

## Draft Regulation

An Act respecting the preservation of agricultural land and agricultural activities  
(R.S.Q., c. P-41.1)

### Tariff of duties, fees, expenses and costs — Amendments

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 tariff of duties, fees, expenses and costs made under the Act respecting the preservation of agricultural land and agricultural activities, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the draft Regulation is to charge costs to any person who files a declaration with the Commission or who requests an attestation.

Further information may be obtained by contacting Mr. Serge Cardinal, director of legal affairs and investigations, Commission de protection du territoire agricole, 25, Lafayette, 3<sup>e</sup> étage, Longueuil, Québec, J4K 5C7; tel.: (514) 442-1700 or fax: (514) 651-2258.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Agriculture, Fisheries and Food, 200, chemin Sainte-Foy, 12<sup>e</sup> étage, Québec (Québec) G1R 4X6.

GUY JULIEN,  
*Minister of Agriculture,  
Fisheries and Food*

## Regulation to amend the Regulation respecting the tariff of duties, fees, expenses and costs made under the Act respecting the preservation of agricultural land<sup>(\*)</sup>

An Act respecting the preservation of agricultural land and agricultural activities  
(R.S.Q., c. P-41.1, s. 80, pars. 8 and 9.1; 1997, c. 43, s. 494)

**1.** The title of the Regulation respecting the tariff of duties, fees, expenses and costs made under the Act

<sup>\*</sup> The Regulation respecting the tariff of duties, fees, expenses and costs made under the Act respecting the preservation of agricultural land, made by Order in Council 90-91 dated 23 January 1991 (1991, *G.O.* 2, 976), was amended by the Regulations made by Orders in Council 8-93 dated 13 January 1993 (1993, *G.O.* 2, 517) and 455-97 dated 9 April 1997 (1997, *G.O.* 2, 1699).

respecting the preservation of agricultural land is replaced by “Regulation respecting the tariff of duties, fees and costs made under the Act respecting the preservation of agricultural land and agricultural activities”.

**2.** The Regulation respecting the tariff of duties, fees, expenses and costs made under the Act respecting the preservation of agricultural land and agricultural activities is amended by adding the following after section 3:

“**3.1** An amount of \$50 shall be paid by any person who files a declaration under section 32 or 32.1 of the Act with the Commission.

**3.2** An amount of \$54 shall be paid by any person who applies to the Commission for the issue of an attestation under section 15 of the Act or an attestation under section 105.1 of the Act to the effect that a condition set out in a decision has been complied with.

**3.3** An amount of \$203 shall be paid by any person who applies to the Commission for the issue of an attestation under section 105.1 of the Act to the effect that an order issued by the Commission has been complied with.”

**3.** 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)

### Advocates — Conciliation and arbitration procedure for the 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 advocates”, made by the General Council of the Barreau du Québec, the text of which appears below, may be submitted to the Government which may approve it, with or without amendment, upon the expiry of a 45-day period following this publication.

According to the Barreau du Québec, this regulation will essentially clarify the conciliation and arbitration procedure for the accounts of advocates so it becomes more efficient and so the public be assured of services of higher quality. Thus, this regulation will allow, on the

advocate's consent, the application for conciliation notwithstanding the expiry of the 45 day period, will simplify the closure of a file when the regulation is not applicable and allow the arbitration council, when awarding, to consider interim accounts sent by the advocate to the client in the same file. Moreover, the increase in value from which an arbitration is heard by a council comprised of three arbitrators will facilitate constitution of arbitration council, training of the arbitrators and will contribute to heighten quality of decisions.

Additional information may be obtained by contacting M<sup>e</sup> Annie Chapados, lawyer at the Service de recherche et de législation of the Barreau du Québec, Maison du Barreau, 445 St.Laurent Blvd, Montréal (Québec) H2Y 3T8; telephone no: (514) 954-3469; fax no: (514) 954-3463.

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<sup>e</sup> étage, 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 also be forwarded to the professional order 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 conciliation and arbitration procedure for the accounts of advocates

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

### DIVISION I CONCILIATION

**1.** A client or a person who has a dispute with an advocate concerning the amount of an unpaid account may apply for conciliation by the syndic within forty-five (45) days from the date of receipt of the account.

A client or a person who, on behalf of a client, has already paid an advocate's account in whole or in part may, within forty-five (45) days from the date of receipt of the account, apply for conciliation with respect to the amount paid.

Where an amount has been withdrawn or withheld by the advocate from the funds held or received by him on behalf or in the name of the client, the period for applying for conciliation runs from the day on which the latter becomes aware of the withdrawal or withholding.

