

jority of the employees concerned and a prior written notice was forwarded to the Parity Committee.

Such compensatory holiday to replace the paid holidays mentioned in section 7.02 is taken in the week that precedes or follows the holiday.”.

**16.** Section 7.07 is amended:

1. by substituting “6.01.1” for “6.01”;
2. by substituting “section 7.02” for “sections 7.01 and 7.02”.

**17.** The following is substituted for section 7.08:

“**7.08. Holidays not mentioned:** under a collective agreement or after an agreement between the employer and the employees concerned, it is permitted, after having previously notified the Parity Committee, to celebrate any holiday not mentioned in this section and to recover the hours of work thus lost at the hourly wage rate during one or several days mutually agreed upon during the week preceding or following the holiday, except for holidays mentioned in section 7.02.”

**18.** Section 10.02.1 is amended in paragraph 3:

1. by substituting “5 years” for “10 years” in the first subparagraph;
2. by striking the second subparagraph.

**19.** Section 10.02.1 is amended by adding the following:

“**10.02.1.1. Division:** the annual vacation may be divided into two periods at the request of the employee. The employer may refuse the request if he closes his establishment for a period equal to or longer than the annual vacation of the employee.

The holiday may also be divided into more than two periods at the request of the employee with the consent of the employer.

A vacation that is one week or less may not be divided.”.

**20.** Section 10.02.2 is amended:

1. by striking paragraph 2;
2. by adding the following after paragraph 3:

“4. Where an employee is absent because of illness or an accident or is on maternity leave during the qualifying year and the result of that absence is a reduction in the indemnity for the annual vacation, the employee is entitled to an equivalent indemnity, and where such is the case, to two, three or four times the average weekly wage earned during the period worked.

The employee mentioned in paragraph 1 of 10.02.1 whose annual vacation is less than two weeks is entitled to that amount as a ratio of the days of vacation that he has accumulated.”.

**21.** Section 10.07 is amended by striking “5 %,”.

**22.** The following is substituted for section 11.01:

“**11.01.** The Decree remains in force until 1 June 2002. It is then automatically renewed from year to year thereafter, unless the group constituting the employer party of the group constituting the employee party opposes it by a written notice sent to the Minister of Labour and to the other group during the month of February of the year 2002 or during the month of February of any subsequent year.”.

**23.** This Decree comes into force on the day of its publication in the *Gazette officielle du Québec*.

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## Draft Regulation

An Act respecting administrative justice  
(1996, c. 54)

### Administrative Tribunal of Québec — Rules of procedure

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Rules of procedure of the Administrative Tribunal of Québec, agreed on by the members of the Tribunal after consultation with the Conseil de la justice administrative, and the text of which appears below, may be approved by the Government upon the expiry of 45 days following this publication.

The proposed rules specify the conditions of application of the rules of evidence and procedure established by the Act respecting administrative justice and by the special statutes under which proceedings may be brought before the Tribunal.

More specifically, the Rules deal with

— the computation of the time allowed to perform an act and related matters: opening hours and non-judicial days;

— how to bring proceedings before the Tribunal;

— communications of the parties with the Tribunal;

— communications from the Tribunal to the parties;

— incidental proceedings that may occur, in particular forced or voluntary intervention, postponement of a hearing, discharge or replacement of attorneys, cessation of representation;

— the summons of witnesses and the disclosure of evidence;

— the hearing and the minutes thereof; and

— withdrawals.

The Rules will have the following impact:

— by standardizing all the rules of procedure applicable before the tribunals to which the Administrative Tribunal succeeds, they make norms easier to comply with for the justiciable;

— they impose minimum obligations on the parties so as to minimize the number of steps to be taken and to ensure that the parties' right to be heard is respected.

Further information may be obtained by contacting Ms. Danielle Corriveau at the Administrative Tribunal of Québec, 575, rue Saint-Amable, édifice Lomer-Gouin, Québec (Québec) G1R 5R4; tel.: (418) 528-8729.

Any 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 undersigned, Administrative Tribunal of Québec, 575, rue Saint-Amable, édifice Lomer-Gouin, Québec (Québec) G1R 5R4.

GAÉTAN LEMOYNE,

*President of the*

*Administrative Tribunal of Québec*

## **Rules of procedure of the Administrative Tribunal of Québec**

An Act respecting administrative justice  
(1996, c. 54. s. 109)

**1.** These Rules apply to all proceedings brought before the Tribunal, except those within the jurisdiction of the social affairs division acting as a review board within the meaning of the Criminal Code.

**2.** The secretariat of the Tribunal is open to the public from Monday to Friday, on judicial days, from 8:30 a.m. to 4:30 p.m.

