

**6.** This Regulation comes into force on 1 November 1996.

9892

## Draft Regulation

Legal Aid Act  
(R.S.Q., c. A-14; 1996, c. 23)

### Legal aid

Notice is hereby given, in accordance with section 10 of the Regulations Act (R.S.Q., c. R-18.1) and with paragraph 1 of section 59 of the Act to amend the Legal Aid Act (1996, c. 23), that the Regulation respecting legal aid, the text of which appears below, may be made by the Government upon the expiry of 15 days following this publication.

The draft Regulation comes within the framework of the reform of the legal aid system and of the adoption of the Act to amend the Legal Aid Act (1996, c. 23), assented to on 20 June 1996. That Act confers to the Government the power to determine by regulation, in particular:

- (1) the rules respecting the financial eligibility of persons applying for legal aid;
- (2) the rules respecting applications for legal aid;
- (3) the cases in which legal aid costs are to be recovered;
- (4) the benefit or compensation programs within the framework of which legal aid is granted to exercise certain recourses;
- (5) the legal services covered by legal aid, in addition to those provided for in the Legal Aid Act.

The purpose of the Regulation is to follow up on those enabling provisions.

As regards financial eligibility, the draft Regulation provides that the financial eligibility of persons applying for legal aid will be determined on the basis of their annual income, their liquidities and other assets and no longer on the sole basis of the applicant's weekly income. The draft Regulation also states what income, liquidities and other assets are to be considered or excluded for eligibility purposes.

Financial eligibility entails 2 forms of legal aid:

(1) gratuitous legal aid, for income security beneficiaries who receive last resort benefits and for persons whose income, liquidities and other assets do not exceed the income levels and values fixed by the Regulation;

(2) contributory legal aid, for those who do not qualify for gratuitous legal aid, but whose income does not exceed the income levels fixed by the Regulation. The draft Regulation fixes the contribution payable by persons who qualify for that form of legal aid. Such contribution ranges from \$100 to \$800, depending on the income level, without exceeding the cost of the legal services obtained.

The thresholds of financial eligibility for gratuitous or contributory legal aid are increased by 20 % for persons who reside in a remote region. As regards both forms of legal aid, the Regulation prescribes their coming into force at different times.

With respect to applications for legal aid, the draft Regulation specifies the information and undertakings to be included in any application, as well as the documents and particulars to be provided by the applicant.

As for the recovery of the costs of legal aid, the draft Regulation describes the cases in which the recipient will be required to repay to the legal aid centre the costs of the legal services provided and specify when those costs become exigible. The draft Regulation mentions that those costs may be repaid in instalments, with the director general's agreement.

Concerning the legal services for which legal aid is granted, the draft Regulation contains 2 provisions which complete the list of covered legal services provided for in the Act.

The first provision establishes a list of the benefit, compensation or payment exemption programs for which legal aid is to be granted to ensure that a person is assisted to have a decision reviewed or to exercise a recourse before a court.

The second provision adds the hearings of the National Parole Board or of the Commission québécoise des libérations conditionnelles to the list of services already covered by the Act.

The draft Regulation has an impact on the clients of legal aid. Firstly, the new rules of financial eligibility substantially increase the availability of legal aid. There will be approximately 1.7 million of eligible persons (or 1 citizen out of 4), compared to the present number of

clients, which is approximately 1 125 000 persons. A certain amount of those persons will be required to pay a contribution in order to receive legal aid.

The new recovery rules will also have effects on certain recipients. Moreover, the designation of the benefit or compensation programs within the framework of which certain administrative recourses will be covered has positive effects for clients and fulfils the wishes expressed during the consultations about the reform of legal aid. Finally, a work committee will be formed soon to study the terms and conditions that will govern the administration of the contributory legal aid and that committee should make its recommendations to the Minister before 1 October.

Further information may be obtained by contacting Mrs. Lorraine Lapierre, Direction du droit administratif et privé, 1200, route de l'Église, 2<sup>e</sup> étage, Sainte-Foy (Québec), G1V 4M1; tel.: (418) 643-1436, fax: (418) 646-1696.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 15-day period, to the Minister of Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Sainte-Foy (Québec), G1V 4M1.

