

Draft Regulations

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Bailiffs

— Terms and conditions for the issue of permits

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 terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec”, adopted by the Bureau of the Chambre des huissiers de justice du Québec, the text of which appears below, may be submitted to the government for approval upon the expiry of forty-five days following this publication. The government may approve it with or without amendment.

The Chambre des huissiers de justice du Québec believes that this regulation refers mainly to a candidate’s obligation to take the training course, to sit the professional examination and to complete a training period in order to obtain a permit from the Chambre des huissiers de justice du Québec. The training shall be carried out as full time employment, performing duties the nature of which is compatible with the activities related to the practice of the profession.

The impact of these obligations are to guarantee citizens that the holders of permits to practise the profession of bailiff have the necessary training to practise their profession. In addition to that guarantee, the Chambre des huissiers de Justice du Québec has not foreseen any impact on business and in particular, on small and medium-sized businesses.

Additional information may be obtained by contacting Mr. Ronald Dubé, Secretary of the Chambre des huissiers de justice du Québec, 1100, boulevard Crémazie Est, Suite 215, Montréal (Québec) H2P 2X2; telephone no.: (514) 721-1100; fax no.: (514) 721-7878.

Any person having comments to make is asked to transmit them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, 800, Place d’Youville, 10^e étage, Québec (Québec) G1R 5Z3. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may be also forwarded to the professional association that made

the Regulation as well as to the persons, departments and agencies concerned.

ROBERT DIAMANT,
*Chairman of the Office des
professions du Québec*

Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec

Professional Code
(R.S.Q., c. C-26, s. 94, pars. *h, i*)

DIVISION I ISSUE OF A PERMIT

1. The Bureau of the Chambre des huissiers de justice du Québec shall issue a permit to practise the profession of court bailiff to a person who meets the following requirements:

(1) subject to section 20, he is the holder of a diploma that gives access to the permit issued by the Chambre and is recognized by the Government under the first paragraph of section 184 of the Professional Code (R.S.Q., c. C-26) or an equivalent to that diploma and recognized by the Bureau under subparagraph *g* of the first paragraph of section 86 of the Code or has received an equivalent training recognized by the Bureau under that paragraph;

(2) he has taken the training course in accordance with Division II;

(3) he has passed the professional examination in accordance with Division III;

(4) he has successfully completed the professional training period in accordance with Division IV;

(5) he has completed an application for a permit and paid the fees fixed for the granting of a permit in accordance with paragraph 8 of section 86.0.1 of the Code;

(6) he has attached, with the permit application, a certificate attesting that he has no criminal record and has authorized the Bureau to inquire about his integrity and financial situation.

DIVISION II TRAINING COURSE

2. The Secretary of the Chambre shall administer the training course under the authority of the Administrative Committee.

3. The training course shall have a duration of at least 4 weeks and include the following:

(1) practical work relevant to the particular skills to meet the following objectives:

— serve written proceedings, establish time limits and proof of service;

— enforce judicial decisions that are executory, in particular, writs of seizure of movables and immovables, produce minutes, assess movable assets, refer to the appropriate registers, carry out sales by court order, and produce a statement of collocation and distribution of the assets realized;

— execute writs of expulsion;

— execute warrants for witness, or for committal;

— carry out sales by court order;

— make material ascertainties;

— perform any other duties assigned to a bailiff by law or by a court;

— serve written proceedings to a party domiciled or residing in another province in Canada or another country, or issued by a foreign court or tribunal;

(2) the rights and the regulations related to the practice of the profession of court bailiff, in particular the Professional Code, the Court Bailiffs Act (R.S.Q., c. H-4.1), the regulations made under those Acts, as well as bookkeeping, registers and trust accounts;

(3) professional behaviour in the exercise of judicial restrictions, in particular, in emergency situations, and the social behaviour of a court officer;

(4) knowledge related to the charters of rights and freedoms, the Act respecting the Régie du logement (R.S.Q., c. R-8.1), the Act respecting the collection of certain debts (R.S.Q., c. R-2.2) and the Consumer Protection Act (R.S.Q., c. P-40.1);

4. Upon recommendation of the Secretary, the Administrative Committee shall determine the dates of the

training course each year, where it will be held and the number of sessions required. The Secretary shall advise each candidate of the beginning of a session at least 30 days in advance.

DIVISION III PROFESSIONAL EXAMINATIONS

5. The professional examination is in writing and shall be held once a year, on the date, at the time and at the place determined by the Administrative Committee.

6. The purpose of the professional examination relating to the knowledge and skills acquired by the candidate shall be to evaluate the candidate's behaviour and practical judgment in concrete situations.

The examination shall evaluate the candidate, more specifically with respect to the service of proceedings, the enforcement of judicial decisions that are executory, the performance of any other duties assigned to a bailiff by law, the production of minutes and professional law.

7. The candidate shall be notified at least 45 days prior to the holding of the examination.

8. The minimum pass mark for the examination is 60 %. Failing that, the candidate shall take the examination again at the following sitting.

The mark obtained at the examination, with the indication "Pass" or "Fail", shall be sent to the candidate by mail as soon as possible.

9. The candidate may sit for the examination a maximum of three times, unless he demonstrates to the Administrative Committee's satisfaction that he has successfully completed an additional training period to acquire the required knowledge.

10. Registration for the examination under false pretences, plagiarizing, being an accomplice to it or attempting to plagiarize during the examination, shall result in a "Fail" mark for that examination.

DIVISION IV TRAINING PERIOD

11. The purpose of the training period is threefold: to enable the candidate to acquire the appropriate maturity, autonomy and experience for the practice of the profession of bailiff in Québec, to incorporate his knowledge and skills into concrete work situations and to apply them to real decision-making contexts.

12. To be eligible for the training period, the candidate shall complete an application on the form prescribed by the Bureau, meet the condition prescribed in paragraph 1 of section 1, register for the training program prescribed in paragraph 2 of section 1 and pay the fees fixed by the Bureau in accordance with paragraph 8 of section 86.0.1 of the Code.

However, the candidate may not act as a trainee before having obtained a trainee's certificate from the Bureau at his training director's request.

13. The trainee is qualified, under the authority and responsibility of the training director, to serve written proceedings issued by any court if he states that he is a trainee, and to perform any duty prescribed in section 8 of the Court Bailiffs Act.

However, he may not enforce judicial decisions that are executory and may not perform any other duty assigned to a bailiff by law or by a court unless he does so under the immediate supervision of his training director who shall co-sign the minutes.

14. The training period shall last 12 months and shall be carried out as full time employment, performing duties the nature of which is compatible with the activities related to the practice of the profession.

15. The training director shall meet the following criteria:

(1) have been entered on the roll for at least two years;

(2) not have been the object of a disciplinary decision within the last five years;

(3) not carry out his duties, exclusively with a municipal court;

The training director shall not supervise or be responsible for more than one trainee at a time.

16. Upon the written request of a trainee, the Bureau may decide to:

(1) authorize a change in training directors;

(2) authorize the interruption of a training period, to be resumed at a later time.

17. At the end of the training period, an evaluation report shall be prepared by the candidate and the training director.

18. The Administrative Committee shall examine the evaluation report and give its opinion to the Bureau concerning the validity of the training period in light of the objectives contemplated in section 11.

At the first meeting following the date of receipt of the notice prescribed in the first paragraph, the Bureau shall decide whether or not the candidate has met the objectives of the training period. Within 30 days, the Secretary shall send a written notice of the decision to the candidate by issuing an attestation of his passing or failing.

Where the candidate has failed the training period, the Secretary shall notify the candidate of the reasons supporting the Bureau's decision. However, it may not issue an attestation of that decision without giving the training director and the trainee the chance to be heard.

19. The trainee who has failed the training period shall complete another training period of six months in accordance with the conditions given in this Division.

The certificate of trainee may not be renewed for more than two periods not exceeding 6 months each.

DIVISION V TRANSITIONAL AND FINAL

20. Until the date of coming into force of a regulation made by the Government for the purposes of the first paragraph of section 184 of the Code, a candidate is deemed to have met the condition prescribed in paragraph 1 of section 1, if he is the holder of a diploma of college studies in legal technology awarded by the Minister of Education.

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

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Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Bailiffs

— Trust accounting and indemnity fund

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 trust accounting by bailiffs and the indemnity fund of the Chambre des huissiers de justice du Québec", adopted by the Bureau of the