

Draft Regulation

An Act respecting the Barreau du Québec
(R.S.Q., c. B-1)

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

Barreau du Québec

— Tariff of judicial fees of advocates

In accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), notice is hereby given that the “Tariff of judicial fees of advocates”, which Tariff was adopted by the General Council of the Barreau du Québec, will be submitted to the Government which may approve it, with or without any amendments, upon the expiry of 45 days from this publication.

In the opinion of the Barreau du Québec, this Tariff is intended to replace the Tariff which has been in effect since July of 1976 and has not been amended since then and, consequently, to see to it that the amounts granted correspond to a greater extent to the actual fees of advocates paid by a party within the context of a dispute.

Given the foregoing, the general rules set forth in the Tariff have been reviewed and updated, in particular those relating to the definition of certain terms, to the elements considered in determining the value or amount in dispute and to the rules applicable to the calculation of fees for certain classes of proceedings. Moreover, the Tariff introduces rules relating to the calculation of fees in case where an advocate is removed and substituted, which fees had not been dealt with in the Tariff up to now.

In addition, as regards accessory fees, in order to acknowledge the new written proceedings which have been introduced over the last 15 years (for example: declaration of inscription on the roll for hearing; summary statement of the issues in dispute; list of authorities; detailed notices and affidavits; etc.), the proposed Tariff provides for a greater number of proceedings which may be the subject of judicial fees.

Finally, for purposes of homogeneity, the proposed Tariff integrates the specific tariff regarding matrimonial matters and provides that matters under appeal to the Court of Appeal will be subject of the same rules and the same divisions with respect to fees on the action and accessory fees.

Additional information may be obtained by contacting Me Annie Chapados, advocate with the Service de recherche et de législation of the Barreau du Québec, at the Maison du Barreau, 445, boulevard Saint-Laurent,

Montréal (Québec) H2Y 3T8, telephone number (514) 954-3469; telecopier number (514) 954-3463; Email achapados@barreau.qc.ca.

All persons wishing to provide comments are requested to send such comments, prior to the expiry of the 45-day deadline, 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 respecting the professions; they may also be forwarded to the professional order with adopted the regulation as well as to interested persons, departments or agencies.

JEAN-K. SAMSON,
*Chairman of the Office des
professions du Québec*

Tariff of judicial fees

An Act respecting the Barreau du Québec
(R.S.Q., c. B-1, s. 125)

Professional Code
(R.S.Q., c. C-26, s. 95)

DIVISION 1 GENERAL RULES

1. This regulation determines the judicial fees to which advocates practising before the courts shall be entitled.

Specifically, it shall apply to any judicial demand, suit or action presented before a court or a judge, whether it is instituted by a writ, motion or any other written proceeding.

2. The word “contestation” includes any verbal or written opposition to a judicial demand of another party.

3. Fees on an action mean fees determined cumulatively by portions, based on a percentage of the value in dispute established in accordance with the following scale:

On the first	\$1,000 or less	30 %
On the portion exceeding	\$1,000 and up to \$5,000	10 %
On the portion exceeding	\$5,000 and up to \$10,000	7 %
On the portion exceeding	\$10,000 and up to \$15,000	6 %
On the portion exceeding	\$15,000 and up to \$30,000	5 %
On the portion exceeding	\$30,000 and up to \$60,000	4 %
On the portion exceeding	\$60,000 and up to \$120,000	3 %
On the portion exceeding	\$120,000 and up to \$240,000	2 %
On the portion exceeding	\$240,000	1 %

4. Fees on an appeal mean the fees on an action plus 20 %. However, these fees may not be less than \$1,000.

5. The fees for procedural acts, proceedings or actions which the tariff does not specifically prescribe shall be fixed according to the tariff for similar procedural acts, proceedings or actions.

6. Hypothecary recourses, save for the taking in payment, shall be considered to be purely personal actions and the fees for such an action shall be determined on the basis of the balance due on the claim.

7. In a major case or proceeding, the court may, upon request or *ex officio*, grant special fees in addition to all other fees.

