolute owner of an immovable, the class of the action is determined according to the balance due on the claim.

19. Unless otherwise provided by law, every action to set aside a contract or a will is classified according to the value of the contract or the succession; if in addition a sum of money is claimed, the total amount determines the class of the action.

20. Where two or more defendants file separate contestations, the advocate of the plaintiff receives for each additional contestation one-half of the fee prescribed in section 30 or section 31 of this Schedule, according to the stage of the proceedings. For the purposes of this rule, the intervenor, the impleaded party and the defendant on warranty, if they ask for dismissal of the main action, are each considered to be a defendant filing a separate contestation.

21. Where a flat-rate remuneration is prescribed for professional services and such services are rendered by more than one advocate, the remuneration is paid jointly to those advocates.

22. Where two or more incidental applications can be framed in a single proceeding, the fees are payable only once notwithstanding the multiplicity of proceedings.

23. In the matter of a declaratory judgment and a decision on a point of law, the interest in dispute, if it can be evaluated in money, determines the class of the action; otherwise, the fees are those prescribed for Class II-B.

24. In the case of a review of taxation of a bill of costs, the costs are based on the class of action corresponding to the amount of the costs in dispute.

25. There are no separate fees in the case of a cross demand, but the class of action corresponds to the highest of the amounts for which judgment is recovered.

26. If a settlement is reached between the parties or proceedings are withdrawn before the issue of the originating process, the advocate is entitled to the fees prescribed for an action of that class in the case of such settlement reached after the issue of the originating process and before the serving of any defence or contestation on the merits.

First instance

	I	II		III		IV
		1-3	3-10	10-25	25-50	50
		A	B	A	B	
	\$	\$	\$	\$	\$	\$
27. (a) For every notice or putting in default preceding the originating process and required by law	18	30	30	30	30	30
(b) For every notice or putting in default preceding the originating process and not required by law, only one fee is payable	18	24	24	24	24	24
28. For every action settled after the originating process and before service of a defence or contestation on the merits:						
(a) to the plaintiff's attorney	90	150	180	240	330	420
(b) to the defendant's attorney	36	90	150	210	330	390
29. For judgment on the merits, by default or <i>ex parte</i> , to the plaintiff's attorney:						
(a) without proof	108	168	210	300	390	480
(b) with proof	120	210	270	360	450	540
to the defendant's attorney:						
(c) if he is not present at the proof or if there is no proof	36	60	96	120	162	210
(d) if there is a proof and he is present	90	120	180	240	330	420

	I	II		III		IV		I	II		III		IV
		1-3	3-10	10-25	25-50	50			1-3	3-10	10-25	25-50	50
		A	B	A	B				A	B	A	B	
	\$	\$	\$	\$	\$	\$		\$	\$	\$	\$	\$	\$
30. For an action settled after service of a defence or contestation on the merits, or for an application dismissed on a motion under article 165 C.C.P.	120	300	420	540	660	780	(c) Preparation and registration of an application for the cancellation of the registration of a right	18	30	30	30	30	30
31. For judgment on the merits of the case in a contested action	240	420	600	840	960	1 200	(d) Filing of a declaration of voluntary payment into court of salary or wages and claim on seizure by garnishment	18	30	30	30	30	30
32. (a) On every contested incidental proceeding	24	60	60	60	60	60	36. (a) For the issue of all writs of execution, whatever their nature or number, only one fee according to the class of the amount claimed	18	30	30	30	30	30
(b) Where the incidental proceeding puts an end to the dispute, the fees applicable are those of section 29(a)							(b) Examination under article 543 C.C.P.	12	18	18	18	18	18
33. For the examination of a party before or after the defence is filed, excluding an examination during an incidental measure or the trial	24	36	36	36	36	36	37. For any judgment by default against a garnishee or on his declaration	18	30	30	30	30	30
34. When the judge requests or permits arguments in writing, additional fees of	36	60	60	120	120	120	38. For any seizure before judgment, additional fees according to the class of the main action	24	48	48	48	48	48
35. (a) For registration, at the registry office, of the judgment or any other act for the preservation of real rights	18	30	30	30	30	30	39. (a) Where a case lasts more than one day, for each additional half-day	50	100	100	100	100	100
(b) For the preparation and registration, at the registry office, of a prior claim or legal hypothec or a demand under article 1743 of the Civil Code of Québec	36	90	90	90	90	90	(b) Where the court declines to proceed and so declares in the presence of the parties on the day fixed for the hearing	24	60	60	60	60	60
							40. In the case of any pre-trial conference held according to the provisions of article 279 C.C.P. and prior to the day fixed for proof and hearing, the fees are those prescribed in section 33.						

