

## Regulations and other acts

Gouvernement du Québec

**O.C. 449-99, 21 April 1999**

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

### Bailiffs

#### — Terms and conditions for the issue of a permit

Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec

WHEREAS under paragraph *i* of section 94 of the Professional Code (R.S.Q., c. C-26), the Bureau of the Chambre des huissiers de justice du Québec may, by regulation, determine the other terms and conditions for issuing permits, specialist's certificates or special authorizations, in particular the obligation to serve the periods of professional training and to pass the professional examinations it determines;

WHEREAS under paragraph *h* of that section, the Bureau may also determine, among the professional acts that may be engaged in by members of the order, those that may be engaged in by the persons or categories of persons indicated in the regulation, in particular persons serving a period of professional training determined pursuant to paragraph *i*, and the terms and conditions on which such persons may engage in such acts;

WHEREAS under that section of the Code, the Bureau made the Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation attached to this Order in Council was published in the *Gazette officielle du Québec* of 4 March 1998, with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS under section 95 of the Code, the Office des professions du Québec 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 terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec, attached to this Order in Council, be approved.

MICHEL NOËL DE TILLY,  
*Clerk of the Conseil exécutif*

### Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec

Professional Code  
(R.S.Q., c. C-26, s. 94, pars. *h* and *i*)

#### DIVISION I ISSUE OF A PERMIT

**1.** The Bureau of the Chambre des huissiers de justice du Québec shall issue a permit to practise the profession of court bailiff to a person who meets the following requirements:

(1) subject to section 20, he is the holder of a diploma that gives access to the permit issued by the Chambre and recognized by the Government under the first paragraph of section 184 of the Professional Code (R.S.Q., c. C-26) or an equivalent to that diploma recognized by the Bureau under subparagraph *g* of the first paragraph of section 86 of the Code or has received an equivalent training recognized by the Bureau under that subparagraph;

(2) he has taken the training course in accordance with Division II;

(3) he has passed the professional examination in accordance with Division III;

(4) he has successfully completed the professional training period in accordance with Division IV;

(5) he has completed an application for a permit and paid the fees fixed for the granting of a permit determined under paragraph 8 of section 86.0.1 of the Code;

(6) he has authorized the Bureau to inquire about his integrity and financial situation.

## **DIVISION II** **TRAINING COURSE**

**2.** The Secretary of the Chambre shall administer the training course under the authority of the Administrative Committee.

**3.** The training course shall have a duration of at least four weeks and include the following:

(1) practical work relevant to the particular skills to meet the following objectives:

— serve proceedings, calculate time limits and establish proof of service;

— enforce judicial decisions that are executory, in particular, seize movables and immovables in execution, produce minutes, assess movable property, consult to the appropriate registers, carry out sales by court order, and produce a statement of collocation and distribution of the amounts realized;

— execute writs of possession;

— execute warrants for witness, or for committal;

— carry out sales by court order;

— make material ascertainment;

— perform any other duties assigned to a bailiff by law or by a court;

— serve proceedings on a party domiciled or residing in another province in Canada or another country, or issued by a foreign court or tribunal;

(2) the law and the regulations related to the practice of the profession, in particular the Professional Code, the Court Bailiffs Act (R.S.Q., c. H-4.1), the regulations made under those statutes, as well as bookkeeping, registers and trust accounts;

(3) professional behaviour in the exercise of judicial constraint, in particular, in crisis situations, and the social behaviour of an officer of justice;

(4) knowledge related to the charters of rights and freedoms, the Act respecting the Régie du logement (R.S.Q., c. R-8.1), the Act respecting the collection of certain debts (R.S.Q., c. R-2.2) and the Consumer Protection Act (R.S.Q., c. P-40.1).

**4.** Upon recommendation of the Secretary, the Administrative Committee shall determine the dates of the training course each year, where it will be held and the number of sessions required. The Secretary shall advise each candidate of the beginning of a session at least 30 days in advance.

## **DIVISION III** **PROFESSIONAL EXAMINATION**

**5.** The professional examination is in writing and shall be held once a year, on the date, at the time and at the place determined by the Administrative Committee.

**6.** The purpose of the professional examination relating to the knowledge and skills acquired by the candidate shall be to evaluate the candidate's behaviour and practical judgment in concrete situations.