PAUL BÉGIN,  
*Minister of Justice*

## Regulation respecting legal aid

Legal Aid Act  
(R.S.Q., c. A-14, s. 80, 1<sup>st</sup> par., subpars. *a*, *a.1* to *a.8*, *b* to *b.2*, *h* to *h.3*, *l*, *q* and *s* and second and third pars.; 1996, c. 23, s. 42)

### DIVISION I INTERPRETATION

#### 1. In this Regulation,

- (1) "Act" means the Legal Aid Act (R.S.Q., c. A-14);
- (2) "spouse" and "family" have the meaning given to them by sections 1.1 and 1.2 of the Act and this Regulation, respectively;
- (3) the costs of legal aid include all the fees and costs referred to in section 5 of the Act; in all cases, the fees shall be fixed in accordance with the tariffs applicable under section 81 of the Act; the costs include court costs and the duties that a registrar has collected or would otherwise have collected within the scope of a mandate; the costs of legal aid also include administrative expenses which are established at \$50 and, if there is a

recovery in accordance with Division VI.1 of the Act, the expenses incurred to recover the legal aid costs.

**2.** For the purposes of section 1.2 of the Act, a person other than the father or mother who may compose a family with children is the person who has custody of the children under a judgment of the court, except in the case of a foster family within the meaning of the Act respecting health services and social services (R.S.Q., c. S-4.2) or of the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5).

**3.** For the purposes of section 1.2 of the Act, a child of full age attends an educational institution if he pursues in that institution, on a full-time basis, a program of secondary, college or university studies recognized by the Minister of Education.

"Full-time" means

- (1) at the secondary level, being registered as a full-time student in a secondary school;
- (2) at the college level, taking at least 4 courses or 180 periods during a session;
- (3) at the university level, taking courses giving entitlement to 12 credits during a session.

A child of full age who attends an educational institution referred to in the first paragraph, who suffers from a major functional deficiency within the meaning of the regulation made under section 10 of the Act respecting financial assistance for students (R.S.Q., c. A-13.3) and who, for that reason, pursues a program of study recognized by the Minister of Education on a part-time basis is deemed to pursue it on a full-time basis.

**4.** A child of full age who ceased to attend an educational institution on a full-time basis before being awarded an undergraduate university diploma is deemed to continue to be part of the family for the 3 years following the date of cessation, unless he is in any of the situations provided for in section 5.

**5.** For the purposes of section 1.2 of the Act, a minor child or a child of full age who is in any of the following situations is deemed to cease to be part of the family and to be an adult:

- (1) he no longer attends an educational institution on a full-time basis, he holds employment and he does not depend on his family for his living;
- (2) he attends an educational institution after becoming the holder of an undergraduate university degree;

(3) he has met his own needs and has not resided with his family for at least 2 years, excluding any period of full-time attendance in an educational institution;

(4) he has held remunerated employment on a full-time basis or has received, in respect of such employment, benefits under the Unemployment Insurance Act (R.S.C., 1985, c. U-1) or the Employment Insurance Act (S.C., 1996, c. 23), for at least 2 years;

(5) he is or was married;

(6) he lives or lived as husband and wife with another person and he cohabits or has cohabited at a given time with that person for at least one year;

(7) he is or was the father of a child or she is or was the mother of a child;

(8) she has been pregnant for at least 20 weeks; or

(9) his father, mother or the person designated in section 2 cannot be found or they refuse to meet his needs.

## **DIVISION II**

### **DETERMINATION OF INCOME AND ASSETS FOR THE PURPOSES OF FINANCIAL ELIGIBILITY FOR LEGAL AID**

**6.** Financial eligibility for legal aid shall be determined by taking into consideration the following items, unless otherwise excluded by this Regulation:

(1) the estimated income of the applicant and, if he has a spouse, the spouse's estimated income for the taxation year in which the application for legal aid is made;

(2) the value of the assets, including property and liquidities, owned by the applicant and his spouse, where applicable, on the date of the application.