41. An injunction applied for without other conclusions that those of article 751 C.C.P. is considered to be an action of Class II-B. If other conclusions are sought, the fees are those of the class prescribed for such conclusions, but are not less than those prescribed in Class II-B. The fees shall be calculated in the following manner: when the judgment on the motion for an interlocutory injunction terminates the case or the judgment on the motion for a permanent injunction is not preceded by a judgment on a motion for an interlocutory judgment, the advocate is entitled to the fees taxable on a judgment on the merits of the case. Where the judgment on the motion for a permanent injunction follows a judgment on a motion for an interlocutory injunction, the advocate is entitled to the fees taxable on a judgment on the merits increased by one-half.

42. In proceedings for boundary delimitation, possessory or petitory proceedings, proceedings for appointment of a receiver, and in actions for declaration or denial of a servitude, the fees are those prescribed for Class II-B.

43. In proceedings for judicial partition and licitation, the class of actions is in accordance with the value of the matter in dispute.

44. In proceedings respecting legal persons, for extraordinary recourses and for *habeas corpus* under Titles V, VI and VII of Book V of the Code of Civil Procedure, the fees are those prescribed for Class II-B.

45. In non-contentious proceedings, the fees are those of section 32(a), Class II, with the exception of the procedure governing the sale of the property of others provided for in Chapter X of Book VI of the Code of Civil Procedure, the class being determined by the value of the property.

46. In adoption proceedings, the fees are those prescribed for Class II-A.

An application for a declaration of eligibility for adoption, an application for placing a child and an application for adoption constitute separate proceedings. Any other application constitutes an incidental proceeding and is remunerated as such.

Where an advocate submits separate applications for two or more children in the same family and the grounds for the applications are identical, the fee payable for each additional application after the first is \$33.

47. In property assessment proceedings, including the quashing or contesting of a role, the fees both before the Bureau de révision d'évaluation foncière and in appeal

before the Court of Québec are those prescribed for Class II-A of the tariff at first instance; section 49 does not apply thereto and the cost of expert reports is not included in the bill of costs.

48. In expropriation proceedings, the class of the action is determined by the amount of the compensation.

Additional fees of 1 % of the compensation are added to the fees when, upon a motion accompanied by an affidavit of the advocate, it is demonstrated to the satisfaction of the Court of Québec, Expropriation Division, that the advocate's services during the preparation of the case or at proof and hearing, or during the negotiations leading to a compromise, so justify.

Contestation of the right to expropriation is a separate proceeding. The fees applicable are those prescribed for Class II-B.

For any proceeding commenced under the Expropriation Act before a court other than the Court of Québec, Expropriation Division, the fees applicable are those prescribed for Class II-B, section 32 (a).

For any uncontested proceeding respecting payment of the money awarded, the fees are those prescribed in section 35 (b).

49. Upon judgment in a contested case ordering the defendant to pay an amount greater than \$100 000 in principle, the following additional fees are taxable in favour of the plaintiff:

— 1 % of the amount in excess of \$100 000, up to a judgment of \$1 000 000;

— plus, where the amount of the judgment exceeds \$1 000 000, 1/10 of 1 % of the amount in excess of \$1 000 000.

Upon judgment dismissing an action in which the amount claimed is greater than \$100 000, the following additional fees are taxable in favour of the defendant:

— 1 % of the amount in excess of \$100 000, up to an amount claimed of \$1 000 000;

— plus, where the amount claimed in the action exceeds \$1 000 000, 1/10 of 1 % of the amount in excess of \$1 000 000.

Where there is an out-of-court settlement before a defence has been filed, the advocate is entitled to only one-third of the additional fees prescribed in this section.

Where there is an out-of-court settlement after a defence has been filed, the advocate is entitled to only two-thirds of the additional fees prescribed in this section.

The additional fees are payable to an advocate once only, regardless of the number of plaintiffs or defendants.

Representation of children in superior court

50. All services rendered up to and including a final decision for representing a child within the scope of article 394.1 C.C.P.

- (a) uncontested \$198
 (b) contested \$227

Special tariff for matrimonial proceedings

The rules of Part I, Part II and Part III of Schedule 1 apply *mutatis mutandis* to matrimonial proceedings.