**2.** An advocate whose account is subject to an application for conciliation may, notwithstanding the expiry of the forty-five (45) day period, consent to conciliation with respect to such account.

**3.** An application for conciliation with respect to an account or an advocate's consent to conciliation notwithstanding that the forty-five (45) day period has expired shall interrupt prescription civilly until the expiry of the application period for arbitration or, in the case of an application for arbitration, until such time as a decision is rendered by the arbitration council.

**4.** The syndic shall notify the advocate upon receipt of any application for conciliation with respect to one of the advocate's accounts. If the advocate cannot be informed personally, a notice given to the advocate's office is deemed to have been given to the advocate.

**5.** The advocate may not institute proceedings to recover his professional fees once the syndic has notified him of the application for conciliation with respect to that account for fees and until the expiry of the prescribed period for the filing of an application for arbitration, or, if arbitration is applied for, until the arbitration council has rendered its decision.

Notwithstanding the foregoing, the syndic may allow such proceedings where there is reason to believe that, without such proceedings, the recovery of the debt would be jeopardized.

**6.** An application made under section 1 of the Regulation shall first be referred for conciliation.

The syndic shall conduct the conciliation procedures as he or she deems fit and, for that purpose, may consider *inter alia* interim accounts sent by the advocate to the client in the same file.

**7.** Where the syndic concludes that this Regulation is not applicable to an application for conciliation, the syndic shall close the file by means of a simple letter to the client explaining why the Regulation is not applicable to such client.

**8.** Where a dispute is referred for conciliation but no agreement is reached between the parties, the syndic shall send the conciliation report to each of the parties, which report shall indicate *inter alia* the amount which

the client acknowledges owing and the expiry date of the application period of arbitration.

The syndic shall attach a copy of this Regulation to the conciliation report sent to the client.

## DIVISION II ARBITRATION

### §1. *Application for arbitration*

**9.** After having applied for conciliation according to the procedure determined by the syndic under section 6, a client or a person whose application for conciliation was not successful may apply for arbitration.

To that end, he or she shall, within thirty (30) days of the sending of the conciliation report, send to the Executive Director the signed form in Schedule I, together with a copy of the report and the amount the client acknowledges owing, failing which he or she shall forfeit the right to arbitration.

For the purposes of this Regulation, deadlines are computed in accordance with the provisions of the Code of Civil Procedure.

**10.** Upon receiving an application for arbitration in accordance with section 9, the Executive Director shall advise the advocate of the existence of such application.

Upon the advocate's request, the Executive Director shall provide the advocate with a copy of the application form.

**11.** The application for arbitration may be withdrawn only in writing and only with the advocate's consent.

**12.** An advocate who acknowledges having to reimburse an amount shall deposit such amount with the Executive Director.

**13.** The amount deposited pursuant to section 9 or 12 is remitted by the Executive Director to the party in whose favour the acknowledgment has been made.

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

### §2. *Arbitration Council*

**14.** The arbitration council shall be comprised of 3 arbitrators where the amount in dispute is \$30 000 or more, and of a single arbitrator in all other cases.

In the former case, at the request of all the parties, the dispute may also be heard by a single arbitrator.

**15.** The Bâtonnier of Quebec shall appoint the members of the arbitration council. If the council consists of three arbitrators, the Bâtonnier shall appoint a chairman and a secretary from among the arbitrators. If there is only one arbitrator, such arbitrator shall act as both chairman and secretary.

**16.** The Executive Director shall inform the arbitrators and the parties in writing of the formation of the arbitration council.

**17.** An arbitrator may be recused in the cases provided in article 234 of the Code of Civil Procedure, except paragraph 7 of that section. A request for recusation shall be sent in writing to the Executive Director, to the arbitration council and to the parties or their advocates within ten (10) days of the notice provided for in section 16 or within ten (10) days of the date on which the cause for recusation becomes known.

The Bâtonnier of Quebec shall decide such requests and, where expedient, shall see that the arbitrator is replaced.

### §3. *Hearing*

**18.** The secretary or the Executive Director shall give the parties or their advocates a written notice of at least ten (10) days of the date, time and place of the hearing.

**19.** Where arbitration takes place before a single arbitrator, the witnesses are notified to appear by the Executive Director. In all other cases, they are notified to appear by the secretary of the arbitration council.

**20.** The arbitration council may require that the applicant deposit a security with the Executive Director, prior to the hearing, where there is reason to believe that the recovery of the advocate's debt would be jeopardized.