Notwithstanding the foregoing, where the legal services are applied for in respect of a child, the following amounts shall be added to the amounts provided for in the first paragraph:

(1) the estimated income of that child, excluding his student loans and bursaries, for the taxation year in which the application for legal aid is made; and

(2) the value of the liquidities, excluding the principal from student loans and bursaries, owned by the child on the date of the application.

**7.** Notwithstanding section 6, the financial eligibility of a person shall be determined

(1) regardless of the income and assets of the applicant's spouse where their interests are opposed in the context of a case or recourse;

(2) regardless of the income and the value of the assets of a minor where legal aid is applied for in respect of that minor:

(a) for proceedings under the Youth Protection Act (R.S.Q., c. P-34.1); or

(b) in the context of any other case or recourse, particularly for proceedings under the Young Offenders Act (R.S.C. 1985, c. Y-1), if the interests of the minor are in all likelihood opposed to those of his father, mother or, as the case may be, those of the person referred to in section 2.

**8.** For the purposes of financial eligibility, income, gains and benefits from all sources shall be considered, except

(1) child tax benefits received under the Income Tax Act (R.S.C. 1985 (5<sup>th</sup> Supp.), c. 1) and amounts received under the Children's Special Allowances Act (R.S.C., 1985, c. C-28.5);

(2) family assistance allowances paid under the Act respecting family assistance allowances (R.S.Q., c. A-17);

(3) principal or interest received as a refund of real estate taxes, a tax credit for the goods and services tax, a tax credit for the Québec sales tax and a tax credit for persons who take care of their elderly parents;

(4) the benefits paid under the Parental Wage Assistance Program provided for in Chapter III of the Act respecting income security (R.S.Q., c. S-3.1.1); and

(5) amounts received under programs made under the Act respecting the Société d'habitation du Québec (R.S.Q., c. S-8).

**9.** In the case of an income from self-employment, financial eligibility shall be determined on the basis of the net income within the meaning of the Taxation Act (R.S.Q., c. I-3), determined on the basis of the accrued accounting method, in accordance with generally recognized accounting principles.

In calculating the net income from self-employment, the amortization of goods used for the business shall be excluded and a repayment of principal is not considered as an operating expense.

**10.** In the case of an income from an immovable, the qualifying expenses for the purposes of the Taxation Act, excluding the amortization, shall be deducted from such income.

**11.** In the case of a capital gain, the qualifying capital losses for the purposes of the Taxation Act and related to that gain shall be deducted therefrom.

**12.** The following amounts shall be deducted from the income:

(1) the amount of the tuition fees that would be deductible under the Taxation Act;

(2) the amount of the day-care expenses paid, up to the amount eligible for the tax credit for those expenses under the Taxation Act;

(3) any support payment; and

(4) any expenses incurred to make up for a severe physical or mental deficiency.

**13.** For the purposes of financial eligibility, all assets shall be considered, including property and liquidities, but excluding

(1) any automobile mainly used for personal purposes;

(2) any domestic furniture in the principal residence;

(3) books, instruments and tools required to perform a job or to practice a trade or an art;

(4) the value of the pension credits accrued in any retirement or pension plan or in any retirement fund, and the amounts accrued with interest in another retirement savings instrument where, under the plan, the savings instrument or the law, the pension credits accrued in the plan or the accrued amounts may not be returned to the participant before retirement age.

**14.** The value of the pension credits or of the amounts referred to in paragraph 4 of section 13 shall be included in the assets other than liquidities where those amounts or credits may, upon request by the participant, be returned to him under the plan, retirement instrument or law.

**15.** The value of a good means its market value.

Notwithstanding the foregoing, the value of any immovable entered on the assessment roll of a municipality shall be the value on the roll, multiplied by the

comparative factor of the roll, in accordance with the provisions of the Act respecting municipal taxation (R.S.Q., c. F-2.1).

Liabilities shall be deducted from the total value of the property.