Principal proceedings

51. (a) Upon reconciliation after the issue of the originating process;
 to the plaintiff's attorney \$150

(b) Upon reconciliation after appearance or before service of a contestation;
 to the defendant's attorney \$150

(c) Upon reconciliation or withdrawal of proceedings for separation by consent before judgment;
 to the attorney representing both parties \$252

52. On reconciliation after service of a contestation and before judgment on the merits;
 to the plaintiff's attorney \$336
 to the defendant's attorney \$224

53. For judgment *ex parte* or by default;
 to the plaintiff's attorney \$401

54. For judgment *ex parte* or by default;
 to the defendant's attorney present at the proof \$285

55. For judgment *ex parte* or by default;
 to the defendant's attorney not present at the proof \$227

56. (a) For judgment on the merits in a contested case with or without a cross demand by the defendant;
 to each attorney \$489

(b) For judgment on the merits granting a separation or divorce by consent;
 to the attorney representing both parties \$580

The fees prescribed in sections 53, 54 and 55 and in this section include the recovery of a decree absolute of divorce.

Provisional measures and incidental proceedings

57. (a) For every judgment for provisional measures after agreement or compromise, but without proof;
 to each attorney, one fee only \$197

(b) For every judgment, after proof, on any motion for provisional measures;
 to each attorney, one fee only \$227

For the purposes of this section, an interim judgment or order is not a judgment.

58. (a) For any contested incidental proceeding not governed by section 57 and for any interim judgment or order related to a provisional measure \$58

(b) For examination of a party, before or after the filing of a defence, excluding an examination during an incidental measure or the trial \$35

(c) Where the judge requests or authorizes written arguments \$58

(d) If the hearing lasts more than one day, for each additional half-day \$58

(e) Where the court declines to proceed at the hearing on the merits and so declares in the presence of the parties on the day fixed for the hearing \$58

59. Where a separate motion is presented by each party regarding the same provisional measure, one fee only is payable regardless of the number of motions.

60. Where a new mandate is issued for one or more new proceedings for separation from bed and board or for

divorce within 12 months of the issue of the first mandate, only one-half of the above fees is payable where the same attorney represents the same plaintiff on each occasion; in every other case where a new mandate is issued within that same period, the fees are payable in full.

Execution of judgment

61. (a) For an examination under article 543 C.C.P. \$18

(b) For a requisition for a writ of seizure before judgment \$29

(c) For a requisition for a writ of seizure after judgment of movables or immovables or both together \$29

(d) For a requisition for a writ of seizure by garnishment after judgment \$29

(e) For a judgment for seizure by garnishment after judgment \$58

(f) Only one of the two fees prescribed in paragraphs *d* and *e* may be claimed.

(g) For registration of the judgment at the registry office \$29

Motions subsequent to final judgment

62. (a) Designation of practitioner \$12

(b) Homologation of practitioner's report \$12

(c) Inscription following homologated report \$12

(d) For any judgment on a motion for variation of support, custody of children, right of access, without proof of an issue; to each attorney, one fee only \$198

(e) For a judgment after proof of an issue with respect to all measures described in paragraph *d*; to each attorney, one fee only \$227

For the purposes of paragraphs *d* and *e* of this section, an interim judgment or order is not a judgment.

Motions under article 813.8 C.C.P.

63. (a) For any judgment without proof of an issue relating to a motion under article 813.8 C.C.P.; to each attorney \$198

(b) For any judgment in a contested case after proof of an issue and concerning a motion under article 813.8 C.C.P.; to each attorney \$227

For the purposes of this section, an interim judgment or order is not a judgment.

64. For any interim judgment or order \$58

Declaration of family residence

65. Drafting and registration, at the registry office, of a declaration of family residence \$75

Courts of appeal

	I	II	III	IV		
		1-3	3-10	10-25	25-50	50
		A	B	A	B	
	\$	\$	\$	\$	\$	\$

66. Disbursements incurred for the preparation of the joint record and the printing of factums are included in the statement of fees

67. Sections 42, 43 and 44 of the ariff at first instance apply to the Court of Appeal

68. After filing of the inscription; for every case terminated or appeal abandoned

120	120	300	360	480	600
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69. After filing of the factum of the appellant; for every case terminated or appeal abandoned:

(a) to the appellant	300	360	540	660	840	1 020
(b) to the respondent	150	180	360	420	540	660

85. For an appeal from an interlocutory judgment, the fees are one-half of the fees prescribed for a final judgment.
86. For the filing of an additional factum at the request of the court \$168
87. For every trip from any other district to Montréal or Québec made especially for the hearing, the advocate is entitled to an allowance equal to the allowance payable by law to a judge of the Court of Québec.
88. Where the hearing of the case on the merits lasts more than one day, for each additional half-day \$112

SUPREME COURT OF CANADA

89. Services rendered in a proceeding before the Supreme Court of Canada are subject to an application for a special consideration.