**3.** The following are non-judicial days:

(1) Saturdays and Sundays;

(2) 1 and 2 January;

(3) Good Friday;

(4) Easter Monday;

(5) the Monday preceding 25 May;

(6) 24 June;

(7) 1 July;

(8) the first Monday in September;

(9) the second Monday in October;

(10) 24, 25, 26 and 31 December;

(11) any other holiday fixed by the Government.

**4.** If the date fixed for performing an act falls on a non-judicial day, it may validly be done on the next following judicial day.

**5.** In computing any time period, the day which marks the start of the period is not counted and, except for periods counted in clear days, the terminal day is.

Non-judicial days are counted but a period that would normally expire on such a day shall be extended to the next following judicial day.

**6.** The motion instituting the proceeding and the required documents and notices shall be filed with the Tribunal as follows:

(1) in person, with the secretariat of the Tribunal or, in the case of the motion instituting the proceeding, with any office of the Court of Québec;

(2) by mail, addressed to the secretariat of the Tribunal;

(3) by fax, with the secretariat of the Tribunal; or

(4) by electronic mail, if available, addressed to the secretariat of the Tribunal.

**7.** The date of filing of a document is the date on which it is received at the secretariat of the Tribunal or at the office of the Court of Québec, as the case may be.

**8.** Where an application is received by electronic mail, the secretariat of the Tribunal shall print it out, indicating on it the date of receipt. The secretariat shall then send a copy to the applicant, specifying that that version will be filed with the Tribunal and that the applicant is responsible for making any corrections in writing, within the time determined by the secretariat.

**9.** Where duties, fees or other expenses are established for filing a document, the document is not validly filed unless these have been paid.

However, in the case of the motion instituting proceedings, an applicant who has not fully paid the prescribed duties, fees or expenses in full may do so within 30 days following the receipt of the motion by the Tribunal.

**10.** A motion instituting proceedings shall be presented in writing on the form provided by the Tribunal or otherwise.

The motion shall

(1) indicate the applicant's name and address, telephone number and, where applicable, E-mail address and fax number;

(2) indicate, if the applicant is represented, the representative's name and address, telephone number and, where applicable, E-mail address and fax number;

(3) briefly state the grounds invoked in support of the recourse; and

(4) mention the conclusions sought.

The contested decision or the documents related to the facts giving rise to the recourse shall be attached to the motion. Failing that, the motion shall indicate

(1) if the recourse is to contest a decision:

(a) the authority that made the decision;

(b) the date of the decision;

(c) the file number given by that authority;

(2) if no decision is contested, the facts giving rise to the recourse.

The motion shall be signed by the applicant or the representative.

**11.** Any other application to the Tribunal shall be presented in writing and notice thereof shall be sent to the other parties.

The application shall indicate the names of the parties, the file number of the Tribunal, the grounds invoked in support thereof and the conclusions sought.

If the applicant is not one of the parties, the application shall indicate the applicant's name, address, telephone number and, where applicable, E-mail address and fax number. If the applicant is represented, the application shall also contain the same information for the representative.

The application shall be signed by the applicant or the representative.

An application may be presented orally if authorized by the Tribunal.

**12.** Any other written communication from a party to the Tribunal shall be sent by the party to the other parties.

**13.** Any party or representative shall inform the secretariat of the Tribunal without delay of any change in address or telephone number.

**14.** For any proceeding brought pursuant to the Expropriation Act (R.S.Q., c. E-24), an appendix indicating the cadastre number of each immovable involved, the nature of the expropriated right and the name of the last known holder of that right shall be attached to the general plan provided for in section 39 of that Act.

Every related notice of expropriation filed after the general plan shall bear the file number of that plan.

**15.** The documents relevant to a contestation in matters of municipal taxation, a copy of which must be provided under the second paragraph of section 114 of

the Act respecting administrative justice (1996, c. 54), are those that were considered by the municipal body responsible for assessment for the application for review giving rise to the proceeding brought before the Tribunal, as well as all documents that were submitted on such occasion.

**16.** Any person who has a sufficient interest may, with the authorization of the Tribunal and on the conditions it determines, make representations in a proceeding before the decision is rendered.

For any proceeding brought pursuant to the Environment Quality Act (R.S.Q., c. Q-2), any person making representations shall file with the Tribunal a notice to that effect at least 30 days before the date of the hearing.

**17.** Any party to a recourse may, with the authorization of the Tribunal and on the conditions it determines, implead a third party whose presence is necessary to resolve the dispute.

The Tribunal may, *ex officio*, order the impleading of any person whose interests could be affected by its decision.

