

Regulations and other acts

Gouvernement du Québec

O.C. 1042-2001, 12 September 2001

Public Service Act
(R.S.Q., c. F-3.1.1)

Public servants not governed by a collective agreement — Appeals procedure

Regulation respecting an appeals procedure for public servants not governed by a collective agreement

WHEREAS, under the first paragraph of section 127 of the Public Service Act (R.S.Q., c. F-3.1.1), the Government, by regulation, shall make provision for an appeal in the matters it determines, for public servants who are not governed by a collective agreement and for whom no appeal is provided in those matters under this Act;

WHEREAS the Government made the Regulation respecting an Appeal Procedure for Senior Executives by Order in Council 2291-85 dated 7 November 1985;

WHEREAS the Government made the Regulation respecting an appeal procedure for public servants not governed by a collective agreement by Order in Council 2292-85 dated 7 November 1985;

WHEREAS it is expedient to replace those regulations by a single regulation and to simplify the rules of procedure for the filing and hearing of an appeal before the Commission de la fonction publique;

WHEREAS, in accordance with section 128 of the Public Service Act, a draft Regulation respecting an appeals procedure for public servants not governed by a collective agreement was published in the *Gazette officielle du Québec* dated 16 May 2001, with the notification that it could be made by the Government, with or without amendment, upon the expiry of 30 days from that publication;

WHEREAS it is expedient to make, with amendments, the Regulation respecting an appeals procedure for public servants not governed by a collective agreement;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Administration and the Public Service, Minister responsible for Administration and the Public Service and Chair of the Conseil du trésor:

THAT the Regulation respecting an appeals procedure for public servants not governed by a collective agreement, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting an appeals procedure for public servants not governed by a collective agreement

Public Service Act
(R.S.Q., c. F-3.1.1, s. 127, 1st and 2nd pars.)

DIVISION I SCOPE

1. This Regulation applies to any public servant who is not governed by a collective agreement.

DIVISION II APPEALABLE MATTERS

2. An appeal is available to any public servant who considers himself aggrieved by a decision rendered in his respect under the following directives of the Conseil du trésor, except for the provisions in those directives respecting classification, staffing and performance evaluation excluding, in the latter case, the procedure for performance evaluation:

(1) the Directive concernant l'ensemble des conditions de travail des cadres supérieurs;

(2) the Directive concernant l'ensemble des conditions de travail des cadres juridiques;

(3) the Directive concernant l'ensemble des conditions de travail des cadres intermédiaires;

(4) the Directive concernant l'ensemble des conditions de travail des cadres intermédiaires oeuvrant en établissement de détention à titre d'agents de la paix à l'exclusion des directeurs des établissements de détention;

(5) the Directive concernant l'ensemble des conditions de travail des cadres intermédiaires oeuvrant en établissement de détention à titre de directeurs des établissements de détention;

(6) the Directive concernant la rémunération et les conditions de travail des commissaires du travail;

(7) the Directive concernant la rémunération et les conditions de travail des médiateurs et conciliateurs;

(8) the Directive concernant l'ensemble des conditions de travail des conseillères et conseillers en gestion des ressources humaines;

(9) the Directive concernant les conditions de travail des fonctionnaires;

(10) the Directive concernant l'attribution des taux de traitement ou taux de salaire et des bonis à certains fonctionnaires;

(11) the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents;

(12) the Directive concernant les frais de déplacement du personnel d'encadrement;

(13) the Directive concernant les frais de déplacement à l'extérieur du Québec;

(14) the Directive sur les déménagements des fonctionnaires;

(15) the Règlement sur les indemnités et les allocations versées aux fonctionnaires en poste à l'extérieur du Québec.

DIVISION III FILING OF APPEAL

3. A public servant shall lodge an appeal within 30 days of the event by sending a written notice to the Deputy Minister or the chief executive officer of the agency. The 30-day period is mandatory.

The public servant shall also send a copy of the notice to his immediate superior and to the Commission de la fonction publique.

The notice shall be signed by the appellant and contain his name, address, classification, the directive on which the appeal relies and a brief summary of the facts, grounds invoked and conclusions sought. A copy of the decision appealed, where applicable, shall also be included in the notice.

4. The Deputy Minister or the chief executive officer shall reply to the appellant within 30 days of the date on which the notice of appeal is sent.

At the request of the appellant, the Deputy Minister or the chief executive officer of the agency, the parties shall meet to discuss the appeal and to attempt reaching a settlement.

5. If the Minister or the chief executive officer fails to reply or if no notice of settlement is sent to the Commission, upon the expiry of the period prescribed by section 4, the Commission shall enter the appeal on the roll for hearing unless the appellant withdraws his appeal.

6. No notice of appeal may be deemed invalid by the sole reason that it contains a formal defect or a procedural irregularity.

DIVISION IV HEARING OF APPEAL

7. The appellant and the department or agency concerned or, if the secretary of the Conseil du trésor considers it a matter of governmental concern, the Secretariat of the Conseil du trésor are parties before the Commission. The parties may be represented by the attorney of their choice before the appeals committee.

8. The Commission shall give prior notice of the date, time and place of the hearing.

The Commission shall send that notice at least 21 days before the scheduled date of the hearing.

9. The Commission may decide that several appeals of the same nature and relying on similar facts, regardless of who has lodged them, will be heard at the same time or that one of them will be heard and decided upon first, while the others are left pending until then.

10. Upon request by one of the parties, the Commission shall summon a witness to declare what he knows, produce a document, or both, unless the Commission is of the opinion that the application for a summons is irrelevant on the face of it.

The subpoena shall be served at least five clear days before the hearing, or at least ten clear days before the hearing if it is served on a Minister, a Deputy Minister or the executive officer of an agency.

In an emergency, the Commission may reduce the time for service on the subpoena.

11. Minutes of the hearing shall be taken and shall contain the names of the appellant, attorneys and witnesses who have been heard.

The minutes shall also contain a list of the documents produced at the hearing, as well as the orders and incidental decisions of the Commission.

12. The sittings of the Commission are public. The committee may however order that a sitting be held in camera when necessary for preserving morals or public order.

DIVISION V DECISION

13. The Commission shall render its decision within 30 days of the date on which the appeal was taken under advisement.

14. The Commission's decision is final and binding on the parties.

15. In rendering its decision, the Commission may, at the request of a party, fix the amount owing under the decision, including any interest at the legal rate when the payment of interest is prescribed by a specific provision in a directive on which the appeal is based.

16. The Commission shall send the parties a true copy of the decision.

DIVISION VI MISCELLANEOUS

17. In computing a time period, the day which marks the start of the period shall not be counted but, except in the case of clear days, the terminal day shall be counted. When the last day of a time limit is a paid holiday, a Saturday or a Sunday, the time period shall be extended to the first working day that follows.

18. If the appeal is the subject of a withdrawal, an acquiescence in the demand or a partial or total settlement, the appellant or the other party, as the case may be, shall so inform the Commission de la fonction publique in writing before the decision is rendered.

DIVISION VII TRANSITIONAL AND FINAL

19. Any appeal pending upon the coming into force of this Regulation shall proceed in accordance with the provisions of this Regulation.

20. This Regulation replaces the Regulation respecting an Appeal Procedure for Senior Executives, made by Order in Council 2291-85 dated 7 November 1985, and the Regulation respecting an appeal procedure for public servants not governed by a collective agreement, made by Order in Council 2292-85 dated 7 November 1985.

21. 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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Gouvernement du Québec

O.C. 1059-2001, 12 September 2001

An Act respecting the Ministère de l'Environnement (R.S.Q., c. M-15.2.1)

Signing of certain documents — Amendment of the Rules

Amendment to the Rules respecting the signing of certain documents of the Ministère de l'Environnement

WHEREAS, under the second paragraph of section 7 of the Act respecting the Ministère de l'Environnement (R.S.Q., c. M-15.2.1), no deed, document or writing is binding on the Minister or may be attributed to him unless it is signed by him, the Deputy minister, a member of the personnel of the department or the holder of a position and, in the latter two cases, only so far as determined by the Government;

WHEREAS it is expedient to enable other persons of the department than the Minister and the Deputy Minister to sign any document respecting the nature, scope and extent of the environment impact assessment statement that the proponent must prepare, for a project subject to the environmental impact assessment procedure provided for in Division IV.1 of Chapter 1 of the Environment Quality Act (R.S.Q., c. Q-2);

WHEREAS it is expedient to amend the Rules respecting the signing of certain documents of the Ministère de l'Environnement made by Order in Council 667-95 of 17 May 1995 in order to better meet the administrative needs of the department;

IT IS ORDERED, therefore, upon the recommendation of the Minister of the Environment :

THAT the amendment to the Rules respecting the signing of certain documents of the Ministère de l'Environnement, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif