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Draft Regulation

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

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 to amend the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The main purposes of the draft regulation is

(1) to eliminate the obligation imposed on municipalities acting as prosecutor in federal penal matters and in penal matters governed by the statutes of Québec and summoning ordinary witnesses to pay them an indemnity for loss of time;

(2) to eliminate the obligation imposed on municipalities summoning members of municipal police forces as witnesses for penal prosecutions to pay them allowances for meals, lodging and transportation. In such case, the allowances, where they are collected from the defendant, will be paid instead to the municipal authority concerned;

(3) to provide that, where the Regulation prescribes the payment of indemnities or allowances to witnesses summoned by the prosecutor in criminal and federal penal matters, as well as in penal matters governed by the Statutes of Québec, the ministère de la Justice pay the indemnities and allowances when the Attorney General of Québec acts as prosecutor.

The elimination of the indemnities for loss of time payable to ordinary witnesses summoned by municipalities acting as prosecutor in penal matters will have no significant impact on the public, since the witnesses of the prosecutor are in most cases members of municipal police forces.

The other proposed amendments have no impact on the public.

Further information may be obtained by contacting Mr. Jacques Mercier, notary, Direction des Affaires législatives, 1200, route de l'Église, 4^e étage, Sainte-Foy (Québec), G1V 4M1; tel.: (418) 643-7222, fax: (418) 643-9749.

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 Justice, 1200, route de l'Église, 9^e étage, Sainte-Foy (Québec), G1V 4M1.

PAUL BÉGIN,
Minister of Justice

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, s. 2, subs. 1)

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

1. The Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r.2), amended by the Regulation made by Order in Council 60-96 dated 16 January 1996, is further amended by substituting the following for section 1:

“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 it 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 2 of section 840 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 are fixed in lieu of those fees and allowances.”.

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

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