

Draft Regulations

Draft Regulation

An Act respecting the Régie du logement (R.S.Q., c. R-8.1; 1995, c. 61)

Civil Code
(1991, c. 64)

Criteria for determination of rent — Amendments

Notice is hereby given, pursuant to articles 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the “Regulation modifying the Regulation respecting the criteria for the fixing of rent”, the text of which appears below, may be enacted by the government on expiry of a 45 day delay after the present publication.

The goals of this draft are as follows:

— modify the reference period for the purposes of rent determination, which is currently April 1 until March 31, to correspond to the calendar year;

— define the parameters of the method used to determine the percentages applicable to certain rent determination criteria and indicate the manner in which the public is informed of the result of the annual calculations;

— take into consideration, when determining rent, expenses and net revenue on a pro rata basis, having regard to total revenues of the immovable rather than residential revenues only;

— ensure the lessee may invoke the lessor’s failure to maintain the quality of services or provide enjoyment of the dwelling where this failure occurs during the 12 month period preceding the period for which the rent is to be determined rather than what is currently called the “period considered”;

— change the method of adjusting rent for land intended for the installation of a mobile home with respect to the cost of snow removal so as to take into account the annual variation of these costs rather than a percentage of maintenance costs in effect for all of Quebec and categories of dwellings.

This draft will have the following effect:

— avoid duplicate accounting procedures for lessors by making the period of reference the same as that usually used by businesses, namely the calendar year;

— simplify and accelerate the annual determination of rent procedure as well as the diffusion of percentages applicable to certain rent determination criteria by avoiding the necessity of systematically amending the Regulation;

— reduce in some cases the adjustment of rent where revenues other than rental revenues are significant; this may entail work done specifically for non-residential tenants;

— permit a lessee to invoke as a defence to an application to increase rent the failure of a lessor to fulfill his obligations during the 12 month period immediately prior to the new lease rather than a 12 month period more remote in time;

— more accurately take into account significant variations the lessor must assume for snow removal of land intended for the installation of a mobile home.

The other changes are minor or technical. They involve primarily terminology or changes of text designed to facilitate comprehension; a transitory disposition has been foreseen for the first year of institution of certain measures.

Additional information may be obtained from Mr. Daniel Maisonneuve, Régie du logement, 5199, rue Sherbrooke Est, rez-de-chaussée, bureau 2360, Montréal (Québec), H1T 3X1, telephone: (514) 873-6575, fax: (514) 873-6805.

Any interested person wishing to make comments with respect to the draft may do so in writing, within a delay of 45 days, to the ministre des Affaires municipales, édifice Cook-Chauveau, secteur B, 20, rue Chauveau, Québec (Québec), G1R 4J3.

Le ministre des Affaires municipales,
RÉMY TRUDEL

Regulation modifying the Regulation respecting the criteria for the fixing of rent

An Act respecting the Régie du logement
(R.S.Q., c. R-8.1, a. 108, par. 3° et 6°; 1995, c. 61, a. 1)

Civil Code
(1991, c. 64, a. 1953)

1. The Regulation respecting the criteria for the fixing of rent enacted by order in council 738-85 of April 17, 1985, amended by the Regulations enacted by order in council 1430-85 of July 10, 1985, 562-86 of April 30, 1986, 1047-87 of June 30, 1987, 688-88 of May 11, 1988, 528-89 of April 12, 1989, 344-90 of March 21, 1990, 519-91 of April 17, 1991, 637-92 of April 29, 1992, 580-93 of April 28, 1993, 454-94 of March 30, 1994, 825-94 of June 8, 1994, 505-95 of April 12, 1995, 692-96 of June 12, 1996 et 337-97 of March 19, 1997 is further amended at Article 1 as follows:

1° the definition of “operating expenses” is replaced by the following:

““operating expenses”: expenses incurred with respect to a building including the value of work done by the lessor if such be the case, comprised of the following:

- 1° property and service taxes;
- 2° fire and liability insurance;
- 3° energy;
- 4° maintenance;
- 5° services;
- 6° management;”;

2° the term “period considered” is replaced by the following:

““reference period”

1° for leases expiring between April 1st and December 31st: the calendar year preceding the end of the lease;

2° for leases expiring between January 1st and March 31st: the second to last calendar year preceding the end of the lease;”;

3° the term “considered” in the definition of “preceding period” is replaced by the term “reference”;

4° The term “considered” in the definition of “net income” is replaced by the term “reference”;

5° The term “considered” in the definition of “income” is replaced by the term “reference”

6° The definition of “end of a lease” is amended as follows:

““end of a lease”: the date preceding the beginning of the period for which the rent is to be determined.”.

2. Article 3 of the Regulation is replaced by the following:

“**3.** The tribunal hearing an application to determine or adjust rent modifies the rent at the end of the lease by applying the following factors in the proportion attributable to the dwelling:

1° the variation in municipal property taxes due in the reference period and those due in the following year as well as the variation in school taxes due in the year preceding the reference period and those due in the reference period;

2° the variation in insurance premiums included in operating expenses, for a maximum period of 12 months, due in the year preceding the reference period and those due during the reference period;

3° the percentage applicable for the reference period with respect to electricity and fuel; nevertheless, if this percentage is not representative for the immoveable in question, the tribunal, if it has the required information at its disposal, shall take into account the variation, on a percentage basis, of the unit cost in the period of reference and that in the preceding period.

4° the percentage applicable to maintenance costs for the reference period;

5° the percentage applicable to service costs for the reference period;

6° The percentage applicable to management costs for the reference period which are established at 5 % of income without supporting documents and up to 10 % with supporting documents.

7° operating expenses relating to a new service or accessory or dependancy during the reference period, estimated for the entire reference period;

8° the percentage applicable to net revenue for the reference period;

9° the percentage applicable to capital expenditures for the reference period; nevertheless, if a capital expenditure is subsidized by way of a loan at reduced interest, the annual increase of rent corresponding to the portion of the expenditure financed by this loan may not exceed the amount of annual reimbursement of capital and interest.

In spite of the first paragraph, where the rent has been increased during the 12 month period preceding the end of the lease, the tribunal takes into account the lowest rent or that determined during this period rather than that at the end of the lease.”.

3. This Regulation is amended by the insertion of the following after Article 3:

“**3.1** The percentages applicable to the criteria are established annually pursuant to the present article.

For operating expenses, the indicator used is that which is most representative of each category of expense among those established by Statistics Canada for Quebec.

The difference between the indicator for the reference period and that of the preceding year is divided by the indicator of the reference period; nevertheless, the percentage applicable to maintenance costs shall not be less than that applicable to net revenue.

For net revenue, the percentage of variation between the cost index of rent for the year preceding the reference period and that for the reference period established by Statistics Canada for Quebec, is applied; this percentage is reduced by 2 % when it is 4 % or more and reduced by one-half when it is less than 4 %.

For capital expenditures, the average interest rates administered by Canadian trust companies during the period of reference on 5 year guaranteed investment certificates is increased by 1 %. These interest rates are published in the Bank of Canada Review.

The minister responsible for the application of title I of the Act respecting the Régie du logement (R.S.Q., c. R-8.1) notifies the public of the calculations in the *Gazette officielle du Québec* and any other means deemed appropriate.”.

4. Articles 4 et 4.1 are repealed.

5. Article 5 is amended by the replacement of the first paragraph by the following:

“The portion attributable to the dwelling equals the proportion of rent at the end of the lease with respect to revenues.”.

6. Article 8 is amended by the replacement of the term “period considered” by the term “the 12 month period preceding the period for which the rent is to be determined”.

7. Article 9 paragraph 1 is amended by replacement of the term “period considered” by the term “the 12 month period preceding the period for which the rent is to be determined”.

8. This Regulation is amended by insertion of the following after article 12:

“**12.1** Where the rent to be determined or adjusted is that of land intended for installation of a mobile home, the tribunal takes into account the variation in the cost of snow removal during the year preceding the reference period and that during the reference period.”.

9. Article 14 is repealed.

10. This Regulation is amended by addition of the following after Article 18:

“**19.** In spite of article 1, the reference period for insurance and capital expenditures for leases whose rents are to be determined or adjusted for the period beginning between April 2, 1998 and April 1, 1999, is from April 1, 1997 until December 31, 1997.

20. Applications to determine or adjust rent for a period beginning before April 2, 1998 are subject to the rules in effect prior to (*insert date on which the present disposition comes into effect*).”.

11. The present Regulation comes into effect on the 15th day after its publication in the *Gazette officielle du Québec*.

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