**18.** A notice of hearing, in order to be valid, must be sent to the parties and their representatives at the last address filed of record.

**19.** A party requesting postponement of the hearing shall apply to the Tribunal as soon as the invoked grounds become known.

Such postponement shall be granted only if it is based on serious grounds and if the interests of justice are thus better served. No postponement shall be granted solely because the parties agree thereto.

**20.** A party who discharges or replaces his representative shall so inform the Tribunal and the other parties in writing without delay.

**21.** A person who agrees to represent a party after the motion is filed shall so inform the Tribunal and the other parties in writing without delay.

**22.** A person who ceases to represent a party shall so inform the Tribunal and all parties in writing without delay.

**23.** Where a party is represented, the communications of the Tribunal, except those provided for in sections 18 and 35, shall be addressed to the representative only.

**24.** A party who requires that a witness be summoned to appear shall complete the subpoena.

Such party is responsible for the service of the subpoena issued by a member of the Tribunal at least five clear days before the hearing, or at least ten clear days before the hearing if the subpoena is addressed to a Minister or a Deputy Minister of the Government.

In case of emergency, a member of the Tribunal may shorten the period for service of a subpoena, but it may not be less than 12 hours. The subpoena shall contain that information.

A person serving a prison term may be summoned to appear only if a member of the Tribunal orders the warden or guard, as the case may be, to bring him before the court.

**25.** Any person testifying as a witness shall do so under oath.

Anyone who does not understand the nature of the oath is exempted from taking it, but must be informed of the obligation to tell the truth.

**26.** A party who intends to adduce an expert's report as evidence shall file two copies with the secretariat of the Tribunal and send one copy to the other parties on the date fixed by the Tribunal or, failing that, at least 15 days before the date of the hearing, unless the Tribunal decides otherwise.

**27.** In cases involving persons who require protection because they could endanger themselves or others, the institution having custody of such a person shall provide the Tribunal with copies of the order for custody in an institution, including any renewals, and of the psychiatrist's reports on the basis of which the order was issued, no later than 24 hours before the date of the hearing.

**28.** For proceedings within the jurisdiction of the immovable property division, unless the Tribunal decides otherwise, an expert witness shall be heard only if, on the date fixed by the Tribunal or, failing that, no later than 15 days before the date of the hearing, the party who intends to have him testify has filed with the secretariat of the Tribunal two copies of the expert's report, with a copy for each other party, and has informed the other parties of such filing at the same time.

Such party may obtain a copy from the secretary of the Tribunal if he has already filed his expert's report or a statement to the effect that he does not intend to call any expert witness.

In the case of a proceeding brought pursuant to Chapter X of the Act respecting municipal taxation (R.S.Q., c. F-2.1), where the value is lower than that fixed in accordance with section 33 of the Act respecting administrative justice (R.S.Q., c. J-3), an expert witness may be heard without his report having been previously filed, provided that his testimony is mainly based on the documents referred to in section 15 of these Rules.

**29.** A party who produces documents at the hearing shall provide copies for the Tribunal and all the other parties.

**30.** All persons attending the hearing shall behave with dignity and show the respect due to justice. They shall refrain from doing anything that could disrupt the hearing.

**31.** Representations made at the hearing shall be recorded on audio tape, unless a party has them recorded by a stenographer or stenotypist at its expense.

A party who requests a transcription of the hearing shall provide a copy to the Tribunal free of charge.

The recording and transcription expenses shall be included in the costs that may be awarded by the Tribunal.

**32.** The minutes of the hearing shall be drawn up in the form established by the Tribunal. They shall contain the following information, in particular:

(1) the date and time of the beginning and end of the hearing, and where it takes place;

(2) the names of the members of the Tribunal;

(3) the names and addresses of the parties and, where applicable, those of their representatives and witnesses;

(4) the name and address of the person responsible for the recording;

(5) the name and address of the stenographer and proof of oath;

(6) the name and address of the interpreter and proof of oath;

(7) whether a telephone conference was held and the parties' consent thereto;

(8) the various stages of the hearing;

(9) the exhibits adduced;

(10) incidental proceedings and objections;

(11) the date when an act or action must be carried out;

(12) the Tribunal's decisions; and

(13) the date on which the case is taken under advisement.

**33.** Unless otherwise provided for by law, the filing of a discontinuance declaration or of a notice of settlement terminates the proceedings.

**34.** A written agreement reached by the parties to settle their dispute may be submitted to the Tribunal for approval.

**35.** The Tribunal's decision shall be forwarded to the parties and their representatives.

**36.** These Rules come into force on *(date)*.

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