

## Draft Regulation

Professional Code  
(R.S.Q., c. C-26, s. 88; 1994, c. 40)

### Chartered appraisers — Conciliation and arbitration procedure for accounts

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers, made by the Bureau of the Ordre des évaluateurs agréés du Québec, the text of which appears below, may be submitted to the Government which may approve it, with or without amendment, upon the expiry of a 45-day period following this publication.

According to the Ordre des évaluateurs agréés du Québec, the purpose of the Regulation is to replace the Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers (R.R.Q., 1981, c. C-26, r.94) and to establish a conciliation and arbitration procedure for the accounts of chartered appraisers that complies with the provisions of the Professional Code. In particular, the Regulation provides for provisions that allow a client to use that procedure even if he has already paid the account and for provisions indicating that arbitration will take place before a council of arbitration composed of three arbitrators if the amount in dispute is \$2 000 or more and before only one arbitrator in other cases.

The draft Regulation also proposes that a chartered appraiser may not institute proceedings in respect of an account so long as the dispute may be settled by conciliation or arbitration. However, it empowers the council of arbitration, as allowed by the Professional Code, to add interest and an indemnity computed in accordance with the Civil Code of Québec in its arbitration award.

In the opinion of the Order, the impact of those measures will be mainly to provide the client of a chartered appraiser with better protection by putting at his disposal a procedure for conciliation and arbitration of his account. That procedure helps to avoid possible irregularities by chartered appraisers in the fixing and recovery of their fees and to ensure equal treatment for both the chartered appraiser and the client in an application for arbitration and conciliation of accounts. It is indeed a procedure of settlement of accounts that is more flexible and less expensive.

Further information may be obtained by contacting Ms. Céline Viau, Secretary of the Ordre des évaluateurs agréés du Québec, 2075, rue University, bureau 1200,

Montréal (Québec), H3A 2L1, tel.: (514) 281-9888; fax: (514) 281-1020.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1<sup>er</sup> étage, Québec (Québec), G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be forwarded to the professional order which made the Regulation and to interested persons, departments and bodies.

ROBERT DIAMANT,  
*Chairman of the Office  
des professions du Québec*

## Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers

Professional Code  
(R.S.Q., c. C-26, s. 88; 1994, c. 40 s. 76)

### DIVISION I GENERAL

**1.** The syndic shall send a copy of this Regulation to any person who so requests and to a person who sends him an application for conciliation.

In this Regulation, the term “syndic” means the syndic, assistant syndic or a corresponding syndic of the Ordre des évaluateurs agréés du Québec.

**2.** A client who has a dispute with a member of the Order concerning the partial or total amount of an account for professional services may, even if it has been paid for, require conciliation by the syndic.

Where the conciliation did not settle the dispute, the client may submit it to arbitration.

**3.** A member of the Order may not institute proceedings in respect of an account so long as the dispute may be settled by conciliation or arbitration, except with the authorization of the syndic where there is a risk that recovery of the account will be imperilled unless proceedings are instituted.

Notwithstanding the foregoing, a member of the Order may request provisional measures in accordance with article 940.4 of the Code of Civil Procedure (R.S.Q., c. C-25).

## DIVISION II PROCEDURE FOR CONCILIATION

**4.** An application for conciliation shall be sent to the syndic within 45 days following the day on which the client received the account.

Where payment of the account has been withdrawn or withheld by the member of the Order from the funds that he holds or receives for or on behalf of his client, the period runs from the moment on which the client becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account whose full amount has not been paid may be sent to the syndic upon the expiry of the 45-day period provided that it is sent before proceedings on the account are served on the client.

**5.** Within 5 days of receiving an application for conciliation, the syndic shall notify the member of the Order or, where he is unable to notify the member personally within that period, the member's firm.

**6.** The syndic shall proceed with the conciliation using such procedure as he considers appropriate.

To that end, he may require that the member of the Order or the client give him any information or document he deems necessary.

**7.** Any agreement reached during conciliation shall be put in writing, shall be signed by the client and the member of the Order and shall be filed with the secretary of the Order.

**8.** Failing an agreement within 45 days from the date of receipt of the application for conciliation, the syndic shall send a report on the conciliation to the client and to the member of the Order, within the 20 days that follow, by registered mail.

The syndic shall give the following information in his report, where applicable:

- (1) the amount of the account in dispute;
- (2) the amount that the client acknowledges owing;
- (3) the amount that the member of the Order acknowledges having to reimburse or is willing to accept as a settlement of the dispute;
- (4) the amount suggested by the syndic during conciliation as a payment to the member of the Order or as a reimbursement to the client.

The syndic shall send the client the form in Schedule I and shall indicate to him the procedure and deadline for submitting the dispute to arbitration.

## DIVISION III PROCEDURE FOR ARBITRATION

### §1. *Application for arbitration*

**9.** Where conciliation has not led to an agreement, the client may, within 30 days of receiving the conciliation report, apply for arbitration of the account by sending the form in Schedule I to the secretary of the Order.

The application shall be accompanied by the conciliation report and, where applicable, by the deposit of the amount he has acknowledged owing during conciliation and which is mentioned in the syndic's report.

**10.** Within 5 days of receiving an application for arbitration, the secretary of the Order shall give notice thereof to the member concerned of the Order by registered mail, to which he shall attach, where applicable, the amount deposited in accordance with section 9. The arbitration shall proceed and shall pertain only to the amount still in dispute.

**11.** A client who wishes to withdraw his application for arbitration shall so notify the secretary of the Order in writing.

**12.** A member of the Order who acknowledges having to reimburse an amount to a client shall deposit that amount with the secretary of the Order, who shall then remit it to the client.

In such case, the arbitration shall proceed and shall pertain only to the amount still in dispute.

**13.** Any agreement reached by the client and the member of the Order after the application for arbitration has been filed shall be put in writing, shall be signed by the parties and shall be filed with the secretary of the Order. Where the parties reach an agreement after a council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

### §2. *Formation of council of arbitration*

**14.** A council of arbitration shall be composed of 3 arbitrators where the amount in dispute is \$2 000 or more, and of a single arbitrator where the amount is less than \$2 000.

**15.** The administrative committee shall appoint the members of the council of arbitration from among the members of the Order and, if the council is composed of 3 arbitrators, shall designate the chairman.

The administrative committee shall also appoint a clerk to assist the council of arbitration.

**16.** The secretary of the Order shall give written notice of the formation of the council to the arbitrators and parties.

**17.** Before acting, the member or members of the council of arbitration shall take the oath or make the solemn affirmation of office and discretion in Schedule II.

**18.** A request that an arbitrator be recused may be filed only for a reason provided for in article 234 of the Code of Civil Procedure. The request shall be sent to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receipt of the notice provided for in section 16 or of the day on which the reason for the request becomes known.

The administrative committee shall decide the request and, where expedient, shall see that the arbitrator is replaced.

**19.** Should an arbitrator die or be unable to act, the other arbitrators shall see the matter through. Where that arbitrator is the chairman of the council of arbitration, the administrative committee shall designate from among the other two arbitrators the arbitrator who shall act as chairman.

If the council of arbitration consists of a single arbitrator, he shall be replaced by a new arbitrator and the dispute shall be reheard.

### §3. *Hearing*

**20.** The council of arbitration shall fix the date, time and place of the hearing. At least 10 days before the date fixed, the clerk shall notify the parties of the hearing by registered mail.

**21.** The parties are entitled to be represented or assisted by an advocate.

**22.** The council of arbitration shall hear the parties as soon as possible, receive their evidence or record any failure on their part. For those purposes, it shall follow the rules of evidence and procedure as it considers appropriate.

**23.** The council of arbitration may order the parties to submit a statement of their contentions with documents in support thereof within the time it fixes.

**24.** A party requesting that the testimony be recorded shall assume the cost thereof.

### §4. *Arbitration award*

**25.** The council of arbitration shall issue its award within 60 days of the end of the hearing.

**26.** The award shall be a majority award of the members of the council of arbitration; failing a majority, it shall be rendered by the chairman of the council.

The award shall give reasons and shall be signed by all the members. Where a member refuses or is unable to sign, the others shall mention that fact and the award shall have the same effect as though it were signed by all the members.

**27.** In its award, the council of arbitration may uphold, reduce or cancel the amount of the account in dispute and determine the reimbursement or payment to which a party may be entitled.

**28.** The council of arbitration may also, when all or part of the account in dispute is maintained or when a reimbursement is granted, add interest and an indemnity, computed in accordance with articles 1618 and 1619 of the Civil Code of Québec, from the date of the application for conciliation.

The council of arbitration may also decide the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total expenses may not exceed 15 % of the amount to which the arbitration pertains.

**29.** The arbitration award is binding on the parties and is subject to compulsory execution after having been homologated in accordance with the procedure provided for in articles 946.1 to 946.6 of the Code of Civil Procedure.

**30.** The arbitration award shall be filed with the secretary of the Order and shall be sent to each party or to their advocates within 10 days after being filed.

**31.** This Regulation replaces the Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers (R.R.Q., 1981, c. C-26, r.94), but the latter Regulation continues to govern the procedure for conciliation and arbitration of disputes for which conciliation had been applied for prior to the date of coming into force of this Regulation.

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

**SCHEDULE I**

(s. 9)

**APPLICATION FOR ARBITRATION OF AN ACCOUNT**

I, the undersigned, .....  
(client's name)

.....  
(domicile)

declare that:

1. ....  
(Order member's name)

is claiming from me (or refuses to reimburse to me) a sum of money for professional services.

2. I have enclosed a copy of the conciliation report and, where applicable, a certified cheque made out to the name of the member of the Order of \$..... representing the amount I acknowledge owing and which is mentioned in the conciliation report.

3. I am applying for arbitration of the account under the Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers.

4. I have received a copy of the Regulation mentioned above and have taken cognizance thereof.

5. I agree to submit to the procedure provided for in the Regulation and, where required, to pay to .....  
(member's name)  
the amount of the arbitration award.

Signed on .....  
(signature)

**SCHEDULE II**

(s. 17)

**OATH OR SOLEMN AFFIRMATION OF OFFICE AND DISCRETION**

I swear (or solemnly affirm) that I will perform all my duties and exercise all my powers as an arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I also swear (or solemnly affirm) that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

In the case of an oath, add: "So help me God."

.....  
(signature of arbitrator)

Sworn or solemnly affirmed before me .....  
(name and position, profession or quality)

at ..... on.....  
(municipality) (date)

.....  
(signature of person who receives oath or solemn affirmation)

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**Draft Regulation**

Professional Code  
(L.R.Q., c. C-26)

**Industrial relations Counsellors — Code of Ethics**

Notice is hereby given, in accordance with the Regulations Act (R.S.Q., c. R-18.1), that the Bureau of the Ordre professionnel des conseillers en relations industrielles du Québec made the Code of Ethics of Industrial Relations Counsellors.

The Regulation will be examined by the Office des professions du Québec pursuant to section 95 of the Professional Code. Thereafter, it shall be submitted, with the recommendation of the Office, to the Government, which may approve it with or without amendment, upon the expiry of 45 days following this publication.

According to the Ordre professionnel des conseillers en relations industrielles du Québec, this Regulation replaces the Code of Ethics of industrial relations counsellors (R.R.Q., c. C-26, r. 52), in the purpose of providing for certain rules relating to the use or administration of interview and selection techniques or tools.

Secondly, in the section on general duties and obligations to the public, the Regulation introduces specific obligations relating to the industrial relations counsellor's attitude toward any tribunal, agency or commission of inquiry. The Regulation also provides for certain conditions, obligations and prohibitions regarding the advertising done by an industrial relations counsellor.

For citizens, this Regulation will contribute toward improving the quality and excellence of services provided by Industrial Relations Counsellors. There is no impact on businesses, smbs and others.