

## Draft Regulation

Court Bailiffs Act  
(R.S.Q., c. H-4.1)

### Bailiffs

#### — Tariff of fees and transportation expenses

#### — 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 Tariff of fees and transportation expenses of bailiffs, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The draft Regulation mainly provides for the increase in the amounts provided for in the tariff. With the abolition of the Bureau d'administration of the Bailiff's Act, whose expenses were borne by the Ministère de la Justice, all bailiffs shall from now on bear the supplementary expenses resulting from the financing of their new professional order.

All the amounts provided for in the tariff were increased by 15% and reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50 and increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50. The purpose of the increase is to compensate for the reduction of buying power, because of the increase in the cost of living index since November 1991, and the fees incurred for the creation of the Chambre des huissiers de justice du Québec. A fixing of the fee for obtaining a warrant for entry in a dwelling was also provided following the Feeney case of the Supreme Court of Canada. Lastly, amendments ensure agreement between the Tariff and the new provisions of the Civil Code and the Code of Civil Procedure, which came into force following the civil law reform.

Further information may be obtained by contacting Simon Marcotte or Anne Richard, Direction générale des services de justice, 1200, route de l'Église, 7<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4M1; tel. (418) 644-7700 or (418) 644-7704; fax: (418) 644-9968.

Any interested person having comments to make on the matter is asked to send them in writing to the Minister of Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4M1.

LINDA GOUPIL,  
*Minister of Justice*

## Regulation to amend the Tariff of fees and transportation expenses of bailiffs(\*)

Court Bailiffs Act  
(R.S.Q., c. H-4.1, s. 13)

**1.** Section 2 of the Tariff of fees and transportation expenses of bailiffs is amended by adding “in particular, fees claimed by a financial institution carrying on its activities in Québec, where the bailiff can accept a payment made by means of a certified cheque, a credit card or a transfer of funds” after “duties”.

**2.** The following is substituted for section 2.1:

“**2.1.** The fees and transportation expenses that a bailiff may claim must not exceed the amount calculated on the basis of the distance actually travelled, to a maximum of the one-way trip distance from the bailiff's closest office to the place where service or execution was made.

Where the one-way trip distance actually travelled by the bailiff exceeds 15 kilometres and where he has an office less than 15 kilometres from the place where service or execution was made, the fees and transportation expenses shall be claimed for an amount equivalent to a 15-kilometre trip.

Notwithstanding the first paragraph, where the one-way trip distance actually travelled by the bailiff does not exceed 15 kilometres, the fees and transportation expenses shall be claimed for the distance actually travelled.”

**3.** The following is substituted for section 6:

“**6.** A bailiff is entitled to the fees plus half the fees where, in accordance with the law, he must execute a service on a non-judicial day, or after 22:00 or before 7:00 on a judicial day.

A bailiff is entitled to the fees plus half the fees where, in accordance with the law, he must serve an execution on a non-judicial day, or after 20:00 or before 7:00 on a judicial day.

Where an execution is begun before 20:00 and must continue after that time, the bailiff is entitled to the fees

\* The Tariff of fees and transportation expenses of bailiffs (R.R.Q., 1981, c. H-4, r. 3) was last amended by the Regulation made by Order in Council 1414-91 dated 16 October 1991 (1991, *G.O.* 2, 4066). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 1999, updated to 1 March 1999.

prescribed for the hourly rate, to time and a half fees for the period of time after 20:00.”.

**4.** The following is substituted for section 7:

“7. The fees for serving an advance notice for the exercise of a hypothecary right, an assignment of rent, a notarial deed, a 30-day notice for a voluntary deposit, a putting in default or for serving any notice, deed or document not specifically provided for in this Tariff are those set in section 7 of Schedule 1.”.

**5.** Section 7.1 is amended by substituting the amount “\$58” for the amount “50 \$”.

**6.** The following is inserted after section 7.2:

“7.3. For the drawing-up of the copy of a certificate of service intended for the registrar, for registration in the land register, the bailiff is entitled to the fee provided for in subsection *c* of section 8 of Schedule 1.”.

**7.** Section 8 is amended by substituting the following for paragraph *c*:

“(c) the execution of an order or a judgment in matters concerning confinement in an establishment or psychiatric evaluation;”.

**8.** Section 9 is amended by adding “or the acquisition of a warrant for entry in a dwelling” after “doors” in paragraph *e*.

**9.** Subparagraph *b* of the first paragraph of section 10 is amended by adding the following after item *iv*:

“v. if applicable, the acquisition by the registrar of a certified statement of the rights granted by the debtor and registered in the register of personal and movable real rights;”.

**10.** Section 13 is amended by adding the following after clause *d* of subparagraph 1:

“(e) the certificate of sale, if the property sold was charged with a hypothec.”.

**11.** The following is added after section 15:

“15.1. Where, in accordance with the law, the bailiff must draw up a scheme of collocation and apportion the proceeds of the sale, he is entitled to the fees provided for in section 19.1 of Schedule 1.”.

**12.** The following is added after section 20:

“21. To certify the copy of minutes of seizure and of a notice of sale or a scheme of collocation, in matters of seizure of moveable property, where required by the law, the bailiff is entitled to the fee provided for in section 19.2 of Schedule 1.”.

**13.** Section 1 of Schedule 1 is amended in the column “Class 1” by substituting the amount “\$7” for the amount “\$6” and in the column “Class 2” by substituting the amount “\$18” for the amount “\$16”.

**14.** Section 2 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$7” for the amount “\$6”.

**15.** Section 3 of Schedule 1 is amended in the column “Class 2” by substituting the amount “\$7” for the amount “\$6”.