8. In actions for a sum of money, the fees shall be determined as against the plaintiff according to the amount of his claim and as against the defendant according to the amount awarded by the final judgment.

9. The accrued interest and the additional indemnity granted by the court as the judgment date must be taken into account when determining the fees for the plaintiff.

10. To determine the fees for the defendant, the interest and additional indemnity being claimed shall be calculated as at the judgment date.

11. In procedures contesting an account, the fees shall be determined as against the plaintiff according to the amount of his claim and as against the defendant according to the amount awarded by the judgment.

12. In actions for the annulment of a contract, will or legacy, the fees shall be determined according to the value of the contract, succession or legacy; if, in addition, a sum of money is claimed, the fees shall be determined according to the total amount.

13. In actions for the revendication of moveable property, the fees shall be determined as against the plaintiff according to the value of the property revendicated and as against the defendant according to the property for which judgment is rendered.

14. In action in which the creditor exercises a right to become the owner of an immovable, particularly the taking in payment, the fees shall be determined according to the balance due on the claim.

15. In a motion for revocation of a judgment brought by one of the parties, the fees shall be determined according to the amount of the judgment that is the object of the action.

In a motion for revocation of a judgment at the request of a third party or an opposition by a third party, the fees shall be determined according to the value in dispute in this new action.

16. In matters of opposition to a seizure by a party or by a third party or in matters of an intervention against a seizure before judgment, the fees shall be determined according to the value of the seized goods in dispute.

However, in matters of opposition to a seizure in execution of a judgment, the fees shall be determined according to the amount of the judgment whose execution is sought, if this amount is less than the value of the seized property in dispute. This shall also apply to contestation of the declaration of the garnishee.

17. When several persons join in the same suit, the fees shall be determined as against the plaintiffs who are unsuccessful according to the total of the amounts claimed and as against the defendant according to the total of the amounts awarded by the judgment.

If the conclusion sought is other than monetary and the tariff attributes to it a higher value in dispute, the fees shall be determined according to the latter.

18. In actions in which several conclusions are sought, the fees shall be determined as against the plaintiff according to the conclusion with the highest value in dispute and against the defendant according to the conclusion in the judgment whose value in dispute is highest.

19. Where several defendants file separate contestations, the plaintiff's advocate shall receive for each additional contestation one-half of the fees prescribed in section 44 or 46 and sections 66 to 70 of the tariff, according to the state of the proceedings. If the action is dismissed, the full fee amount of the fees may be charged for each contestation.

20. The intervenant, "mis-en-cause" and defendant in warranty who conclude for the dismissal of the principal action shall be considered to be a defendant filing a separate contestation.

21. If several persons join in the same suit against a single defendant, a single bill of costs shall be taxable against the plaintiffs or this defendant.

22. The fees of the advocate who represents the interests of a child under article 394.1 of the Code of Civil Procedure (R.S.Q., c. C-25) shall be the same as those of the defense advocates in the same type of case.

23. A cross-demand shall constitute a separate action and fees shall be determined independently of the principal action.

24. A motion which is accessory to an application brought by declaration under article 813.3 of the Code of Civil Procedure shall constitute a separate action.

25. An appeal shall constitute a separate action; an incidental appeal shall constitute a separate action from the principal appeal.

26. A motion for interlocutory injunction shall constitute a separate action from the principal action.

However, the first paragraph shall not apply to an application for the issuance of a provisional interlocutory injunction.

27. The contestation of the right to expropriation shall constitute a separate action.

28. Any proceeding instituted by virtue of the Expropriation Act (R.S.Q., c. E-24) before a court other than the Expropriation Division of the Court of Quebec shall constitute a separate action.

The motion for fixing the provisional indemnity shall constitute a separate action.

29. In the event of revocation of a mandate, the advocate shall, after notification, have his bill of costs taxed against the party he represents, according to the stage of the proceedings.

The court may, upon motion, include special fees.