PART 4

TARIFF IN CRIMINAL AND PENAL PROCEEDINGS UNDER THE YOUNG OFFENDERS ACT

Special interpretation and application rules

90. Where a flat-rate remuneration is prescribed for professional services and such services are rendered by more than one advocate, the remuneration is paid jointly to those advocates.
91. Where the tariff prescribes a *per diem* remuneration for professional services, the advocate is entitled to only one-half of the fees prescribed where his presence in Court was not required for more than one half-day.

For the purposes of this section, 1:00 p.m. is the middle of the day.

Professional services rendered by an advocate at a hearing held in the evening (after 7:00 p.m.) entitle him to remuneration equivalent to one half-day in addition to any remuneration to which he may be entitled under the preceding sections.

92. Remuneration payable for professional services rendered by an advocate on a finding or a plea of guilty to a lesser and included offence is that which would have been payable in respect of the offence charged.
93. Where an advocate represents a client who has been charged under more than one count and the proceedings

on the various counts are held in the same court at or about the same time, the advocate is entitled only to the remuneration prescribed for a single count, except in the case of a special consideration.

The remuneration which applies in such case is that prescribed for the highest paid professional service.

94. Where an advocate represents two or more recipients charged with the same offence or with a like offence arising from the same course of events, and where the proceedings are held in the same court at or about the same time, the advocate is entitled to one-half of the remuneration prescribed for the professional services rendered to each of the other recipients, except in the case of a special consideration.

95. At first instance, subject to any provision to the contrary, the remuneration prescribed in this tariff applies only to the professional services rendered to the accused.

On appeal, subject to any provision to the contrary, the remuneration prescribed in this tariff applies only to the professional services rendered to the person who, at first instance, was the accused.

96. An advocate is not entitled to reimbursement of his record administration costs, including the cost of photocopies, facsimile copies, messenger services, stamps and case-law research.

97. Appearance before a justice and appearance before a judge for the purpose of entering a plea of not guilty or making an election and adjournment are not considered to be essential aspects of the advocate's mandate.

FIRST INSTANCE

Indictable offences within the exclusive jurisdiction of the Superior Court of criminal jurisdiction, under section 469 of the Criminal Code (Canada)

98. Preparation of the preliminary inquiry, including interviews with the accused and witnesses, visits to the scene of the crime and legal research (up to and including preliminary inquiry) \$228
99. All services rendered on a preliminary objection presented aside from the preliminary inquiry or the trial, where the judgment granting it terminates the prosecution \$300

100. Preparation for trial, including interviews with the accused and witnesses, visit to the scene of the crime and legal research (between preliminary inquiry and sentence if any) \$456

That fee shall be payable only where the trial is actually held and judgement delivered.

101. Appearance and all stages of proceedings completed on the same day \$58

The fee prescribed above includes the remuneration for the preparation work for those stages of the proceedings.

102. Bail hearing (if held after the day of appearance) \$94

103. Waiver of preliminary inquiry under section 549 of the Criminal Code (Canada) \$35

104. Preliminary inquiry, per day \$181

105. Attendance for order on preliminary inquiry or for voluntary examination (where witnesses are not heard) \$20

106. Trial, per day \$364

107. Junior counsel at trial, per day \$117

The fee prescribed above applies only in cases of first-degree or second-degree murder and with the express prior consent of the general manager. The junior counsel is not entitled to preparation fees.

108. Attendance for the purpose of entering a plea of guilty \$117

109. Withdrawal of plea of guilty \$117

110. Submissions as to sentence or submissions and sentence \$117

111. Sentence only \$20

The fees prescribed in section 110 or 111 apply only to attendance for sentence on a day other than the day on which the client was found guilty or on which he entered a plea of guilty.