**16.** Liquidities comprise everything that is owned in cash or in an equivalent form and the value of assets that can be converted into cash in the short term, such as

(1) funds that a financial institution holds on deposit for a person or funds that the institution holds in his favour if the person has ready access to those funds;

(2) securities, if they are regularly quoted on the market on which they are traded;

(3) claims of which immediate repayment can be obtained; and

(4) any assets negotiable at sight.

They also include the total amount of any term deposit.

Notwithstanding the foregoing, the following is included in the assets other than liquidities:

(1) the principal of an indemnity paid following an expropriation of immovable property or a damage in compensation for the loss of immovable property if it is used within 2 years of its receipt to replace the property with a view to permanently relocating a person;

(2) the principal from the sale of a residence if it is used to buy or to build another within 6 months of the sale.

**17.** The income and assets established in accordance with the provisions of this Division constitute the income and assets for the purposes of financial eligibility for legal aid.

### DIVISION III FINANCIAL ELIGIBILITY FOR LEGAL AID

**18.** In addition to the persons who are deemed to be financially eligible for gratuitous legal aid under the second paragraph of section 4.1 of the Act, an applicant who meets the 3 following conditions is financially eligible for gratuitous legal aid:

(1) his annual income, within the meaning of section 17, and that of the other persons whose income is considered under section 6 do not exceed, among the fol-

lowing levels, the level corresponding to the class applicable to him:

Classes of applicants	Maximum annual level
In the case of a single person	\$ 8 870
In the case of an applicant whose family is composed of :	
• an adult and 1 child	\$12 500
• an adult and 2 children or more	\$15 000
• spouses without children	\$12 500
• spouses with 1 child	\$15 000
• spouses with 2 children or more	\$17 500

(2) the value of his assets, within the meaning of section 17, and of those of the other persons whose assets are considered under section 6, except for their liquidities, does not exceed

(a) \$47 500 if neither the applicant nor his spouse is the owner of the residence; or

(b) \$90 000 if the applicant or his spouse is the owner of the residence;

(3) his liquidities and those of the other persons whose liquidities are considered under section 6 do not exceed

(a) \$2 500, in the case of a single person; or

(b) \$5 000, in the case of a family.

**19.** An applicant who does not meet any of the 3 conditions set out in section 18 may, to the extent provided for in section 20, be declared financially eligible for contributory legal aid.

For the purposes of determining such financial eligibility,

(1) where the applicant does not meet any of the conditions set out in paragraphs 2 and 3 of section 18:

(a) the value of the assets, other than liquidities, that he owns and that the other persons whose assets are considered under section 6 own and that exceeds, according to the class applicable to the applicant, the values provided for in paragraph 2 of section 18, is deemed to constitute, in a proportion of 10 % of the value in excess, income that

must be added to the other income considered for eligibility purposes pursuant to section 20;

(b) his liquidities and those of the other persons whose liquidities are considered under section 6 and that exceed, according to the class applicable to the applicant, the values provided for in paragraph 3 of section 18, are deemed to constitute income that must be added to the other income considered for eligibility purposes pursuant to section 20;

(2) where the applicant meets the condition set out in paragraph 1 of section 18, but not those in paragraphs 2 and 3 of the same section, the income considered for eligibility purposes pursuant to section 20 are deemed to be equal to the sum of the maximum annual level, according to the class applicable to the applicant, fixed in paragraph 1 of section 18 and of the income deemed to be added under subparagraph 1 of the second paragraph of this section.

**20.** An applicant who is not financially eligible for gratuitous legal aid, according to section 18, but whose annual income within the meaning of section 17 and that of the other persons whose income is considered under section 6, including their deemed income according to section 19, do not exceed, among the following levels, the level corresponding to the class applicable to the applicant is financially eligible for contributory legal aid:

Classes of applicants	Maximum annual level
In the case of a single person	\$12 640
In the case of an applicant whose family is composed of :	
• an adult and 1 child	\$17 813
• an adult and 2 children or more	\$21 375
• spouses without children	\$17 813
• spouses with 1 child	\$21 375
• spouses with 2 children or more	\$24 938