Where the applicant fails to deposit a security as required before the hearing, the advocate may require that the arbitration file be closed.

**21.** Each party may be represented or assisted by an advocate.

**22.** The arbitration council may order the parties to submit to it, within a given period, a statement of their claims along with the documents in support thereof.

**23.** The parties shall be sworn in by the arbitration council.

The advocate shall prove his or her account pursuant to section 127 of the Act respecting the Barreau du Québec (R.S.Q., c. B-1).

The applicant shall then present its application and offer proof thereof.

The arbitration council shall then proceed with diligence pursuant to the rules of evidence and the procedure which it deems fit. The arbitration council shall adjudicate according to the law.

**24.** If a party who has been duly summoned to a hearing fails to appear at the hearing without having previously requested a postponement thereof, the arbitration council may nevertheless conduct the hearing.

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

**26.** If proceedings in impropriation are taken, the arbitration council shall refer the parties to the court having jurisdiction, which court may order the suspension of the arbitration period until final judgment is rendered in the matter.

**27.** Should an arbitrator die or be unable to act, the other arbitrators shall see the matter through if they represent the majority of the arbitration council.

If the arbitration council consists of a single arbitrator, he shall be replaced in accordance with section 15 and the matter shall be reheard.

**28.** The secretary shall draft and sign the minutes of the hearing, which minutes shall state whether the parties requested that the proceedings be recorded. The minutes are *prima facie* proof of their contents.

#### §4. Arbitration Award

**29.** The arbitration council shall issue its award within ninety (90) days of the end of the hearing.

**30.** The award shall be, where applicable, a majority award of the members of the council. It shall give reasons and shall be signed by the members of the arbitration council who concurred in it.

**31.** In its award, the arbitration council may decide the arbitration expenses, being the expenses incurred by the Barreau for the arbitration. The total amount of the

expenses may not be less than \$ 100.00 and shall not exceed 15 % of the amount to which the arbitration pertains.

The council of arbitration may also, where the account in dispute is upheld in whole or in part, or where a reimbursement is granted, add thereto, from the date of the application for conciliation, interest in accordance with article 1618 of the Civil Code of Québec and an indemnity calculated in accordance with article 1619 thereof.

**32.** In its award, the arbitration council may uphold or reduce the account in dispute and may also, if appropriate, determine the reimbursement to which a party may be entitled.

To that end, it may, in the general assessment of the services rendered, take into account the quality of the said services and the criteria listed under section 3.08.02 *a to h* of the Code of Ethics of Advocates (R.R.Q., 1981, c. B-1, r.1).

The arbitration council may also consider interim accounts sent by the advocate to the client in the same file.

**33.** The arbitration award is final, is binding on the parties and is executory in accordance with articles 946 to 946.6 of the Code of Civil Procedure.

The parties must comply with the arbitration award.

**34.** The arbitration council shall file the award with the Executive Director, who shall send it to the parties or their advocates and to the syndic.

The arbitration council shall also send the Executive Director the complete arbitration file. True copies of all or part of the file may only be given to the parties or their advocates and to the syndic.

**35.** An award which contains clerical errors or miscalculations can be corrected automatically or at the request of a party by the arbitration council which rendered the award, provided that enforcement thereof has not commenced.

#### DIVISION III TRANSITIONAL AND FINAL

**36.** This Regulation applies to applications for conciliation sent to the syndic after the date on which it comes into force.

**37.** This Regulation comes into force on the  
 ..... 1998.

### SCHEDULE I

(S. 9)

#### APPLICATION FOR ARBITRATION OF AN ACCOUNT

I, the undersigned, acting personally or in my capacity as representative or as an officer of a corporation

.....		
<i>Surname</i>	<i>Name</i>	
.....		
<i>No.</i>	<i>Street</i>	<i>Apt.</i>
.....		
<i>City</i>	<i>province</i>	<i>Postal Code</i>
.....		
<i>Tel. Home</i>	<i>Tel. Work</i>	

hereby declare that:

1) Having submitted to the conciliation process carried out by the office of the syndic of the Barreau du Québec and having received a report evidencing the failure of the conciliation process, I hereby apply for arbitration with respect to the account in dispute.

2) I agree to submit to the procedure provided for in the *Regulation respecting the conciliation and arbitration procedure for the accounts of advocates* and to the resulting arbitration award.

3) I acknowledge that this application for arbitration can be withdrawn only in writing and with the consent of the advocate.

.....	
<i>date</i>	<i>signature</i>

P.S. The conciliation report attached hereto must be attached to your application.