112. Attendance for adjournment before the Superior Court of criminal jurisdiction or before a court of criminal jurisdiction \$20

The advocate may not claim fees for more than two adjournments obtained at his request.

Indictable offences other than those within the exclusive jurisdiction of the Superior Court of criminal jurisdiction, under section 469 of the Criminal Code (Canada) and other than those within the exclusive jurisdiction of a judge of the provincial court under section 553 of the Criminal Code (Canada)

113. All professional services rendered up to the final disposition of the case at first instance \$425

114. Notwithstanding section 113 and if applicable, where the prosecution objects to release, for a bail hearing actually held \$100

115. Notwithstanding section 113, where the case requires a trial lasting more than one day, per additional half-day of trial:

(a) trial before judge and jury \$250

(b) trial before judge only \$190

Indictable offences under section 553 of the Criminal Code (Canada)

116. All professional services rendered up to the final disposition of the case at first instance \$200

Summary convictions (charges brought under Part XXVII of the Criminal Code of Canada)

117. All professional services rendered up to the final disposition of the case at first instance \$175

Preventive detention

118. Preparation of the record for a contestation of an application for preventive detention under Part XXIV of the Criminal Code (Canada), including interviews and other necessary services \$760

119. Hearing of a motion for preventive detention, per day \$228

Extraordinary remedies**(Habeas Corpus, Certiorari, Prohibition, Mandamus)**

120. Preparation and service of the proceeding \$250

121. Hearing on the merits \$190

Application for bail or for review of bail for an accused charged with an indictable offence

122. For all services related to a motion addressed to a judge of the Superior Court of criminal jurisdiction \$152

Special provisions applicable to young offenders

123. All services rendered up to and including a final decision on an application for transfer under section 16 of the Young Offenders Act \$400

124. All services rendered up to and including a final decision on an application for review under sections 28 to 32 of the Young Offenders Act \$175

APPEALS**Appeal by way of trial *de novo* (before a judge of the Superior Court of criminal jurisdiction)**

125. Drafting of all proceedings prior to the hearing, including attendances \$91

126. Hearing on appeal from a judgment, per day \$273

127. Hearing on appeal from a sentence only \$140

128. Hearing on appeal from a judgment and a sentence, per day \$322

Appeal by way of case stated

129. Drafting and preparation of an application for a case stated \$182

130. Attendance necessary before the trial court judge for the preparation of a case stated \$91

131. Preparation of all other proceedings including attendance \$91

132. Preparation and drafting of notice of appeal \$28

133. Hearing of appeal \$273

Appeal to Court of Appeal on questions of law in summary conviction proceedings

134. Preparation of all proceedings preliminary to the hearing, including drafting, filing of notice of appeal, preparation of joint record and necessary attendances \$91

135. Hearing of application for leave to appeal \$182

136. Preparation of argument and factum \$273

137. Hearing of appeal \$273

Appeal to Court of Appeal**A. After verdict by jury**

138. Preparation of all proceedings preliminary to the hearing including drafting, filing of notice of appeal, preparation of joint record and necessary attendances \$182

139. Hearing of application for leave to appeal \$182

140. Preparation of argument and factum, where applicable \$364

141. Hearing of appeal \$273

B. Appeal from a judgment delivered by a judge without jury, a judge of the Court of Québec, Criminal Division, or a judge of the Court of Québec, Youth Division, under the Young Offenders Act

142. Preparation of all proceedings preliminary to the hearing including drafting, filing of notice of appeal, preparation of joint record and necessary attendances \$182

143. Hearing of application for leave to appeal \$182

144. Preparation of argument and factum, where applicable \$273

145. Hearing of appeal \$273

C. Appeal from sentence only

146. Preparation of all proceedings preliminary to the hearing including drafting, filing of notice of appeal, preparation of joint record and necessary attendances	\$182
147. Hearing of application for leave to appeal	\$182
148. Preparation of argument and factum, where applicable	\$182
149. Hearing of appeal	\$182

D. Appeal from verdict or judgment and sentence

150. The fees prescribed in A or B are added to those prescribed in C with the exception of	
(1) Hearing of applications for leave to appeal (139, 147)	\$182
(2) Hearing of appeals (141, 149)	\$364

E. Bail

151. Application for bail pending appeal (all proceedings including hearing)	\$224
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Appeal to the Supreme Court of Canada