**21.** Subject to the provisions of section 23, an applicant financially eligible for legal aid under section 20 is bound to pay the contribution established in the following table and corresponding to both the class of applicant applicable to him and his income within the meaning of section 20:

Classes of applicants	Income	Contribution level
<b>Single person</b>	from \$ 8 871 to \$ 9 341	\$100
	from \$ 9 342 to \$ 9 812	\$200
	from \$ 9 813 to \$10 284	\$300
	from \$10 285 to \$10 755	\$400
	from \$10 756 to \$11 226	\$500
	from \$11 227 to \$11 697	\$600
	from \$11 698 to \$12 169	\$700
	from \$12 170 to \$12 640	\$800
<b>Family composed of an adult and 1 child</b>	from \$12 501 to \$13 164	\$100
	from \$13 165 to \$13 828	\$200
	from \$13 829 to \$14 492	\$300
	from \$14 493 to \$15 156	\$400
	from \$15 157 to \$15 820	\$500
	from \$15 821 to \$16 484	\$600
<b>Family composed of an adult and 2 children or more</b>	from \$16 485 to \$17 148	\$700
	from \$17 149 to \$17 813	\$800
	from \$15 001 to \$15 797	\$100
	from \$15 798 to \$16 594	\$200
	from \$16 595 to \$17 391	\$300
	from \$17 392 to \$18 188	\$400
	from \$18 189 to \$18 984	\$500
	from \$18 985 to \$19 781	\$600
<b>Spouses without children</b>	from \$19 782 to \$20 578	\$700
	from \$20 579 to \$21 375	\$800
	from \$12 501 to \$13 164	\$100
	from \$13 165 to \$13 828	\$200
	from \$13 829 to \$14 492	\$300
	from \$14 493 to \$15 156	\$400
	from \$15 157 to \$15 820	\$500
	from \$15 821 to \$16 484	\$600

Classes of applicants	Income	Contribution level
<b>Spouses with 1 child</b>	from \$16 485 to \$17 148	\$700
	from \$17 149 to \$17 813	\$800
	from \$15 001 to \$15 797	\$100
	from \$15 798 to \$16 594	\$200
	from \$16 595 to \$17 391	\$300
	from \$17 392 to \$18 188	\$400
	from \$18 189 to \$18 984	\$500
	from \$18 985 to \$19 781	\$600
<b>Spouses with 2 children or more</b>	from \$19 782 to \$20 578	\$700
	from \$20 579 to \$21 375	\$800
	from \$17 501 to \$18 430	\$100
	from \$18 431 to \$19 359	\$200
	from \$19 360 to \$20 289	\$300
	from \$20 290 to \$21 219	\$400
	from \$21 220 to \$22 148	\$500
	from \$22 149 to \$23 078	\$600
	from \$23 079 to \$24 008	\$700
	from \$24 009 to \$24 938	\$800

**22.** Subject to the provisions of section 23, an applicant financially eligible for legal aid under section 4.3 of the Act is bound to pay the maximum contribution established in section 21.

**23.** The contribution exigible under section 21 or 22 may in no case exceed the amount corresponding to the costs of legal aid for the legal services covered by the certificate of eligibility.

**24.** Where the applicant resides in a remote region

(1) the maximum annual level of his income, below which a person is financially eligible for gratuitous legal aid or contributory legal aid, as established in paragraph 1 of section 18 or in section 20, shall be increased by 20 %; and

(2) each of the amounts appearing under the column "Income" in the table of section 21 shall be increased by 20 %.

An applicant is a resident of a remote region if, upon submitting his application for legal aid, he has resided for at least 6 consecutive months in any of the localities of Mistissini, Oujé-Bougoumou or Waswanipi or in a locality situated in any part of the territory of Québec extending north of the 51st degree of latitude, or in the territory of Côte-Nord extending east of Havre-Saint-Pierre to the Labrador boundary, including Île d'Anticosti.

**25.** The amounts of income, liquidities and other assets considered for the purposes of financial eligibility for gratuitous or contributory legal aid and the amounts of income considered for the purposes of establishing the contribution shall be reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50; they shall be increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50.

#### **DIVISION IV** **PAYMENT OF CONTRIBUTION**

**26.** An applicant who meets the conditions of eligibility for contributory legal aid shall, in order to receive a certificate of eligibility, pay administrative expenses of \$50 to the legal aid centre.

Such certificate shall indicate the amount of the maximum contribution exigible from the recipient, less the administrative expenses of \$50. The certificate shall also indicate that the recipient has the right to apply for a review of the contribution.

**27.** The recipient is bound to pay the contribution indicated on the certificate of eligibility:

(1) to the advocate or notary of private practice to whom the mandate was entrusted by the director general; or

(2) to the legal aid centre that issued the certificate of eligibility where the director general entrusted the case to an advocate or notary in the employ of the legal aid centre.

**28.** In the case provided for in paragraph 1 of section 27, the advocate or notary shall, once the mandate is completed, forward his bill of the fees and costs referred to in section 5 of the Act to the legal aid centre that issued the certificate of eligibility, less the amount of the exigible contribution indicated on the certificate.

**29.** In the case provided for in paragraph 2 of section 27:

(1) the debtor shall pay his contribution within 30 days of the issuance of the certificate of eligibility or, if a review is conducted, within 30 days of the date of the review committee's decision confirming in whole or in part the decision of the director general on the fixing of the contribution;

(2) the director general may, notwithstanding paragraph 1, agree with the debtor to the contribution being paid in instalments; if so, the contribution becomes exigible in full if the debtor fails to comply with an agreement made with the director general;

(3) the provisions of Division VI.1 of the Act apply, adapted as required, where the debtor fails to pay all or part of his contribution to the legal aid centre.

#### **DIVISION V** **APPLICATION FOR LEGAL AID**

**30.** A person requiring legal services shall apply therefor personally, unless he is prevented from doing so, in which case the application for legal aid may be submitted, in his name or for his benefit, by his tutor, his curator, a relative or a friend. Notwithstanding the foregoing, where the interests of that person are opposed to those of the person who submits the application in the same proceedings, each of them is deemed to submit a separate application for legal aid.

The Public Curator may not make an application for legal aid for someone else.

**31.** An applicant shall describe his financial condition and that of the other members of his family whose income, liquidities and other assets are considered under this Regulation.

To that end, the applicant shall

(1) give his name, his place of residence and those of his family members;

(2) indicate his social insurance number;

(3) indicate his beneficiary number, if he receives benefits under Chapter II of the Act respecting income security;

(4) indicate his date of birth and those of his family members;

(5) give the name and address of his employer and those of his family members whose income, liquidities and other assets are considered under this Regulation;

(6) give a statement of

(a) his income and assets, including his property and liquidities, and of his liabilities; and

(b) the income and assets, including property and liquidities, of his family members whose income, liquidities and other assets are considered under this Regulation, and of their liabilities.

Where attendance of an educational institution or the obtention of a university diploma is taken into consideration for the purposes of financial eligibility, the person alleging that fact shall provide proof thereof.

The applicant shall also describe the facts on which the application for legal aid is based.

**32.** An applicant that is a group of persons or a non-profit legal person shall give an account of the financial situation of the group or non-profit legal person and of each of its members. For those purposes, the person making the application on behalf of the group or legal person shall

(1) describe its objectives and the territory served or to be served;

(2) give the number of members and identify the accounting system used;

(3) give a detailed account of the income and assets, including the property, liquidities and liabilities of the group or non-profit legal person, and those of each of its members; and

(4) describe the facts justifying the application for legal aid.

**33.** The application shall also contain an undertaking by the applicant

(1) to inform without delay the director general who issues the certificate of eligibility for legal aid of any change in his situation or that of his family affecting his eligibility for legal aid;

(2) to inform without delay the director general who issues the certificate of eligibility for legal aid of any property or pecuniary right he will acquire after having received for that purpose services rendered by an advocate or notary;

(3) to repay the costs of legal aid in accordance with the Act and this Regulation, where applicable; and

(4) to pay the contribution exigible pursuant to Division IV, where applicable.

**34.** The applicant shall file with his application an account of his income and of the income of his family members whose income, liquidities and other assets must be considered under this Regulation, for the year in which the application is made, together with supporting documentary evidence and any document relevant to the determination of his financial eligibility.

The applicant and his family members whose financial condition must be considered shall include in the application their authorization in writing for the legal aid centre to make, in accordance with section 64 of the Act, a verification of that account with the Minister of Revenue, another department, an agency, an educational or financial institution or an employer.

**35.** The applicant shall file or arrange for the filing of any document necessary for determining whether he is eligible for legal aid.

**36.** An application shall include the certificate, duly signed by the applicant and indicating that the information and documents provided by him are accurate.

The certificate, duly signed by the family members whose financial condition is considered and indicating that the information and documents provided by them are accurate, shall be attached to the application.

**37.** Any person who receives benefits, other than special benefits, under Chapter II of the Act respecting income security or who is a member of a family receiving such benefits is exempt from the obligation to disclose his financial condition and that of his family upon making his application. That person shall however demonstrate that he receives such benefits or that he is a member of a family receiving such benefits.

#### DIVISION VI RECOVERY OF THE COSTS OF LEGAL AID

**38.** A person to whom legal services have been provided by an advocate or notary in the employ of a legal aid centre, under a conditional certificate of eligibility issued under section 67 or 74 of the Act, is bound to repay to the centre, upon request, all the costs of the legal aid obtained if the director general or the review committee, as the case may be, decides that he is ineligible for legal aid, having examined his application.

A person who, in accordance with section 68 of the Act, notifies the centre that has issued his certificate of any change in his situation or that of his family making



him financially ineligible for any gratuitous or contributory legal aid is bound to repay the costs of legal aid only in respect of the legal services rendered after ceasing to be financially eligible for legal aid.

The following persons are also bound to repay to the legal aid centre, upon request, all the costs of legal aid:

(1) a person who, by reason of the legal services obtained under the Act, acquires property or a pecuniary right that renders him financially ineligible for any gratuitous or contributory legal aid;

(2) a person to whom legal aid is withdrawn in the case provided for in section 70 of the Act; and

(3) a person who, having been declared financially eligible for contributory legal aid, fails to pay all or part of the exigible contribution.

For the purposes of the second paragraph and of subparagraph 1 of the third paragraph, the director general shall proceed with a new examination of the financial eligibility of the recipient for the taxation year in which that person ceases to be financially eligible for any legal aid.

**39.** Where the financial eligibility of a minor was determined considering his income and liquidities only, the father and mother of that person or the person referred to in section 2, as the case may be, shall, once all the legal services have been rendered, repay to the legal aid centre, upon request, all the costs of the legal aid obtained by the minor, without exceeding the contribution that would be exigible from them under Division III. Where such repayment is incumbent upon the father and mother, they are jointly responsible for making it.

Notwithstanding the foregoing, such repayment is not exigible where

(1) the persons bound to make such repayment are financially eligible for gratuitous legal aid in their own right;

(2) legal aid was granted in order to ensure representation or assistance of a minor in proceedings under the Youth Protection Act.

**40.** Any debt that must be repaid in accordance with the provisions of the Act and of this Division shall be recovered, less any amount already paid and including, in the case provided for in section 26, the administrative expenses collected by the legal aid centre.

**41.** Repayment of the costs is exigible

(1) in the cases provided for in the first paragraph of section 38, from the date of the decision of the director general or, where applicable, from the date of the decision of the review committee, to the effect that the person to whom a conditional certificate was issued is ineligible for legal aid;

(2) in the cases provided for in the second paragraph and in subparagraph 1 of the third paragraph of section 38, from the date on which the recipient ceases to be financially eligible for any legal aid; or

(3) in the cases provided for in subparagraph 2 of the third paragraph of section 38, from the date on which the director general withdraws the legal aid or from the date of the review committee's decision confirming the director general's decision;

(4) in the cases provided for in subparagraph 3 of the third paragraph of section 38, from the date on which the recipient fails to pay all or part of the exigible contribution.

**42.** A debtor shall repay the debt within 30 days of the demand notice sent in accordance with section 73.3 of the Act or, if the repayment obligation is reviewed, within 30 days of the date of the review committee's decision confirming, in whole or in part, the director general's decision on the repayment, unless the director general agrees, in accordance with the first paragraph of section 73.4 of the Act, to the debt or a part thereof being repaid in instalments.

**43.** A recoverable amount shall bear interest at the rate fixed by a regulation made under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., c. M-31), from the 31st day following the date of the demand notice sent in accordance with section 73.3 of the Act or, if the repayment obligation is reviewed, from the 31<sup>st</sup> day following the date of the review committee's decision confirming in whole or in part the director general's decision on the repayment.

## **DIVISION VII** **LEGAL SERVICES FOR WHICH** **LEGAL AID IS GRANTED**

**44.** Legal aid shall be granted, to the extent provided for in paragraph 7 of section 4.7 and in paragraph 2 of section 4.10 of the Act, to have a decision reviewed or to exercise a recourse before a court, if such review or recourse is related either to an application for benefits, a compensation or a payment exemption, or to the recovery of benefits or of a compensation, and if that application for review is made or that recourse is exercised within the framework of the programs established by the following statutes:

## Statutes of Québec

(1) the Workmen's Compensation Act (R.S.Q., c. A-3);

(2) the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001);

(3) the Act respecting family assistance allowances (R.S.Q., c. A-17);

(4) the Automobile Insurance Act (R.S.Q., c. A-25);

(5) the Health Insurance Act (R.S.Q., c. A-29) for the costs of the services assumed by the Régie de l'assurance-maladie and relating to prosthesis, orthopaedic devices, locomotor assists, medical supplies and other equipment used to make up for a physical deficiency;

(6) the Act to promote good citizenship (R.S.Q., c. C-20);

(7) the Act to secure the handicapped in the exercise of their rights (R.S.Q., c. E-20.1);

(8) the Crime Victims Compensation Act (R.S.Q., c. I-6);

(9) the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., c. I-7);

(10) the Public Health Protection Act (R.S.Q., c. P-35);

(11) the Act respecting the Québec Pension Plan (R.S.Q., c. R-9);

(12) the Act respecting occupational health and safety (R.S.Q., c. S-2.1);

(13) the Act respecting income security (R.S.Q., c. S-3.1.1);

(14) the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., c. S-3.2);

(15) the Act respecting child day care (R.S.Q., c. S-4.1);

(16) the Act respecting health services and social services (R.S.Q., c. S-4.2);

(17) the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5);

(18) the Act respecting assistance and compensation for victims of crime (1993, c. 54).

## Statutes of Canada

(1) The Canada Pension Plan (Revised Statutes of Canada 1985, c. C-8);

(2) The Old Age Security Act (Revised Statutes of Canada 1985, c. O-9).

(3) The Unemployment Insurance Act (Revised Statutes of Canada 1985, c. U-1) and the Employment Insurance Act (S.C., 1996, c. 23).

**45.** Legal aid shall be granted to a person so that he can be assisted for an examination relating to a parole made by the National Parole Board or the Commission québécoise des libérations conditionnelles, by a member of either board or by a person appointed for that purpose under either Act.

#### DIVISION VIII FINAL

**46.** This Regulation replaces

(1) the Regulation respecting eligibility for legal aid, made by Order in Council 941-83 dated 11 May 1983 and amended by Order in Council 1307-85 dated 26 June 1985, except for section 5 of that Regulation;

(2) the Regulation respecting legal aid services and the conditions regarding payment of the fees of experts, made by Order in Council 942-83 dated 11 May 1983; and

(3) the Regulation respecting refunds for the costs of legal aid, made by Order in Council 943-83 dated 11 May 1983.

**47.** This Regulation will come into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 19 to 23 and 26 to 29, which will come into force on the same date as the coming into force of the provisions of the Act to amend the Legal Aid Act (1996, c. 23) relating to contributory legal aid.

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