

Draft Regulations

Draft Regulation

An Act respecting administrative justice
(1996, c. 54)

Administrative Tribunal of Québec — Recruitment and selection of persons apt for appointment as members

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 procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the Draft Regulation is to establish, pursuant to sections 42 to 45 and 49 and 50 of the Act respecting administrative justice, a procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office.

The Draft Regulation proposes in that respect rules concerning the publication of a notice of vacant positions and its content, the documents and information to be forwarded by a person who wishes to propose his candidacy, the formation, composition and functioning of selection committees and the consultations that the committees may hold. The Draft Regulation also proposes criteria to be taken into account by selection committees to determine that a candidate is apt.

The Draft Regulation proposes rules concerning the content and the forwarding of reports by those committees, the keeping of the register of declarations of aptitude and the procedure for recommending to the Government the appointment of a person who has been declared apt to be appointed to the Tribunal.

The Draft Regulation further proposes that, in the months preceding the expiry of a member's term of office, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif should form a committee to examine the renewal of that term of office, and that he should apply the rules for the composition of selection committees in forming such renewal committees.

To date, study of the matter has revealed no significant impact on businesses and the public.

Further information may be obtained by contacting Ms. Marie José Longtin, 1200, route de l'Église, 4^e étage, Sainte-Foy (Québec), G1V 4M1; tel.: (418) 643-8782, fax: (418) 643-9749.

Any interested person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Justice, 1200, route de l'Église, 9^e étage, Sainte-Foy (Québec), G1V 4M1.

PAUL BÉGIN,
Minister of Justice

Regulation respecting the procedure for the recruitment and selection of persons apt for appointment as members of the Administrative Tribunal of Québec and for the renewal of their term of office

An Act respecting administrative justice
(1996, c. 54, ss. 42, 44, 45, 49, 50)

DIVISION I NOTICE OF VACANT POSITIONS

1. Where one or more positions are vacant and cannot be filled by resorting to the list of persons already declared apt for appointment as members of the Administrative Tribunal of Québec, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall publicly announce the vacant positions by a notice in a publication circulating or distributed throughout Québec that invites interested persons to submit their candidacies for the position of member of the Tribunal.

2. The notice shall give

(1) the name of the divisions of the Tribunal for which a member or members are to be recruited;

(2) a summary description of the duties of a member;

(3) in substance, the selection conditions and criteria provided for in the Act and this Regulation and, where applicable, the particular requirements as to the profes-

sion, training or experience being sought, considering the needs of the Tribunal;

(4) in substance, the system of confidentiality applicable within the framework of the selection procedure and an indication that the selection committee may hold consultations about the candidacies; and

(5) the date by which a candidacy must be submitted and the address to which it must be sent.

3. A copy of the notice shall be sent to the Minister of Justice, to the Ministers responsible for the administration of statutes providing for a recourse before the divisions of the Tribunal for which a member or members are to be recruited, and to the President of the Tribunal.

DIVISION II CANDIDACIES

4. A person who wishes to submit his candidacy shall forward his résumé and the following information:

(1) his name, home address and telephone number and, where applicable, office address and telephone number;

(2) his date of birth;

(3) the name of each division of the Tribunal for which he submits his candidacy;

(4) the nature of the activities that he has exercised and that he considers have enabled him to acquire the required relevant experience;

(5) where applicable, proof that he possesses the qualifications indicated in the notice of vacant positions, the date on which he acquired those qualifications and the number of years during which he has worked while using those qualifications;

(6) where applicable, whether any penalty has been imposed on him under a statute or regulation, as well as the object of and the reasons for that penalty;

(7) where applicable, the names of his employers or partners over the past 10 years;

(8) where applicable, whether he has filed his candidacy for such a competition during the preceding 5 years; and

(9) a statement demonstrating his interest in exercising the duties of a member of the Tribunal.

The person shall also forward a written statement in which he agrees to submit to a verification, *inter alia*, with a disciplinary body, a professional order of which he is or has been a member, his employers over the last 10 years and police authorities and, where applicable, in which he agrees that the persons, partnerships or organizations mentioned in section 14 be consulted.

DIVISION III FORMATION OF A SELECTION COMMITTEE

5. Following publication of the notice of vacant positions, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall form a selection committee and shall designate the committee chairman, by appointing

(1) the President of the Tribunal or, after consulting the President, another member of the Tribunal;

(2) a member from the staff of the Ministère du Conseil exécutif or the Ministère de la Justice; and

(3) a representative of the groups concerned who is neither an advocate nor a notary, or a representative of the legal community, or both.

6. Where his impartiality could be questioned, a member of the committee shall withdraw in respect of a candidate where, *inter alia*,

(1) the member is or has been the candidate's spouse;

(2) the member is related to the candidate by birth or marriage, to the degree of first cousin inclusively; or

(3) the member is or has been, at any time within the past 10 years, the candidate's employer, employee or partner; notwithstanding the foregoing, a member who is an employee in the public service shall withdraw in respect of a candidate only where the member is or has been the candidate's employee or immediate superior.

Where a member of the committee withdraws, is absent or prevented from sitting, the decision is made by the other members.

7. The members of the committee are required to take the oath of discretion provided for in Schedule A.

8. A person may be appointed to more than one committee at the same time.

9. Travel and accommodation expenses of the committee members shall be reimbursed in accordance with décret 2500-83 concernant les règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux, dated 30 November 1983, as amended.

In addition to the reimbursement of expenses, members of the committee who are not members of the Tribunal or in the employ of a government department or body are entitled to \$100.00 per half-day of meeting at which they participate.

DIVISION IV FUNCTIONING OF THE SELECTION COMMITTEE

10. The list of candidates and their records shall be sent to the chairman of the selection committee.

11. The committee shall analyze the candidates' records and shall select those who, in its opinion, meet the eligibility requirements and, where applicable, the assessment measures to which it may also subject them in view of the positions to be filled or in cases where the number of candidates is very high.

12. The chairman of the committee shall inform the candidates who are deemed eligible at that stage of the date and place of their meeting with the committee and shall inform the other candidates that their candidacies are not retained and that, consequently, they will not be convened.

13. The committee's report shall mention the candidacies rejected at that stage and give reasons for each rejection.

DIVISION V CONSULTATIONS AND SELECTION CRITERIA

14. The committee may, concerning any element of a candidate's record or any other aspect of a candidacy or of the candidacies as a whole, consult, *inter alia*,

(1) any person who, within the last 10 years, has been an employer, partner or immediate or first-line superior of the candidate; and

(2) any legal person, partnership or professional association of which a candidate is or has been a member.

15. The selection criteria that the committee shall take into account in determining a candidate's aptitude are:

(1) the candidate's personal and intellectual qualities;

(2) the candidate's experience and the relevancy of that experience to the duties performed by the Tribunal;

(3) the candidate's degree of knowledge and skill, taking into account the requirements as to training, experience and professional practice indicated in the notice of vacant positions;

(4) the candidate's ability to perform adjudicative duties;

(5) the candidate's judgment, open-mindedness, perceptiveness, level-headedness, decision-making capacities and ability to express himself; and

(6) the candidate's views concerning the duties of a member of the Tribunal.

DIVISION VI REPORT OF THE SELECTION COMMITTEE

16. A decision of the committee shall be made by a majority vote of its members. In the case of a tie-vote, the chairman of the committee shall have a casting vote.

17. Where the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif so requests, the committee shall, expeditiously and not later than 30 days after that request, submit to him a report

(1) indicating the names of the candidates with whom the committee met and whom it declared apt to be appointed to the Tribunal, the divisions to which they may be assigned, their profession and the necessary information to contact them at their place of work; and

(2) containing any comments that the committee considers it expedient to make, especially with respect to the particular characteristics or qualifications of the candidates considered apt.

That report shall be submitted to the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif, to the Minister of Justice and to the Ministers responsible for the administration of statutes providing for a recourse before the divisions of the Tribunal for which a member or members are to be recruited.

18. Insofar as possible, the committee shall declare apt a number of candidates normally corresponding to at least twice the number of vacant positions.

19. A member of the committee may register his dissent with respect to all or part of the report.

DIVISION VII REGISTER OF DECLARATIONS OF APTITUDE

20. The Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall write to the candidates to inform them that they either have or have not been declared apt to be appointed to the Tribunal.

21. The Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall keep the register of declarations of aptitude up-to-date and shall enter therein, in respect of each division, the list of the candidates declared apt to be appointed to the Tribunal.

He shall strike out an entry in the register upon the expiry of the validity period of the declaration of aptitude or when the person is appointed to the Tribunal, dies or asks to be withdrawn from the register.

22. As soon as he is informed that there is a vacant position, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall forward a copy of the updated list to the Minister of Justice and to the Ministers responsible for the administration of statutes providing for a recourse before the divisions of the Tribunal in which there is a vacant position.

DIVISION VIII RECOMMENDATION

23. The Minister of Justice, after having consulted the Ministers responsible for the administration of statutes providing for recourses before the division of the Tribunal where there is a vacant position, shall recommend to the Government the name of a person who has been declared apt to be appointed to the Tribunal.

Where the vacant position is the position of president or a position of vice-president of the Tribunal, the Minister of Justice shall recommend to the Government the name of a member of the Tribunal or the name of a person who has been declared apt to be appointed to the Tribunal.

24. If the Minister of Justice is of the opinion that, in the best interests of the proper performance of the Tribunal's duties, he is unable, after receiving the selec-

tion committee's report and considering the list of persons apt to be appointed as members of the Tribunal, to recommend the appointment of a person, he shall then ask the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif to have a new notice of vacant positions published, in accordance with Division I.

The committee that submitted a report following the first notice is competent to assess the aptitude of the candidates whose candidacy was submitted following the second notice and to report to the Minister.

DIVISION IX RENEWAL OF TERMS OF OFFICE

25. During the 12 months preceding the expiry of a member's term of office, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall form a committee to study the renewal thereof. In such case, sections 5 to 9 apply.

The committee shall verify whether the member still fulfils the criteria established in section 15, shall consider the Tribunal's needs and the advisability of favouring the appointment of new members, and may hold the consultations provided for in section 14 concerning any element of the member's record.

A decision of the committee shall be made by a majority vote of its members. In the case of a tie-vote, the chairman of the committee shall have a casting vote. A member may register his dissent.

The committee shall forward its recommendation to the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif and to the Minister of Justice.

DIVISION X CONFIDENTIALITY

26. The names of candidates, the reports of selection committees or renewal committees, the list of candidates declared apt to be appointed to the Tribunal, as well as any information or document relating to a consultation or decision by a committee, are confidential.

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

SCHEDULE A

(s. 8)

OATH OF DISCRETION

I,

(name)

solemnly affirm, under oath, that I will neither reveal nor make known, without being duly authorized to do so, anything whatsoever that may come to my knowledge in the exercise of my office.

.....

(signature)

Sworn before me at

.....

on this

Commissioner for oaths

1410

Draft Regulation

An Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., c. D-13.1)

Bag limit for moose — 1997

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the draft of the Regulation respecting the 1997 bag limit for moose, the text of which appears below, may be made by the Gouvernement du Québec upon the expiry of 45 days following this publication.

The purpose of the draft regulation is to renew for one year the bag limit for hunting moose, applicable to Natives and non-Natives in Area 17.

To that end, the Regulation proposes to limit the killing of moose in Area 17 to the same number as in 1996, that is, 140 moose.

To date, study of the matter has shown no impact on businesses, in particular on small and medium-sized businesses.

Further information may be obtained by contacting:

Mr. Serge Bergeron
 Ministère de l'Environnement et de la Faune
 Service de la réglementation
 150, boulevard René-Lévesque Est, 4^e étage, boîte 91
 Québec (Québec)
 G1R 4Y1

Tel.: (418) 643-4880
 Fax: (418) 528-0834
 Internet: serge.bergeron@mef.gouv.qc.ca

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of the Environment and Wildlife, Édifice Marie-Guyart, 675, boulevard René-Lévesque Est, 30^e étage, Québec, G1R 5V7.

DAVID CLICHE,
*Minister of the
 Environment and Wildlife*

Regulation respecting the 1997 bag limit for moose

An Act respecting hunting and fishing rights in the James Bay and New Québec territories (R.S.Q., c. D-13.1, s. 78, 1st par., subpar. f and 2nd and 3rd pars.)

1. The bag limit for moose allocated to Natives and non-Natives in Area 17 determined by the Fishing, Hunting and Trapping Areas Regulation, made by Order in Council 27-90 dated 10 January 1990, is 140 moose for the period extending from 1 August 1997 to 31 July 1998.

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

1413

Draft Regulation

An Act respecting labour standards
 (R.S.Q., c. N-1.1)

**Woodworking or flat glass industry
— Minimum wage payable to employees**

Notice is hereby given, in accordance with sections 10, 12 and 13 of the Regulations Act (R.S.Q., c. R-18.1) and sections 33, 37 and 92 of the Act respecting labour standards (R.S.Q., c. N-1.1) that the "Regulation re-