152. Application for leave to appeal including preparation of notice of application for leave to appeal, memorandum of discussion and all other necessary preliminary proceedings, including attendances	\$140
153. Preparation prior to hearing of application for leave to appeal	\$182
154. All proceedings for bail, including the hearing of the application for leave to appeal	\$455
155. All proceedings for bail, including hearing and any other attendance	\$224
156. Drafting, service and filing of the notice of appeal and preparation of joint record	\$140
157. Preparation of the case and factum	\$546
158. Hearing of appeal	\$546

Appeal from a judgment in respect of preventive detention

159. Preparation of all proceedings preliminary to the hearing including drafting, filing of notice of appeal, preparation of joint record and necessary attendances	\$182
160. Preparation of argument and factum, where applicable	\$364
161. Hearing of appeal	\$273

Appeal in respect of extraordinary remedies (Habeas Corpus, Certiorari, Prohibition, Mandamus)

162. Preparation of all proceedings preliminary to the hearing including drafting, filing of notice of appeal, preparation of joint record and necessary attendances	\$182
163. Preparation of argument and factum, where applicable	\$364
164. Hearing of appeal	\$273

BREACH OF CONDITION

(Under section 738(4) of the Criminal Code of Canada)

165. Appearance and all stages of the proceedings completed on the same day	\$23
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The fee prescribed above comprises remuneration for preparation work for those stages of the proceedings.

166. All professional services rendered after the day of appearance, including the hearing	\$76
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PART 5**TARIFF FOR MISCELLANEOUS PROCEEDINGS****Special interpretation and application rules**

167. Where an advocate represents two or more recipients who are joined in law or in fact and are parties to one or more issues based on a cause of action of the same nature and heard before the same court or the same administrative body at or about the same time, the advocate is entitled only to the remuneration prescribed for the professional services rendered to one recipient, except in the case of a special consideration.

168. Where a flat-rate fee is prescribed for professional services and such services are rendered by more than one advocate, the remuneration is paid jointly to those advocates.

169. Where a hearing does not terminate before 7:00 p.m. on the day on which it begins, the advocate is entitled to an additional fee of \$98 for the evening and for each additional half-day. For the purposes of this rule, 1:00 p.m. is the middle of the day.

170. Where an appeal is heard in the Court of Québec, the fees are those prescribed for Class II-A of the civil tariff at first instance *mutatis mutandis*.

171. Where an appeal is heard in Superior Court, the fees are those prescribed for Class II-B of the civil tariff at first instance *mutatis mutandis*.

172. Where an appeal is heard in the Court of Appeal, the fees are those prescribed for Class II-B of the tariff of the Court of Appeal.

173. Discontinuance at the hearing means discontinuance in open court in the presence of the adverse party.

174. An advocate receives a fixed amount of \$10 as a reimbursement of his record administration costs, including the cost of photocopies, facsimile copies, messenger services, stamps and case-law research.

Youth Protection Act

175. Intervention with the Director of Youth Protection including any voluntary measures prior to intervention in court; per attendance \$50

176. All services rendered before the Court of Québec, Youth Division, up to a final decision including any order on a motion to declare the safety or development of a child to be endangered \$330

177. All services rendered before the Court of Québec, Youth Division, up to and including a final decision upon a motion for review of a decision or order \$330

178. Notwithstanding the foregoing, where the final decision under sections 176 and 177 is delivered without any substantial contestation at the hearing on the merits, an advocate is entitled to only half of the fees, specifically \$165

179. Where the recourse under section 176 or 177 is terminated by discontinuance:

(a) before the hearing \$110

(b) at the hearing \$165

180. (a) All services rendered up to and including a final decision upon a motion for temporary shelter \$115

(b) Where the recourse is terminated by discontinuance \$70

181. (a) All services rendered up to a final decision upon a motion for extension of an emergency order \$115

(b) Where the recourse is terminated by discontinuance \$70

182. Attendance for adjournment or judgment \$22

Régie du logement

183. All services rendered before the commissioner where resiliation or eviction is not sought:

(a) Upon a final decision in uncontested proceedings, including an agreement reached at the hearing or upon a final decision embodying a discontinuance at the hearing \$98

(b) Upon a final decision in contested proceedings \$131

(c) Upon filing of an out-of-court settlement reached before the hearing or upon filing of a discontinuance made before the hearing \$65

184. All services rendered before the commissioner where resiliation or eviction is sought:

(a) Upon a final decision in uncontested proceedings, including an agreement reached at the hearing or upon a final decision embodying a discontinuance at the hearing \$197