30. The following proceedings and actions shall be the equivalent of a case whose value in dispute is \$25,000:

1° those for which the sum or value in dispute is undeterminable or non-existent;

2° those in matters of boundary actions, possessory actions, petitory actions, sequestration actions, declaratory or negatory actions of servitudes;

3° those prescribed in Titles V, VI and VII of Book V of the Code of Civil Procedure;

4° those with respect to the obligation to render an account;

5° those in matters of declaratory judgment and adjudication upon a question of law;

6° those in matters of an injunction;

7° those in matters of an interlocutory injunction;

8° those in matters of contestation of the right to expropriation.

31. The following shall be the equivalent of a case in which the value in dispute is \$10,000;

1° procedures instituted by declaration provided in article 813.3 of the Code of Civil Procedure;

2° those in matters fixing the expropriation indemnity, except if the amount of the indemnity granted is higher;

3° matters provided in Book VI of the Code of Civil Procedure, if the sum or value in dispute is undeterminable;

4° matters provided in Chapter III of Title II of Book V of the Code of Civil Procedure.

32. Proceedings the following shall be the equivalent of a case in which the value in dispute is \$3,000;

1° proceedings in family matters, except those provided in section 31 and paragraph 3 of section 33;

2° matters provided in Section II of Chapter II of Title II of Book V of the Code of Civil Procedure;

3° judicial demands provided in article 2778 of the Civil Code of Quebec. However, the fees shall not be higher than the value of the property in dispute;

4° judicial demands provided in articles 1005, 1068, 1084, 1237, 1512 and 2339 of the Civil Code of Quebec.

33. The following shall be the equivalent of a case with a value in dispute of \$1,000:

1° proceedings instituted by the virtue of the Expropriation Act before a court other than the Expropriation Division of the Court of Quebec, except that provided in paragraph 8 of section 30;

2° a motion to have the amount to the provisional indemnity established pursuant to the Expropriation Act;

3° accessory petitions made by declaration by virtue of article 813.3 of the Code of Civil Procedure.

34. In matters of judicial partition and licitation, fees shall be determined by the value of the object in dispute, but in no event shall they be lower than fees in a case with a value in dispute of \$10,000.

35. In matters of appeals before the Superior Court and the Court of Quebec, fees shall be determined according to the value in dispute but in no event shall they be lower than fees in a case with a value in dispute of \$10,000.

36. Fees with respect to a motion for revision of taxation of a bill of costs or for special fees shall be determined according to the amount of the costs in dispute.

37. The cost of exhibits, copies of plans, deeds or other documents, as well as the cost of experts' reports, for which accounts were filed before or during the hearing, shall be included in the bill of costs unless the judge orders otherwise.

The cost of the transcript of each examination held out of Court, whether or not the transcript of the testimony is filed in court, in all or part, shall be included in the bill of costs unless the judge orders otherwise.

The fees of experts during the hearing shall be determined by the court upon request of the party who benefited therefrom.

38. This disbursements incurred for the preparation of other documents required for purposes of an appeal before the Court of Appeal and those incurred to hold a sitting of the Court of Appeal by means of a video conference shall be taxable against the unsuccessful party, upon the filing of supporting documents.

39. For every journey from any other district to Montreal or Quebec made especially for a hearing in the Court of Appeal or before one of its judges, the advocate shall be entitled to fees equivalent to the indemnity payable to a judge of the Superior Court in accordance with the law.

DIVISION II GENERAL TARIFF

§1. Fees on an action

40. For every action settled after the procedure introductive of suit and before contestation on the merits or service of a defence:

1° the plaintiff's advocate shall be entitled to one-third of the fees on the action;

2° the defendant's advocate shall be entitled to one-quarter of the fees on the action.

41. For judgment on the merits rendered by default or *ex parte* before contestation on the merits or service of a defence:

1° the plaintiff's advocate shall be entitled to one-half of the fees on the action;

2° the defendant's advocate shall be entitled to one-third of the fees on the action.

42. For an action settled after contestation on the merits or service of a defence or dismissed on a preliminary exception or incidental proceeding, the advocate shall be entitled to two-thirds of the fees on the action.

43. In a proceeding for separation as to bed and board or for divorce settled by judgment obtained by written agreement or joint application, the fees shall be those provided in section 42.

44. For judgment on the merits rendered after contestation, the advocate shall be entitled to the fees on the action.

§2. Accessory fees

45. In addition to the fees on the action, the advocate shall be entitled to accessory fees determined in accordance with the following values in dispute:

1° from 0 to \$10,000 exclusively;

2° from \$10,000 to \$30,000 exclusively;

3° \$30,000 and over.

	0	\$10,000	\$30,000
	to	to	and
	\$10,000	\$30,000	over

46. For each notice or putting in default prior to the proceeding introductive of suit or during the proceeding:

\$30	\$60	\$100
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When not required by law, only one notice or putting in default shall be taxable against each party.

	0 to \$10,000	\$10,000 to \$30,000	\$30,000 and over		0 to \$10,000	\$10,000 to \$30,000	\$30,000 and over
47. For the preparation and publication of a prior notice of the exercise of a hypothecary recourse in accordance with article 2757 et seq. of the Civil Code of Quebec and for the preparation and publication of a notice of preservation of a legal hypothec in favour of persons having taken part in the construction or renovation of an immovable in accordance with article 2727 of the Civil Code of Quebec.	\$100	\$200	\$300	51. 1° For each incidental proceeding or motion within a proceeding:			
				i. contested:	\$60	\$120	\$200
				ii. uncontested:	\$30	\$60	\$100
				2° for a motion to dismiss denied upon contestation:	\$90	\$180	\$300
				3° for a motion for squashing of a seizure before judgment:			
				i. contested:	\$90	\$180	\$300
				ii. uncontested:	\$30	\$60	\$100
48. For the filing or registration required by law of the true copy of a decision or judgment at the office of the prothonotary of the Superior Court or the clerk of the Court of Quebec:	\$30	\$60	\$100	52. For each detailed affidavit filed in any proceeding requiring such an affidavit:	\$30	\$60	\$100
49. For each seizure before judgment including the affidavit of the seizing creditor:				53. For each examination of a party, witness or affiant held out of court, whether or not the transcript of the testimony is filed in court:	\$50	\$100	\$150
1° requiring the authorisation of a judge:	\$100	\$200	\$300	54. For a declaration or attestation of inscription on the roll:	\$30	\$60	\$100
2° not requiring the authorisation of a judge:	\$50	\$100	\$150	55. For a statement of the matters in dispute and the list of authorities:	\$50	\$100	\$300
50. In matters of injunctions:				56. For a statement setting forth the net value of property constituting the family patrimony: \$100			
1° for a provisional injunction contested or not: \$150				57. For each pre-trial conference held in accordance with article 279 of the Code of Civil Procedure or at the request of a judge, before the date for proof and hearing:	\$90	\$180	\$300
2° for attendance in court for the renewal of a provisional injunction:							
i. contested: \$150							
ii. uncontested: \$75							

	0 to \$10,000	\$10,000 to \$30,000	\$30,000 and over
58. For each postponement by order or by consent:			
1° without attendance:	\$30	\$60	\$100
2° with attendance: per half day:	\$60	\$120	\$200
59. For each additional half-day of a proof and hearing that lasts more than one day:	\$60	\$120	\$200
60. For each written plea requested or authorized by the judge:	\$50	\$100	\$300
61. For the publication of a judgment, deed, document or notice:	\$30	\$60	\$100
62. For the filing of each claim in a case of voluntary deposit or seizure by garnishment:	\$30	\$60	\$100
63. For the issuance of each writ of execution:			
1° for moveable property:	\$30	\$60	\$100
2° for immovable property:	\$100	\$200	\$300
64. For any judgment by default against a garnishee or on his declaration, or for all motions arising in matters of execution:	\$30	\$60	\$100

DIVISION III**SPECIAL TARIFF FOR THE COURT OF APPEAL***§1. Fees in an appeal*

65. After the inscription is filed, for each case terminated or appeal abandoned, the advocate shall be entitled to one-third of the fees on the appeal.

66. After appellant's factum is filed, for each case terminated or appeal abandoned:

1° appellant's advocate shall be entitled to three-quarters of the fees on the appeal;

2° respondent's advocate shall be entitled to one-third of the fees on the appeal.

67. After the respondent's factum is filed and before the hearing, for each case terminated or appeal abandoned, the advocate shall be entitled to three-quarters of the fees on the appeal.

68. For judgment on the merits of a case, the advocate shall be entitled to the fees on the appeal.

69. Subject to section 26, on the appeal of any interlocutory judgment:

1° that is terminated or abandoned before the hearing, the advocate shall be entitled to one-third of the fees on the appeal;

2° in all other cases, the advocate shall be entitled to one-half of the fees on the appeal.

§2. Accessory fees

70. For each motion for permission to appeal:

1° an interlocutory judgment: \$300

2° a final judgment: \$500

71. A) For any other motion before the court:

1° contested: \$300

2° uncontested: \$150

B) For any other motion:

1° contested: \$200

2° uncontested: \$100

72. For each examination of a party, witness or affiant, whether or not the transcript of the testimony is filed in court: \$150

73. For the filing of an additional factum at the request of the court: \$300

74. For each postponement by order or by consent:

1° without attendance: \$50

2° with attendance, per half-day: \$200

75. For each additional half-day for proof and hearing that lasts more than one day: \$200

DIVISION IV

TRANSITIONAL AND FINAL PROVISIONS

76. Divisions I and II of this tariff shall apply to every action instituted after (*insert here the date of coming into force of this regulation*); they shall not apply to a new proceeding in an action instituted before that date.

77. Divisions I and III of this tariff shall apply to every appeal lodged after (*insert here the date of coming into force of this regulation*); they shall not apply to a new proceeding in an appeal instituted before that date.

78. This regulation shall replace the Tariff of judicial fees of advocates (R.R.Q., 1981, c. B-1, r. 13).

79. This regulation shall come 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)

Psychologists

— Conciliation and arbitration procedure for accounts

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 conciliation and arbitration procedure for the accounts of psychologists, the text of which appears below and was made by the Bureau of the Ordre des psychologues du Québec, may be submitted to the Government for approval, with or without amendment, upon the expiry of 45 days following this publication.

According to the Ordre des psychologues du Québec, the purpose of the Regulation is to replace the Regulation respecting the procedure for conciliation and arbitration of accounts of psychologists (R.R.Q., 1981, c. C-26, r. 151) and to establish a conciliation and arbitration procedure for the accounts of psychologists in accordance with the provisions of the Professional Code. It provides, in particular, that a client may take advantage of the procedure even though the account has already been paid and that arbitration will take place before a council of three arbitrators, where the amount in dispute is \$2 500 or more, and before a single arbitrator where it is less.

The draft Regulation also provides that proceedings concerning an account may not be instituted by a psychologist as long as the dispute can be settled by conciliation or arbitration. However, it enables the council of arbitration, as stipulated in the Professional Code, to add interest to its arbitration award interest and an indemnity calculated in accordance with the Civil Code of Québec.

In the opinion of the Order, the impact of those measures will mainly be to better protect the interests of a psychologist's client by making available an account conciliation and arbitration mechanism. It will help prevent possible irregularities in the fixing and recovering of accounts by psychologists and ensure that an application for arbitration and conciliation of accounts is equitable both for the psychologist and the client. Finally, the mechanism is a more flexible and less expensive means of settling disputes.

Further information may be obtained by contacting Mr. René Corriveau, Director general and Secretary of the Ordre des psychologues du Québec, 1100, avenue Beaumont, bureau 510, Mont-Royal (Québec) H3P 3H5; telephone: (514) 738-1881 or 1 800 363-2644; fax: (514) 737-6431.

Any interested person having comments to make on the draft Regulation is asked to send them in writing, 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. Those comments will be forwarded by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be forwarded to the professional order that made the Regulation and to the interested persons, departments and agencies.

JEAN-K. SAMSON,
*Chairman of the Office
des professions du Québec*