

Gouvernement du Québec

O.C. 38-98, 14 January 1998

An Act to facilitate the payment of support
(R.S.Q., c. P-2.2)

Collection of support — Amendment

CONCERNING the Regulation to amend the Regulation respecting the collection of support

WHEREAS under section 36 of the Act to facilitate the payment of support (R.S.Q., c. P-2.2), the Minister of Revenue may pay, as advances, an amount not exceeding \$1 000 or three months of support to the creditors of support;

WHEREAS under the third paragraph of section 36 of the Act, the Government may, by regulation, provide for an increase in the maximum amount of advances that the Minister may pay;

WHEREAS an exceptional freezing rain storm struck various Québec municipalities from 5 to 9 January 1998, thereby delaying or preventing the regular collection of support;

WHEREAS it is expedient, in the circumstances, to increase the maximum amount provided for in the second paragraph of section 36 of the Act;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without prior publication as prescribed in section 8 of that Act and under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS under those sections, the reason justifying such coming into force shall be published with the regulation;

WHEREAS in the opinion of the Government, the urgency arising from the following circumstances warrants such coming into force:

— the above-mentioned climactic conditions delay or prevent the regular collection of support in the concerned municipalities, and if the maximum amount of the advance is not rapidly increased, the economic situation of the concerned creditors of support will be aggravated.

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for the Economy and Finance and of the Minister for Revenue:

THAT the Regulation to amend the Regulation respecting the collection of support, attached hereto, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the collection of support¹

An Act to facilitate the payment of support
(R.S.Q., c. P-2.2, s. 36, 3rd par.)

1. The Regulation respecting the collection of support is amended by inserting, after section 6, the following section 6.1:

“**6.1.** The maximum amount of the advance made to the creditor of support pursuant to the second paragraph of section 36 of the Act is increased to \$2 000.”

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec* and ceases to be in force on 29 March 1998.

2017

Gouvernement du Québec

O.C. 49-98, 17 January 1998

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

Chartered appraisers — Conciliation and arbitration procedure for the accounts

Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers

WHEREAS under section 88 of the Professional Code (R.S.Q., c. C-26), the Bureau of the Ordre des évaluateurs agréés du Québec must establish, by regulation, a con-

¹ The only amendment to the Regulation respecting the collection of support made by Order in Council 1531-95 dated 22 November 1995 (1995, *G.O.* 2, 3333) was made by the regulation made by Order in Council 1637-95 dated 13 December 1995 (1995, *G.O.* 2, 3599).

ciliation and arbitration procedure for the accounts of the members of the order which may be used by persons having recourse to the services of the members;

WHEREAS under section 88 of the Code, the Bureau adopted a Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers (R.R.Q., 1981, c. C-26, r. 94);

WHEREAS it is expedient to replace the Regulation;

WHEREAS under that section of the Code, the Bureau adopted the Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers;

WHEREAS in accordance with section 95.3 of the Code, a draft Regulation was sent to every member of the professional order at least 30 days before its adoption by the Bureau;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 26 March 1997 with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS in accordance with section 95 of the Code, the Office des professions du Québec has made its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers, attached to this Order in Council, be approved.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif

Regulation respecting the conciliation and arbitration procedure for the accounts of chartered appraisers

Professional Code
(R.S.Q., c. C-26, s. 88)

DIVISION I GENERAL

1. The syndic of the Ordre des évaluateurs agréés du Québec shall send a copy of this Regulation to any person who so requests and to a person who sends him an application for conciliation.

In this Regulation, the term “syndic” means the syndic, assistant syndic or a corresponding syndic of the Order.

2. A client who has a dispute with a member of the Order concerning the partial or total amount of an account for professional services may, even if it has been paid for, require conciliation by the syndic.

Where the conciliation did not settle the dispute, the client may submit it to arbitration.

3. A member of the Order may not institute proceedings in respect of an account so long as the dispute may be settled by conciliation or arbitration, except with the authorization of the syndic where there is a risk that recovery of the account will be imperilled unless proceedings are instituted.

Notwithstanding the foregoing, a member of the Order may request provisional measures in accordance with article 940.4 of the Code of Civil Procedure (R.S.Q., c. C-25).

DIVISION II PROCEDURE FOR CONCILIATION

4. An application for conciliation shall be sent to the syndic within 45 days following the day on which the client received the account.

Where payment of the account has been withdrawn or withheld by the member of the Order from the funds that he holds or receives for or on behalf of his client, the period runs from the moment on which the client becomes aware of the withdrawal or withholding.

An application for conciliation in respect of an account whose full amount has not been paid may be sent to the syndic upon the expiry of the 45-day period provided that it is sent before proceedings on the account are served on the client.

5. Within 5 days of receiving an application for conciliation, the syndic shall notify the member of the Order or, where he is unable to notify the member personally within that period, the member's firm.

6. The syndic shall proceed with the conciliation using such procedure as he considers appropriate.

To that end, he may require that the member of the Order or the client give him any information or document he deems necessary.

7. Any agreement reached during conciliation shall be put in writing, shall be signed by the client and the member of the Order and shall be filed with the secretary of the Order.

8. Failing an agreement within 45 days from the date of receipt of the application for conciliation, the syndic shall send a report on the conciliation to the client and to the member of the Order, within the 20 days that follow, by registered mail.

The syndic shall give the following information in his report, where applicable;

- (1) the amount of the account in dispute;
- (2) the amount that the client acknowledges owing;
- (3) the amount that the member of the Order acknowledges having to reimburse or is willing to accept as a settlement of the dispute;
- (4) the amount suggested by the syndic during conciliation as a payment to the member of the Order or as a reimbursement to the client.

The syndic shall send the client the form in Schedule I and shall indicate to him the procedure and deadline for submitting the dispute to arbitration.

DIVISION III PROCEDURE FOR ARBITRATION

§1.- Application for arbitration

9. Where conciliation has not led to an agreement, the client may, within 30 days of receiving the conciliation report, apply for arbitration of the account by sending the form in Schedule I, duly completed, to the secretary of the Order.

The application shall be accompanied by the conciliation report and, where applicable, by the deposit of the amount he has acknowledged owing during conciliation and which is mentioned in the syndic's report.

10. Within 5 days of receiving an application for arbitration, the secretary of the Order shall give notice

thereof to the member concerned of the Order by registered mail, to which he shall attach, where applicable, the amount deposited in accordance with section 9. The arbitration shall proceed and shall pertain only to the amount still in dispute.

11. A client who wishes to withdraw his application for arbitration shall so notify the secretary of the Order in writing.

12. A member of the Order who acknowledges having to reimburse an amount to a client shall deposit that amount with the secretary of the Order, who shall then remit it to the client.

In such case, the arbitration shall proceed and shall pertain only to the amount still in dispute.

13. Any agreement reached by the client and the member of the Order after the application for arbitration has been filed shall be put in writing, shall be signed by the parties and shall be filed with the secretary of the Order. Where the parties reach an agreement after a council of arbitration has been formed, the agreement shall be recorded in the arbitration award.

§2.- Formation of council of arbitration

14. A council of arbitration shall be composed of 3 arbitrators where the amount in dispute is \$2 000 or more, and of a single arbitrator where the amount is less than \$2 000.

15. The administrative committee shall appoint the members of the council of arbitration from among the members of the Order and, if the council is composed of 3 arbitrators, shall designate the chairman.

The administrative committee shall also appoint a clerk to assist the council of arbitration.

16. The secretary of the Order shall send written notice of the formation of the council to the arbitrators and parties.

17. Before acting, the member or members of the council of arbitration shall take the oath or make the solemn affirmation of office and discretion in Schedule II.

18. A request that an arbitrator be recused may be filed only for a reason provided for in article 234 of the Code of Civil Procedure. The request shall be sent to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receipt of the notice provided for in section 16 or of the day on which the reason for the request becomes known.

The administrative committee shall decide the request and, where expedient, shall see that the arbitrator is replaced.

19. Should an arbitrator die or be unable to act, the other arbitrators shall see the matter through. Where that arbitrator is the chairman of the council of arbitration, the administrative committee shall designate from among the other two arbitrators the arbitrator who shall act as chairman.

If the council of arbitration consists of a single arbitrator, he shall be replaced by a new arbitrator and the dispute shall be reheard.

§3.- Hearing

20. The council of arbitration shall fix the date, time and place of the hearing. At least 10 days before the date fixed, the clerk shall notify the parties of the hearing by registered mail.

21. The parties are entitled to be represented or assisted by an advocate.

22. The council of arbitration shall hear the parties as soon as possible, receive their evidence or record any failure on their part. For those purposes, it shall follow the rules of evidence and procedure as it considers appropriate.

23. The council of arbitration may order the parties to submit a statement of their contentions with documents in support thereof within the time it fixes.

24. A party requesting that the testimony be recorded shall assume the cost thereof.

§4.- Arbitration award

25. The council of arbitration shall issue its award within 60 days of the end of the hearing.

26. The award shall be a majority award of the members of the council of arbitration; failing a majority, it shall be rendered by the chairman of the council.

The award shall give reasons and shall be signed by all the members. Where a member refuses or is unable to sign, the others shall mention that fact and the award shall have the same effect as though it were signed by all the members.

27. In its award, the council of arbitration may uphold, reduce or cancel the amount of the account in dispute and determine the reimbursement or payment to which a party may be entitled.

28. The council of arbitration may also, when all or part of the account in dispute is maintained or when a reimbursement is granted, add interest and an indemnity, computed in accordance with articles 1618 and 1619 of the Civil Code of Québec (1991, c. 64), from the date of the application for conciliation.

The council of arbitration may also decide the arbitration expenses, which are the expenses incurred by the Order for the arbitration. The total expenses may not exceed 15 % of the amount to which the arbitration pertains.

29. The arbitration award is binding on the parties and is subject to compulsory execution after having been homologated in accordance with the procedure provided for in articles 946.1 to 946.6 of the Code of Civil Procedure.

30. The arbitration award shall be filed with the secretary of the Order and shall be sent to the syndic, to each party or to their advocates within 10 days after being filed.

31. This Regulation replaces the Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers (R.R.Q., 1981, c. C-26, r. 94), but the latter Regulation continues to govern the procedure for conciliation and arbitration of disputes for which conciliation was applied for prior to the date of coming into force of this Regulation.

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

SCHEDULE I
(ss. 8 and 9)

APPLICATION FOR ARBITRATION OF AN ACCOUNT

I, the undersigned,.....
(client's name)

.....
(domicile)

declare that:

1.
(Order member's name)

is claiming from me (or refuses to reimburse to me) a sum of money for professional services.

2. I have enclosed a copy of the conciliation report and, where applicable, a certified cheque made out to the name of the member of the Ordre des évaluateurs agréés

du Québec representing the amount I acknowledge owing and which is mentioned in the conciliation report.

3. I am applying for arbitration of the account under the Regulation respecting the procedure for conciliation and arbitration of accounts of chartered appraisers.

4. I have received a copy of the Regulation mentioned above and have taken cognizance thereof.

5. I agree to submit to the procedure provided for in the Regulation and, where required, to pay to

.....
(member's name)
the amount of the arbitration award.

Signed on
Client's signature

SCHEDULE II

(s. 17)

OATH OR SOLEMN AFFIRMATION OF OFFICE AND DISCRETION

I swear (or solemnly affirm) that I will perform all my duties and exercise all my powers as an arbitrator faithfully, impartially and honestly, to the best of my ability and knowledge.

I also swear (or solemnly affirm) that I will not, without being so authorized by law, disclose or make known anything whatsoever of which I may take cognizance in the performance of my duties.

In the case of an oath, add: "So help me God."

.....
(signature of arbitrator)

Sworn or solemnly affirmed before
me
(name and position, profession or capacity)

at on
(municipality) (date)

.....
(signature of person who receives oath or
solemn affirmation)

Gouvernement du Québec

O.C. 52-98, 14 January 1998

An Act respecting the Régie de l'énergie
(1996, c. 61)

Fees payable

Regulation respecting fees payable to the Régie de l'énergie

WHEREAS under subparagraph 2 of the first paragraph of section 112 of the Act respecting the Régie de l'énergie (1996, c. 61), the Government may make regulations determining the fees payable for the examination of an application submitted to the Régie de l'énergie;

WHEREAS under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made notwithstanding the publication requirement of section 8 of that Act if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS under section 13 of that Act, the reason justifying the absence of prior publication and such coming into force shall be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication;

— the fees for the examination of the applications submitted to the Régie de l'énergie must be payable as of 11 February 1998 to allow interested persons to fully exercise their rights;

WHEREAS it is expedient to make the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Natural Resources and Minister of Natural Resources:

THAT the Regulation respecting fees payable to the Régie de l'énergie, attached to this Order in Council, be made.

MICHEL CARPENTIER,
Clerk of the Conseil exécutif