(b) Upon a final decision in contested proceedings \$262

(c) Upon filing of an out-of-court settlement reached before the hearing or upon filing of a discontinuance made before the hearing \$65

185. (a) All services rendered upon a motion for review before the Board up to and including a final decision \$262

(b) Upon filing of an out-of-court settlement or upon filing of a discontinuance \$130

186. Incidental motion \$66

Proceedings in respect of income security, unemployment insurance or employment insurance, pensions or automobile insurance or proceedings under the Act to secure the handicapped in the exercise of their rights

A. Review of the decision of an administrative officer

187. All services rendered upon a motion for review up to and including a final decision \$200

B. Appeal before the administrative tribunal of last instance

188. All services rendered up to and including a final decision \$340

PROCEEDINGS IN RESPECT OF INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

189. All services rendered up to and including a final decision on an application for review before the review office of the CSST \$200

190. All services rendered up to and including a final decision on an application before the Commission d'appel en matière de lésions professionnelles \$459

Where the appeal terminates by discontinuance or an out-of-court settlement:

(a) before the hearing \$125

(b) at the hearing \$300

Motion for clinical psychiatric examination

191. (a) All services rendered up to and including a final judgment \$164

(b) Upon filing of a discontinuance \$66

Bankruptcy

A. Application for discharge

192. All services rendered up to and including a final judgment:

(a) uncontested \$98

(b) contested \$262

B. Contestation of the application for an order requiring payment of a part of salary to the trustee

193. All services rendered up to and including a final judgment \$98

C. Motion to withdraw property from the assets assigned to creditors

194. All services rendered up to and including a final judgment \$98

Immigration Act

(A) Immigration and Refugee Board

195. (a) All services rendered up to and including a final decision before the adjudication division, the refugee determination division or the appeal division of the Immigration and Refugee Board \$200

(b) Services rendered during a hearing concerning detention before the IRB \$100

(B) Federal Court (trial division)

196. Preparation of the application for authorization to institute judicial review proceedings \$304

197. Hearing on the merits, per half-day \$136.50

(C) Federal Court (appeal division)

198. After filing of the notice of appeal, for any case terminated or appeal abandoned \$300

199. Hearing of the appeal on the merits \$900

Tariff in parole proceedings

Before the Commission québécoise des libérations conditionnelles and before the National Parole Board

Application for review of parole, application for review of a condition and post-suspension application

200. All services rendered up to and including a final decision \$200

Appeal before the Parole Board

201. All services rendered up to and including a final decision \$310

Coroner's inquest

202. Preparation for coroner's inquest, including interviews with all witnesses, any visit to the scene of the crime and legal research \$76

203. Attendance at coroner's inquest, per day \$181

9977

Gouvernement du Québec

O.C. 1189-96, 18 September 1996

An Act respecting collective agreement decrees (R.S.Q., c. D-2)

Garage employees

— Mauricie — Extension

Decree to extend the Decree respecting garage employees in the Mauricie region

WHEREAS the Government made the Decree respecting garage employees in the Mauricie region (R.R.Q., 1981, c. D-2, r.45);

WHEREAS the Association des grossistes en pièces d'automobiles de la région de Trois-Rivières, a contracting party to the Decree, is opposed to the automatic renewal of the Decree;

WHEREAS in accordance with section 11.01 of the Decree, it remains in force until 9 October 1996;

WHEREAS under section 8 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), the Government may extend the Decree;

WHEREAS it is expedient to extend the Decree until 9 October 1997;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made notwithstanding the publication requirement in section 8 of that Act if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and such coming into force shall be published with the regulation;

WHEREAS in the opinion of the Government, the urgency owing to the following circumstances justifies the absence of prior publication and such coming into force:

— the Decree respecting garage employees in the Mauricie region is in force until 9 October 1996; after that date, the working conditions of certain employees covered by that Decree might be unfavourably changed;

— it is essential to further extend the Decree to allow all the contracting parties and the main opponents to the Decree sufficient time to see the results of the steps undertaken by the Société québécoise du développement de la main-d'oeuvre and representatives of the automobile sector, respecting the setting up of a sector-based committee to evaluate the training and manpower qualification needs in that sector and to develop a new plan in that respect;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Labour:

THAT the Decree to extend the Decree respecting garage employees in the Mauricie region, attached hereto, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif