

Draft Regulations

Draft Regulation

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

Notaries

— Other terms and conditions for the issuance of permits

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 other terms and conditions for the issuance of permits by the Chambre des notaires du Québec” adopted by the Bureau of the Chambre des notaires du Québec, the text of which appears below, may be submitted to the government for approval upon the expiry of forty-five days following the present publication. The government may approve it, with or without amendment.

The Chambre des notaires du Québec believes that the purpose of this regulation is to improve the terms and conditions of the training period prior to admission. Among other things, it renders more flexible the content and format of activities in the professional program, allowing for the adaptation of the material to a juridical context and facilitating the participation of candidates. Furthermore, the regulation will allow the Bureau of the Order to control certification conditions for articling masters and enhance the quality of training for future members, thereby ultimately ensuring the protection of the public. It will prevent situations where candidates complete training by are refused a permit to practice under section 45 of the Professional Code. Thus, the Bureau of the Chambre can refuse a candidate for the training period of the grounds enumerated in section 45. This change coordinates the conditions for admission with the conditions for entry on the roll of the Order. Finally, the administrative procedure relating to registration is standardized to remove the need for a “Notice of Registration”.

Additional information may be obtained by contacting M^e. Dominique Duclos at the Chambre des notaires du Québec, 800, place Victoria, suite 700, Montréal (Québec), H3Z 1L8; telephone no.: (514) 879-2902; fax no.: (514) 879-1923.

Any person having comments to make on this draft regulation is asked to transmit them, 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, Saint-Joseph Est, 1^{er} étage, Québec, (Québec) G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may also be forwarded to the professional order that has adopted the regulation, and to persons, departments, and agencies concerned.

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

Regulation respecting other terms. and conditions for the issuance of permits by the Chambre des notaires du Québec

Professional Code
(R.S.Q. c. C-26, s. 94, par. i)

§1. *Committee on the training period*

1. The Bureau accords responsibility for the professional training period to a committee (hereinafter called the “Committee”) consisting of at least four members, the president whereof must be a member of the Bureau.

2. A majority of members shall constitute a quorum of the Committee; decisions are taken by majority vote.

3. In the event of a vacancy or of a Committee member’s inability of act, the Bureau shall name a replacement for the remainder of the term.

4. The Committee is charged with the administration of the training periods and renders account thereof to the Bureau. Among other things, it examines the file of each candidate in order to determine whether the candidate has the qualities required to practice the notarial profession and to make recommendations to the Bureau concerning the candidate’s eligibility. The Bureau may refuse to admit a candidate, after having given him an opportunity to be heard.

The Committee has the powers required to exercise its mandate, and in particular, it may exercise the powers of the Superior Court to compel the candidate, his witnesses, and any other person, by way of summons under the signature of one of its members, to appear, to answer under oath, and to furnish any information or

document. The provisions of the Code of Civil Procedure shall apply for the purposes of the present paragraph, with the necessary changes.

An appeal lies to the Professions Tribunal from any decision of the Bureau on a candidate's eligibility for the training period, in accordance with Division VIII of the Professional Code.

§2. Admission to the training period

5. The Bureau admits to the training period those candidates who have:

(1) obtained a diploma recognized by the government, in virtue of the first paragraph of section 184 of the Code, as replaced by section 164 of Chapter 40 of the Statutes of 1994, as giving access to a permit issued by the Chambre or a diploma or training equivalence in virtue of a regulation adopted and approved under paragraph 93 (c) of the Code as amended by section 80 of Chapter 40 of the Statutes of 1994;

(2) completed and forwarded to the Committee secretary, at least 90 days prior to the commencement of the training period, an application for registration on the form supplied by the Bureau together with all required documents;

(3) paid the fees which are exigible in virtue of a resolution adopted by the Bureau in virtue of paragraph 86.01(8) of the Code as enacted by section 73 of Chapter 40 of the Statutes of 1994;

(4) been declared eligible for the training period by the Bureau.

6. All eligible candidates must complete training within two years of having obtained one of the diplomas or equivalences referred to in subsection 5 (1).

However, a candidate who demonstrates to the Bureau that he was unable to complete the training within the time allowed due to illness, accident, pregnancy, or superior force may benefit from an additional period equivalent to the period during which he was unable to complete training, to a maximum of three years.

§3. Objectives, terms, and conditions of the training period

7. The purposes of the training period are as follows:

(1) the assimilation of theoretical knowledge;

(2) the acquisition of skills required for the practice of the notarial profession;

(3) the development of professional competence;

(4) the incorporation of the aspect of preventive law into the practice of the notarial profession.

8. The duration of the training period is 32 consecutive weeks of full-time employment compatible with the objectives stated in section 7. The training period includes compulsory participation in the professional activities described in section 16.

The training period shall not begin before the date established by the Committee.

During the 32-week period, the articled student may be absent no more than ten working days; otherwise he must, in accordance with section 17, present a reasoned request to the Committee to justify the interruption of the training period.

9. A candidate may complete part of his training period outside Québec, for a period not exceeding three months, subjects to meeting the objectives set out in section 7.

10. The training period is supervised by an articling master who satisfies the following conditions:

(1) he has been inscribed on the Roll of the Chambre for the previous five years and during that period has practiced full-time in an area which is compatible with the objectives of the stage as described in section 7;

(2) he has not, during the previous five years, been subject to any disciplinary action by the disciplinary committee of the Chambre, other than that provided for in paragraph 156 (a) of the Code, or by the Professions Tribunal;

(3) he has not been obliged to take refresher courses under the Regulation respecting refresher courses for notaries decreed by Order in Council 1363-94 dated September 07, 1993, in the five years preceding the training period commencement date;

(4) he is not in arrears in the payment of dues, charges, or fees to the Chambre;

(5) he satisfies the other conditions established by resolution of the Bureau for acting as articling master.

11. To obtain the title of articling master, a notary must apply in writing to the Committee.

The title of articling master granted by the Committee remains valid for a period of three years but may be

withdrawn at any time by the Committee, if it considers that the articling master is not discharging his duties in accordance with section 12.

12. The articling master assists in the training of each student for whom he is responsible. He is responsible for the student's day-to-day training in the working environment. The articling master shall, in particular,

(1) facilitate the articled student's integration into the working environment;

(2) inform the articled student on the workings of the milieu and on available resources;

(3) determine the articled student's tasks while specifying work methods and the delays which must be respected;

(4) help the articled student organize his work and initiate him into office management;

(5) gradually allow the student to take complete control of certain professional acts;

(6) evaluate the articled student's work from time to time;

(7) evaluate the articled student's attainment of the training objectives.

Where a candidate completes part of his training period outside Québec in accordance with section 9, the articling master shall, during this period and in particular,

(1) require from the articled student, at least once a month, a detailed report of activities engaged in abroad;

(2) evaluate the activities engaged in by the articled student.

13. The candidate's training plan must be approved by the Committee before the candidate can begin his training period. An articled notarial student card is issued by the Committee when the requirements stipulated in the present regulation have been fulfilled. The card certifies the student's right to hold the title of articled student and is valid for the duration of the training period. The training period does not begin until the articled student has received his card.

14. The Committee also appoints a supervisor for each articled student and articling master. Several articled students and articling masters may be supervised by the same supervisor.

15. The supervisor shall, in particular,

(1) support the articled student in integrating into the working environment;

(2) give pedagogical support to the articled students and articling masters for whom he is responsible;

(3) prepare and conduct certain professional program activities;

(4) evaluate the articled student's performance in the professional program;

(5) evaluate the articled student from time to time during the training period jointly with the articling master;

(6) complete, jointly with the articling master, the final evaluation of the articled student for the training period which takes place in the working environment.

16. The professional program comprises the following activities:

(1) at least 5 seminars, each lasting one day or less, or in the form of activities by correspondence authorized by the Committee, for the purpose of helping the student grasp the training period process and assimilate his practical experience, consisting of group discussion and reflection on the problems relating to the practice of the notarial profession;

(2) at least 15 group sessions of analysis and synthesis, lasting at least one day each, or in the form of activities by correspondence authorized by the Committee, for the purpose of developing the professional behavior and aptitudes required for the notarial profession.

The training period may also include the following activities:

(1) sessions consisting of reading and exercises on recent developments in the notarial practice;

(2) training activities jointly organized by the supervisor and the articling master.

17. At the reasoned request of the articled student or his supervisor the Committee may authorize:

(1) a change of articling master;

(2) an interruption in the training period;

(3) changes to the originally authorized training period plan;

(4) the cancellation of the training period if the elapsed portion thereof does not exceed eight consecutive weeks.

18. The Committee shall cancel an articulated student's card if it considers that the training does not conform to the requirements of the present division.

However, before canceling a card, the Committee shall give the parties concerned the opportunity to be heard.

§4. Professional acts of the articulated student

19. The articulated student may perform the following acts under the authority and responsibility of the articling master:

- (1) maintain files, accounting books and registers;
- (2) receive the articling master's clients;
- (3) read notarial deeds aloud to the parties thereto, in accordance with section 42 of the Notarial Act (R.S.Q., c. N-2);
- (4) represent persons before any quasi-judicial tribunal which so permits;
- (5) assist the articling master in all aspects of the practice of the profession, with the exception of professional acts which may be performed only by a notary in the practice of his profession.

§5. Evaluation of the training period

20. The training period is evaluated in accordance with criteria established by the Committee and intended to measure the degree to which the objectives set out in section 7 have been attained.

21. Once the articulated student has completed the training period, each of the articling master and the supervisor prepares a written report containing his evaluation.

The articling master shall evaluate the attainment of objectives with respect to the working environment. The supervisor shall evaluate the attainment of objectives with respect to the whole of the training program, including the professional program.

22. Each of the articling master and the supervisor remits a copy of his report to the articulated student and to the Committee within 30 working days after the end of the training period.

23. After examining each of the reports, the Committee determines whether the training period has been successfully completed by the articulated student and recommends that the Bureau issue a certificate of achievement or notice of failure, as the case may be.

Where the Committee recommends that the Bureau issue a notice of failure, it also recommends training activities aimed at enabling the articulated student to attain the training period objectives. The Committee may also recommend a new training period.

24. Reasons must be given for the Committee's recommendation of success or failure with respect to a training period and these reasons must be transmitted to the articulated student without delay.

25. The Committee shall give the parties concerned the opportunity to be heard before recommending that the Bureau issue a notice of failure. The Committee is not bound by any negative conclusions contained in the evaluation reports. The Committee shall give the articling master and the supervisor notice of at least 15 working days of the date and place of the hearing.

26. This Regulation replaces the Regulation respecting conditions for admission to the notarial profession (R.R.Q., 1981, c. N-2, r.6).

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