The examination shall evaluate the candidate with respect to the service of proceedings, the enforcement of judicial decisions that are executory, the performance of any other duties assigned to a bailiff by law, the production of minutes and professional law.

**7.** A candidate who has completed the professional training period shall be notified of the examination at least 45 days in advance.

**8.** The minimum pass mark for the examination is 60 %. Failing that, the candidate shall take the examination again at the following sitting.

The mark obtained at the examination, with the indication "Pass" or "Fail", shall be sent to the candidate by mail as soon as possible.

**9.** The candidate may sit for the examination a maximum of three times, unless he demonstrates to the Administrative Committee's satisfaction that he has successfully completed an additional training period to remedy his deficiencies.

**10.** Registration for the examination under false pretences, plagiarizing, being an accomplice to it or attempting to plagiarize during the examination shall result in a "Fail" mark for that examination.

## **DIVISION IV** **TRAINING PERIOD**

**11.** The purpose of the training period is threefold: to enable the candidate to acquire the appropriate maturity, autonomy and experience for the practice of the profession of bailiff in Québec, to incorporate his knowledge and skills into concrete work situations and to apply them to real decision-making contexts.

**12.** To be eligible for the training period, the candidate shall complete an application on the form prescribed by the Bureau, meet the condition prescribed in paragraph 1 of section 1, have completed the training course prescribed in paragraph 2 of section 1 and pay the fees fixed by the Bureau in accordance with paragraph 8 of section 86.0.1 of the Code.

However, the candidate may not act as a trainee before having obtained a trainee's certificate from the Bureau at his training director's request.

**13.** A trainee is qualified, under the authority and responsibility of the training director, to serve written proceedings issued by any court if he states that he is a trainee, and to perform any duty prescribed in section 8 of the Court Bailiffs Act.

However, he may not enforce judicial decisions that are executory and may not perform any other duty assigned to a bailiff by law or by a court unless he does so under the immediate supervision of his training director who shall co-sign the minutes.

**14.** The training period shall last six months and shall be carried out as full time employment, performing duties the nature of which is compatible with the activities related to the practice of the profession.

**15.** The training director shall meet the following criteria:

(1) have been entered on the roll for at least two years; and

(2) not have been the object of a disciplinary decision within the last five years.

The training director shall not supervise or be responsible for more than one trainee at a time.

**16.** Upon the written request of a trainee, the Bureau may decide to:

(1) authorize a change in training directors; or

(2) authorize the interruption of a training period, to be resumed at a later time.

**17.** At the end of the training period, an evaluation report shall be prepared by the candidate and the training director. The report shall contain the information required to determine whether the candidate has acquired the maturity, autonomy and experience necessary to practise the profession of bailiff in Québec. Also, the report shall list different situations in which the candidate practised and give the training director's evaluation.

**18.** The Administrative Committee shall examine the evaluation report and give its opinion to the Bureau concerning the validity of the training period in light of the objectives contemplated in section 11.

At the first meeting following the date of receipt of the notice prescribed in the first paragraph, the Bureau shall decide whether or not the candidate has met the objectives of the training period. Within 30 days, the Secretary shall send a written notice of the decision to the candidate by issuing an attestation of his passing or failing.

Where the candidate has failed the training period, the Secretary shall notify the candidate of the reasons supporting the Bureau's decision. However, it may not issue an attestation of that decision without giving the training director and the trainee the chance to be heard.

**19.** A trainee who has failed the training period shall complete another training period of six months in accordance with the conditions given in this Division.

A trainee's certificate may not be renewed for more than two periods not exceeding six months each.

#### DIVISION V TRANSITIONAL AND FINAL

**20.** Until the date of coming into force of a regulation made by the Government under the first paragraph of section 184 of the Code, a candidate is deemed to have met the condition prescribed in paragraph 1 of section 1, if he is the holder of a diploma of college studies in legal technology awarded by the Minister of Education.

**21.** This Regulation does not apply to candidates who were admitted to their training period before its coming into force.

**22.** This Regulation replaces Divisions II, III and IX of the Regulation respecting the application of the Bailiffs Act (R.R.Q., 1981, c. H-4, r. 2) which continue to apply with respect to candidates who were admitted to their training period before the date of the coming into force of this Regulation.

**23.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec* and shall remain in force for a period of three years.