
Regulations and Other Acts

Gouvernement du Québec

O.C. 1289-97, 1 October 1997

Code of Civil Procedure
(R.S.Q., c. C-25)

Code of Penal Procedure
(R.S.Q., c. C-25.1)

An Act respecting payment of certain Crown witnesses
(R.S.Q., c. P-2.1)

Criminal Code
(R.S.C., 1985, c. C-46)

Indemnities and allowances payable to witnesses summoned before courts of justice — Amendments

Regulation to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice

WHEREAS under article 321 of the Code of Civil Procedure (R.S.Q., c. C-25), a writ of subpoena must indicate, in easily legible type, the right of the witness to require taxation for his costs and expenses according to the tariff fixed by the Government;

WHEREAS under paragraph 7 of article 367 of the Code of Penal Procedure (R.S.Q., c. C-25.1), the Government may, by regulation, fix the allowances payable to witnesses;

WHEREAS under subsection 1 of section 2 of the Act respecting payment of certain Crown witnesses (R.S.Q., c. P-2.1), the Government shall determine by regulation, for each district, the allowance which each Crown witness shall receive, according to such special circumstances as it may deem it should take into account;

WHEREAS under subsection 840(2) of the Criminal Code (R.S.C., 1985, c. C-46), the lieutenant governor in council of a province may, on the one hand, order that all or any of the fees and allowances mentioned in the schedule to Part XXVII of the Code shall not be taken or allowed in proceedings before summary conviction courts and justices under that Part in that province and, on the other hand, order that other fees and allowances will be taken or allowed;

WHEREAS in accordance with those provisions or some of them or replaced provisions, the Government made the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r. 2);

WHEREAS it is expedient to amend the Regulation;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Regulation to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice was published in the *Gazette officielle du Québec* of 2 July 1997 with a notice that it could be made by the Government upon the expiry of 45 days following that publication;

WHEREAS during that period, comments were sent to the Minister of Justice, no unfavourable comment was made and the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

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

THAT the Regulation to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice(*)

Code of Civil Procedure
(R.S.Q., c. C-25, art. 321)

Code of Penal Procedure
(R.S.Q., c. C-25.1, art. 367, par. 7)

An Act respecting payment of certain Crown witnesses
(R.S.Q., c. P-2.1, subsec. 1 of s. 2)

Criminal Code
(R.S.C., 1985, c. C-46, s. 840 (2))

1. The following is substituted for section 1 of the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice:

“1. Definitions

In this Regulation,

“witness” means any person summoned to appear before a court having jurisdiction in civil, penal or criminal matters, including the Youth Division of the Court of Québec, in order to testify in accordance with the law;

“witness summoned by the prosecutor” means any person summoned by the prosecutor in criminal matters, in federal penal matters or in penal matters governed by the statutes of Québec.”

2. Section 2 is amended

(1) by substituting the following for the second paragraph of subsection 1:

“Such indemnity is not paid to witnesses summoned by the prosecutor.”; and

(2) by substituting, in the second paragraph of subsection 2, the words “prosecutor in the case of a witness summoned by him in a criminal or penal matter” for the words “Attorney-General in the case of a Crown witness”.

3. The words “the place where he must testify” are substituted for the words “Court House” in section 6.

4. Section 7 is revoked.

5. The following is substituted for paragraph *a* of section 8:

“(a) court officers and public officers having their office in the building where the Court sits;”.

6. The following is substituted for section 9:

“**9.** To the extent prescribed by this Regulation, the Ministère de la Justice shall pay the indemnities and allowances to witnesses summoned by the prosecutor:

(a) for a pre-inquiry or a preliminary inquiry held at the instance of the Attorney General of Québec or for the hearing of a criminal prosecution or a federal penal prosecution brought by the Attorney General of Québec;

(b) for the hearing of a prosecution brought under the Code of Penal Procedure (R.S.Q., c. C-25.1) by the Attorney General of Québec.”.

7. The following is substituted for the first paragraph of section 10:

“**10.** A member of the Sûreté du Québec or of a municipal police force who, in the performance of his duties, appears as a witness shall be taxed in accordance with this Regulation, but the amount of the taxation shall not be paid to him by the competent court officer.”.

8. The following is substituted for section 12:

“**12.** In accordance with subsection 840 (2) of the Criminal Code (R.S.C., 1985, c. C-46), the fees and allowances mentioned in paragraphs 25 and 26 of the schedule to Part XXVII of that Code shall not be taken or allowed in Québec in proceedings before summary conviction courts and justices under that Part of the Criminal Code. The indemnities and allowances provided for in this Regulation shall be taken and allowed in lieu of those fees and allowances.”.

9. This Regulation comes into force on 1 November 1997.

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* The Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r. 2) was last amended by the Regulation made by Order in Council 60-96 dated 16 January 1996 (1996, G.O. 2, 1000).