**16.** Section 5 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$7” for the amount “\$6”.

**17.** Section 6 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$7” for the amount “\$6”.

**18.** Section 7 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$7” for the amount “\$6”.

**19.** The following is substituted for section 8 of Schedule 1:

	Class 1	Class 2
“		
8. The drawing-up:		
(a) in matters of service, of minutes for absence, for steps taken or for authorization to use a special mode of service;	\$5	\$5
(b) in matters of execution, of minutes for absence, for steps taken or for authorization to use a special mode of execution;	\$10	\$10
(c) the copy of a certificate of service intended for the registrar for registration in the land register.	\$5	\$5”.

**20.** The following is substituted for section 9 of Schedule 1:

	Class 1	Class 2		Class 1	Class 2
“			(b) for any additional writ:		
9. The drawing-up:			i. execution	\$40	\$40
(a) of an affidavit required to support minutes;	\$5	\$5	ii. service	\$7	\$7
(b) of a report following receipt of an opposition or notice to stay pursuant to a statute or court order.	\$5	\$5”.	(5) Operations respecting the immobilization and, not less than 24 hours after that operation, the towing away of a motor vehicle:		

**21.** Section 10 of Schedule 1 is amended in the column “Class 1” by substituting the amount “\$40” for the amount “\$35” and in the column “Class 2” by substituting the amount “\$63” for the amount “\$55”.

**22.** The following is inserted after section 10 of Schedule 1:

	Class 1	Class 2		Class 1	Class 2
“			(a) for the execution of a first writ:	\$184	\$184
10.1 The acquisition of a warrant for entry in a dwelling.	\$10	\$10”.	(b) for any additional writ:		
			i. execution	\$40	\$40
			ii. service	\$7	\$7
			(6) Operations respecting the immediate towing away of a motor vehicle:		
			(a) for the execution of a first writ:	\$150	\$150

**23.** The following is substituted for section 11 of Schedule 1:

	Class 1	Class 2		Class 1	Class 2
“			(b) for any additional writ:		
11. (1) Demand for payment:			i. execution	\$40	\$40
(a) not followed by seizure or sale of moveable property	\$31	\$46	ii. service	\$7	\$7”.
(b) not followed by seizure or sale of immovable property	\$20	\$35	<b>24.</b> Section 12 of Schedule 1 is amended		
(2) Seizure or verification	\$40	\$63	(1) in the column “Class 1” by substituting the amount “\$9” for the amount “\$8” and in the column “Class 2” by substituting the amount “\$17” for the amount “\$15” in subsections 1 to 3;		
(3) <i>Nulla bona</i> report in respect of seizable property, including the demand for payment	\$31	\$46	(2) by adding the following after subsection 3:		
(4) Operations respecting the installation and removal of a device used to immobilize a motor vehicle:			“	Class 1	Class 2
(a) for the execution of a first writ:	\$127	\$127	(4) the acquisition by the registrar of a certified statement of the rights granted by the debtor and registered in the register of personal and movable real rights.	\$25	\$25”.

**25.** Subsections 1 and 2 of section 13 of Schedule 1 are amended in the column “Class 1” by substituting the amount “\$9” for the amount “\$8” and in the column “Class 2” by substituting the amount “\$17” for the amount “\$15”.

**26.** Paragraphs *a* to *d* of section 14 of Schedule 1 are amended in the column “Class 1” by substituting the amount “\$6” for the amount “\$5” and in the column “Class 2” by substituting the amount “\$8” for the amount “\$7”.

**27.** The title “Writ of possession and sequestration” is substituted for the title “Writ of possession, sequestration and seals” of subdivision 2 of Division II of Chapter III of Schedule 1.

**28.** Section 15 of Schedule 1 is amended

(1) in the columns “Class 1” and “Class 2” of subsections 1 and 2 by substituting the amount “\$58” for the amount “\$50”;

(2) by deleting subsection 3.

**29.** Section 15.1 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$69” for the amount “\$60”.

**30.** Section 16 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$9” for the amount “\$8”.

**31.** Section 17 of Schedule 1 is amended

(1) in the column “Class 1” of paragraph *a* by substituting the amount “\$40” for the amount “\$35” and in the column “Class 2” of that subparagraph by substituting the amount “\$69” for the amount “\$60”;

(2) in the columns “Class 1” and “Class 2” of paragraph *b* by substituting the amount “\$75” for the amount “\$65”.

**32.** The following is inserted after section 17 of Schedule 1:

“	Class 1	Class 2
17.1. The certificate of sale, where the property sold was charged with a hypothec.	\$20	\$20”.

**33.** Section 18 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$16” for the amount “\$14”.

**34.** Section 19 of Schedule 1 is amended in the column “Class 1” by substituting the amount “\$29” for the amount “\$25” and in the column “Class 2” by substituting the amount “\$52” for the amount “\$45”.

**35.** The following is inserted after section 19 of Schedule 1:

“	Class 1	Class 2
19.1. Draw up a scheme of collocation	\$40	\$40
Apportion the proceeds of the sale:	\$20	\$20.
19.2. Certify the copy of the minutes of seizure and of a notice of sale or of a scheme of collocation.	\$2	\$2”.

**36.** The following is substituted for section 20 of Schedule 1:

“	Class 1	Class 2
20. (a) Transportation fees per kilometre travelled;	55¢/km	55¢/km
(b) Compensation for transportation expenses.	58¢/km	58¢/km”.

**37.** Section 21 of Schedule 1 is amended in the columns “Class 1” and “Class 2” by substituting the amount “\$12” for the amount “\$10”.

**38.** Section 23 of Schedule 1 is amended

(1) in the columns “Class 1” and “Class 2” of subsection 1 by substituting the amount “\$50” for the amount “\$45”;

(2) in the columns “Class 1” and “Class 2” of subsection 2 by substituting the amount “\$50” for the amount “\$35”.

**39.** 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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