

## Draft Regulation

Legal Aid Act  
(R.S.Q., c. A-14; 1996, c. 23)

### Regulation — Amendments

Regulation to amend the Regulation respecting the application of the Legal Aid Act

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 the application of the Legal Aid Act, made by the Commission des services juridiques at its sitting of 20 June 1997 and the text of which appears below, may be submitted for approval by the Government upon the expiry of 45 days from this publication.

The Draft Regulation contains amendments concerning the administration of the Commission des services juridiques and the legal aid centres, particularly in respect of

(1) their internal management (holding of meetings, composition of the administrative committee of the Commission);

(2) the form in which the documents held by legal aid centres are drafted and transmitted to the Commission and the deadline for transmitting the budget estimates that legal aid centres are required to forward to the Commission;

(3) the keeping of trust accounts by legal aid centres.

The Draft Regulation also contains amendments concerning the functioning of legal aid, particularly in respect of

(1) the reports that advocates in private practice are required to make to legal aid centres;

(2) the availability of legal aid eligibility services at the Court of Québec, Youth Division;

(3) uniform application of the rules of eligibility for legal aid and for issue of certificates in order to ensure that free choice is effectively exercised in the selection of an advocate or notary; and

(4) the rules applicable in the case of substitution of an advocate or notary within the scope of the same legal aid mandate.

The amendments concerning the administration of the Commission des services juridiques and the legal aid centres pertain to the organization and operation of the bodies charged with administering the legal aid system and consequently have no impact on businesses or the public, otherwise than the fact that they ought to promote more efficient administration of legal aid services.

The amendments concerning the functioning of legal aid will have a favourable impact on both the legal aid clientele and the advocates in private practice who agree to offer their professional services under the legal aid system.

Further information may be obtained by contacting Mr. Jacques Lemaître-Auger, Secretary, Commission des services juridiques, 2, complexe Desjardins, tour de l'Est, suite 1404, Montréal (Québec), H5B 1B3; tel.: (514) 873-3562; fax: (514) 873-8762.

Any interested person having comments to make concerning this matter is asked to send them in writing, before the expiry of the 45-day period following this publication, to Mr. Jacques Lemaître-Auger, Secretary, Commission des services juridiques, 2, complexe Desjardins, tour de l'Est, suite 1404, Montréal (Québec), H5B 1B3.

PIERRE LORRAIN,  
*Chairman of the Commission  
des services juridiques*

## Regulation to amend the Regulation respecting the application of the Legal Aid Act

Legal Aid Act  
(R.S.Q., c. A-14, s. 80, 1<sup>st</sup> par., subpars. c, e, g, j, k, m, n, 4<sup>th</sup> and 5<sup>th</sup> pars.; 1996, c. 23, s. 42)

**1.** The Regulation respecting the application of the Legal Aid Act (R.R.Q., 1981, c. A-14, r. 1), amended by the Regulations approved by Orders in Council 2416-82 dated 20 October 1982, 2873-82 dated 8 December 1982, 941-83 and 942-83 dated 11 May 1983, 1721-86 dated 19 November 1986, 41-94 dated 10 January 1994 and 1211-96 dated 25 September 1996, is further amended by substituting "PRELIMINARY" for the title of Division I.

**2.** The following section is inserted in Division I after section 1:

"**1.1** Form of documents: The documents necessary for performing the functions and duties of the Commis-

sion des services juridiques and the legal aid centres, including the books, registers, reports, financial reports, budget estimates, accounts and statistics which, under the Act and this Regulation, must be transmitted to the Commission by the regional centres and to the regional centres by the local centres, may be drafted in electronic form. They shall then be transmitted in that form.”.

**3.** The following section is substituted for section 5:

“5. Convocation: Notice of convocation to a general meeting shall be sent to each member by the secretary of the Commission at least 5 days before the date fixed for the meeting.”.

**4.** The following is substituted for the second sentence of section 6: “In such case, notice of convocation shall be sent to each member by the secretary of the Commission at least 24 hours before the date fixed for the meeting.”.

**5.** The following section is inserted after section 6:

“6.1 Notice of convocation: Notice of convocation to a meeting of the members may be sent by regular mail, by fax, by electronic mail or by any other communications medium, to the last known address of the member or, if the member so chooses, to his place of work.”.

**6.** The words “employed by any” are substituted for the words “who are full-time employees of the” in section 9.

**7.** Section 10 is amended

(1) by adding the words “or vice-chairman” at the end of paragraph 2; and

(2) by adding the following after paragraph 2:

“(3) Sections 5 to 7 apply, *mutatis mutandis*, to the meetings of the administrative committee.”.

**8.** Section 18 is deleted.

**9.** The following section is inserted after section 26:

“26.1 Applicable provisions: Sections 5 to 7 apply, *mutatis mutandis*, to the meetings of the board of directors and of the administrative committee of the regional centre.”.

**10.** The word “Management” is substituted for the words “Appointment of the director” in the title of section 32.

**11.** The words “, within 15 days of a request by the Commission to that effect,” are substituted for the words “before 15 September” in section 33.

**12.** Section 37 is deleted.

**13.** The following section is inserted after section 47:

“47.1 Applicable provisions: Sections 5 to 7 apply, *mutatis mutandis*, to the meetings of the board of directors and of the administrative committee of the local centre.”.

**14.** The words “, within 10 days of a request by the regional centre to that effect,” are substituted for the words “before 1 September,” in section 48.

**15.** The following section is substituted for section 53:

“53. Accounts: Every legal aid centre and office shall maintain, through its director general or the person to whom the powers of the director general have been delegated in accordance with the second paragraph of section 50 of the Act, as the case may be, a trust account for all the sums of money received from a recipient for a third party or from a third party for a recipient. Administration and remittal of those sums shall be subject to the provisions of the By-law respecting accounting and trust accounts of advocates (R.R.Q., 1981, c. B-1, r. 3) or the Regulation respecting trust accounting by notaries approved by Order in Council 823-95 dated 14 June 1995 as it reads at the time it applies.

Every centre shall also maintain, through the director general, an account at a financial institution into which it shall deposit the contributions received from recipients eligible for contributory legal aid, excluding the administrative expenses referred to in section 26 of the Regulation respecting legal aid made by Order in Council 1073-96 dated 28 August 1996 as it reads at the time it applies. The sums deposited into that account may be withdrawn only progressively as legal services are dispensed to the recipient.”.

**16.** The following is inserted in Division III before Subdivision 1 of that Division:

“§0.1 *Exercise of free choice*

**56.1** Free choice: The rules of eligibility for legal aid and for the issue of certificates of eligibility for such aid provided for in the Act and the regulations thereunder shall be applied without distinction to every applicant, regardless of whether he chooses an advocate or notary in private practice or an advocate or notary employed by a legal aid centre.”.

**17.** Sections 58 and 59 are deleted.

**18.** The words “or to the number of proceedings he is prepared to accept” are struck out at the end of section 60.

**19.** The number “57” is substituted for the number “59” in section 61.

**20.** The number “57” is substituted for the number “59” in section 62.

**21.** The following sections are substituted for sections 63 and 64:

“**63.** Register of applications: The director general shall keep a register indicating, in particular, the name of the persons who apply for legal aid, the date on which the application is received and, where applicable, the date fixed for a meeting to fill out the application, the nature of the application and the disposition of the application.

**64.** Register of mandates: The director general shall keep a register indicating, in particular, the nature of the mandates delegated to advocates and notaries not employed by a legal aid centre, the date on which the mandate was delegated, the disposition of the mandate and the date on which the mandate was terminated.”

**22.** The words “not employed by a centre on files” are substituted for the words “not engaged full time, on the progress of legal and proceedings” in section 65.

**23.** The following section is inserted after section 69:

“**69.1** Applications concerning youth: In the judicial districts of Montréal and Québec, the legal aid centres in question must, in the matters lying within the jurisdiction of the Court of Québec, Youth Division, be able to analyze applications for legal aid pertaining thereto and make rulings in such matters on the eligibility of applicants at the actual premises where that Division sits, during the office hours of the office of the Court in the district of Montréal and from 9:00 a.m. to 3:00 p.m. in the district of Québec.”

**24.** Section 72 is amended

(1) by substituting the word “recipient’s” for the word “applicant’s” in paragraph *b*;

(2) by striking out the words “made by Order in Council 1073-96 dated 28 August 1996” in paragraph *b.1*; and

(3) by adding the following paragraph at the end:

“Where contributory legal aid is granted, the certificate of eligibility shall also indicate that in case of failure by the recipient to make the contribution payable, the aid may be suspended or withdrawn and reimbursement of the costs of legal aid may be required of the recipient.”

**25.** The following is substituted for the first sentence of section 76:

“The recipient may choose an advocate or notary who is not employed by a centre among those who have agreed to be entered on the list mentioned in section 57.”

**26.** The following section is substituted for sections 77 and 78:

“**77.** Notice and report: An advocate or notary who is not employed by a centre shall notify the director general in writing when he refuses a mandate. He shall give such notice within 15 days of the date on which the mandate is received. The director general shall then notify the recipient that he may choose another advocate or notary.

If he accepts the mandate, the advocate or notary shall, as soon as the mandate is executed and even where no amount is payable to him, transmit, at his option, either a statement of fees including a summary description of his manner of proceeding and the outcome as well as a detailed statement of his fees and expenses, or a report on the legal services that he has rendered within the scope of the mandate in which he indicates the fees and expenses that he intends to claim.

The statement of fees or the report shall indicate, in particular, the services rendered according to the nomenclature of the tariff established under section 81 of the Act and the numbers of the sections of the tariff corresponding to the services rendered and the fees entailed thereby.

The statement of fees or the report shall be transmitted to the centre or to the Commission, as the case may be.”

**27.** Section 81 is amended

(1) by inserting the following at the beginning: “Replacement of advocate or notary: Subject to section 81.1,”; and

(2) by adding the following at the end: “The advocate or notary, if he is not employed by a centre, shall then transmit his statement of fees or report, in accordance with section 77, as soon as he is informed that the

recipient's file has been delegated to another advocate or notary.”.

**28.** The following section is inserted after section 81.

“**81.1** Substitution of advocate or notary: An advocate or notary in private practice may at any time be substituted, within the scope of the same mandate, for another advocate or notary in the same practice to whom the mandate has been delegated. Such substitution shall be effected by means of a notice transmitted by the recipient by mail or by telecommunications to the director general who delegated the mandate. The notice shall indicate the legal services for which the substitution is made and the period during which it applies. The director general is bound by such notice.”.

**29.** The following section is substituted for section 88:

“**88.** Minutes: The committee charged with conducting the reviews provided for in sections 74 and 75 of the Act shall keep minutes of its meetings.”.

**30.** Schedule A is deleted.

**31.** In the English text of the Regulation,

(1) the words “director general” are substituted for the words “general manager” everywhere they occur in section 1, 22, 26, 29, 31, 32, 54, 57, 61, 62, 65, 69, 72, 74, 76, 81 and 92;

(2) the words “directors general” are substituted for the words “general managers” in section 9;

(3) the words “legal aid” are substituted for the words “legal and” everywhere they occur in sections 46 and 50;

(4) the word “eligibility” is substituted for the word “qualification” everywhere it occurs in sections 72 and 92; and

(5) the words “is eligible” are substituted for the word “qualifies” in section 72.

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