

Regulations and other acts

Gouvernement du Québec

O.C. 500-2002, 24 April 2002

Labour Code
(R.S.Q., c. C-27)

Commission des relations du travail — Recruiting and selection of persons declared to be qualified for appointment as commissioners

Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail

WHEREAS, under section 137.13 of the Labour Code (R.S.Q., c. C-27), enacted by section 63 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, c. 26), the Government shall establish by regulation a recruiting and selection procedure according to which persons are declared qualified to be appointed commissioners of the Commission des relations du travail;

WHEREAS, under section 137.15 of the Labour Code, enacted by section 63 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions, the Government may determine by regulation the validity period of a certificate of qualifications;

WHEREAS, under section 137.16 of the Labour Code, enacted by section 63 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions, the Government may determine by regulation in which cases, subject to which conditions and to what extent the members of a selection committee shall receive a remuneration and determine subject to which conditions and to what extent they shall be reimbursed for the expenses incurred in the exercise of their functions;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail, attached to this Order in Council, was published in the *Gazette officielle du Québec* of 13 February 2002;

WHEREAS sections 137.13, 137.15 and 137.16 of the Labour Code, enacted by section 63 of the Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions came into force on 13 February 2002 under Order in Council 132-2002 dated 13 February 2002;

WHEREAS it is expedient to make the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail, attached to this Order in Council;

IT IS ORDERED, therefore, upon the recommendation of the Minister of State for Human Resources and Labour and Minister of Labour:

THAT the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail

Labour Act
(R.S.Q., c. C-27, ss. 137.13, 137.15, 137.16; 2001,
c. 26, s. 63)

DIVISION I NOTICE OF RECRUITMENT

1. Where it is expedient to draw up a list of persons declared to be qualified for appointment as commissioners to the Commission des relations du travail, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall publish a notice of recruitment in a publication circulated throughout Québec, inviting interested persons to apply for the position of commissioner of the Commission.

2. The notice shall give

- (1) a brief description of the duties of a commissioner;
- (2) the main place where a commissioner could be assigned to perform his duties;
- (3) in essence, the selection conditions and criteria prescribed by the Act and this Regulation and, where applicable, the professional qualifications, training and particular experience sought by the Commission;
- (4) in essence, the system of confidentiality applicable to the selection procedure and an indication that the selection committee may hold consultations about the applications; and
- (5) the deadline and address for applying.

3. A copy of the notice shall be sent to the Minister of Labour and to the president of the Commission.

DIVISION II
APPLICATIONS

4. A person who wishes to apply shall forward his résumé and the following information:

- (1) his name, home address and telephone number and, if applicable, office address and telephone number;
- (2) his date of birth;
- (3) the nature of the activities that he has carried out and through which he has acquired the relevant experience;
- (4) where applicable, proof that he has the qualifications indicated in the notice, when they were acquired and the years of experience the person worked in such qualifications;
- (5) any condemnation for a criminal or indictable offence or any disciplinary decision, as well as the nature of the offence or fault in question and the imposed sentence or disciplinary penalty;
- (6) any condemnation for a penal offence, the nature of the offence in question and the sentence imposed and whether one can reasonably believe that such offence is likely to question the integrity or impartiality of the Commission or of the applicant, to interfere with his ability to perform his duties or to ruin the trust of the public in the office holder;
- (7) where applicable, the names of his employers or partners over the past ten years;

(8) where applicable, whether he has applied for a position of commissioner of the Commission in the past three years;

(9) a summary of the reasons for his interest in performing the duties of commissioner of the Commission.

The person shall also provide a written statement in which he agrees to a verification with a disciplinary body, any professional order of which he is or was a member, his employers over the last ten years, police authorities and, where applicable, in which he agrees that the persons or partnerships referred to in section 14 may be consulted.

DIVISION III
FORMATION OF A SELECTION COMMITTEE

5. Following publication of the notice of recruitment, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall form a selection committee, designate a chair and appoint to it

- (1) the chair of the Commission or, after consulting him, another commissioner of the Commission;
- (2) a person of the legal community; and
- (3) two persons of the labour relations community.

6. Where his impartiality could be questioned, a member of the committee shall withdraw in respect of an applicant, particularly in the following situations:

- (1) the member is or was the applicant's spouse;
- (2) the member is related to the applicant by birth or marriage, to the degree of first cousin inclusively;
- (3) the member is or was an employer, employee or a partner of the applicant in the last ten years; notwithstanding the foregoing, a member who is in the public service shall withdraw in respect of an applicant only if he is or was the employee or immediate superior of the applicant.

Where a member of the committee has withdrawn, is absent or unable to act, the decision shall be made by the other members.

7. Before taking office, the members of the committee shall take the following oath: "I, (full name), declare under oath that I will neither reveal nor make known, without due authorization to do so, anything whatsoever of which I may gain knowledge in the exercise of my office."

The oath shall be taken before a member of the staff of the Ministère du Conseil exécutif or the Ministère du Travail empowered to administer oaths.

The writing evidencing the oath shall be sent to the Associate Secretary General.

8. A person may be appointed to more than one committee at the same time.

9. Travel and accommodation expenses of the committee members shall be reimbursed in accordance with Décret 2500-83 concernant les règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux, dated 30 November 1983, as amended.

In addition to the reimbursement of their expenses, the committee members who are neither commissioners of the Commission nor employees of a government department or agency are entitled to fees of \$100 per half-day of sitting.

DIVISION IV OPERATION OF THE SELECTION COMMITTEE

10. The list of applicants and their records shall be sent to the chair of the selection committee.

11. The committee shall analyze the applicants' records and shall retain those who, in its opinion, meet the eligibility requirements and any additional evaluative measures applied in consideration of the positions to be filled or the large number of applicants.

12. The chair of the committee shall inform the short-listed applicants of the date and place of their interview with the committee and shall inform the other applicants that they were turned down and, as a result, will not be called to a meeting.

13. The committee's report shall list the applicants that were turned down, giving reasons therefor.

DIVISION V CONSULTATIONS AND SELECTION CRITERIA

14. The committee may, on any matter in an applicant's record or any aspect of an application or of the applications as a whole, consult with

(1) any person who has been, in the last ten years, an employer, partner, immediate superior or first-line superior of the applicant;

(2) any legal person, partnership or professional association of which the applicant is or was a member.

15. The selection criteria that the committee shall take into account in determining an applicant's qualifications are

(1) the applicant's personal and intellectual qualities;

(2) the applicant's experience and the relevancy of that experience in relation to the duties of the Commission;

(3) the extent of the applicant's knowledge or skills in view of the required professional qualifications, training or particular experience stated in the notice of recruitment;

(4) the applicant's ability to carry out judicial functions;

(5) the applicant's judgment, open-mindedness, perceptiveness, level-headedness, decision-making and expressive abilities;

(6) the applicant's conception of the duties of a commissioner of the Commission.

DIVISION VI REPORT OF THE SELECTION COMMITTEE

16. Committee decisions shall be made by a majority vote of its members. In case of a tie-vote, the chair of the committee shall have a casting vote.

17. Promptly and not later than 30 days after an application therefor by the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif, the committee shall submit a report including

(1) the names of the applicants with whom the committee met and whom it declared qualified to be appointed as commissioners to the Commission, their profession and the particulars concerning their work place;

(2) any comments that the committee considers expedient, especially with respect to the particular characteristics or qualifications of the applicants considered qualified.

That report shall be submitted to the Associate Secretary General and to the Minister of Labour.

18. The committee shall declare qualified a number of applicants normally corresponding to at least twice the number of vacant positions, unless it cannot do so.

19. A member of the committee may register his dissent with respect to all or part of the report.

DIVISION VII REGISTER OF CERTIFICATES OF QUALIFICATIONS

20. The Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall write to the applicants to inform them whether or not they have been declared qualified to be appointed as commissioners to the Commission.

21. The Associate Secretary General shall keep the register of certificates of qualifications up-to-date and shall enter therein the list of the persons declared qualified to be appointed as commissioners to the Commission.

A certificate of qualifications shall be valid for a period of three years from the date it is entered in the register.

The Associate Secretary General shall strike out an entry upon the expiry of the validity period of the certificate of qualifications, or where the person is appointed as commissioner to the Commission, dies or asks to be withdrawn from the register.

DIVISION VIII RECOMMENDATION

22. As soon as he is notified of a vacant position, the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif shall forward a copy of the updated list of persons declared qualified to the Minister of Labour.

23. If the Minister of Labour is of the opinion that he cannot recommend an appointment, considering the list of persons qualified to be appointed as commissioners and in the best interest of carrying out the duties of the Commission, he shall then ask the Associate Secretary General to have a notice of recruitment published, in accordance with Division I.

The committee in charge of assessing the qualifications of applicants who applied after the publication of another notice and of reporting to the Associate Secretary General and to the Minister may be composed of persons previously designated to sit on a preceding committee.

24. The Minister of Labour shall recommend to the Government the name of a person who has been declared qualified to be appointed as commissioner to the Commission, after consultation with the most representative associations of workers and employers' associations.

DIVISION IX CONFIDENTIALITY

25. The names of applicants, the reports of selection committees, the register, the list of applicants declared qualified to be appointed as commissioners to the Commission, as well as any information or document relating to a consultation or decision by a committee, are confidential.

26. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

Le greffier du Conseil exécutif,
JEAN ST-GELAIS

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Gouvernement du Québec

O.C. 501-2002, 24 April 2002

An Act respecting collective agreement decrees
(R.S.Q., c. D-2)

Services automobiles de la région de Québec — **Comité conjoint** — **Levy Regulation** — **Amendments**

CONCERNING the Regulation to amend the Levy Regulation of the Comité conjoint sur les services automobiles de la région de Québec

WHEREAS the Comité conjoint sur les services automobiles de la région de Québec levies the amounts needed for the application of the Decree respecting the automotive services industry in the Québec region on the professional employer and the employee under the Levy Regulation of the Comité conjoint sur les services automobiles de la région de Québec, approved by Order in Council No. 51-96 dated 16 January 1996;

WHEREAS the Comité conjoint sur les services automobiles de la région de Québec, at its meeting held on 25 April 2000, approved amendments to that Regulation and adopted a resolution requesting the Minister of Labour to recommend to the Government that the draft Regulation to amend the Levy Regulation of the Comité conjoint sur les services automobiles de la région de Québec, be approved;

WHEREAS under paragraph *i* of section 22 of the Act respecting collective agreement decrees (R.S.Q., c. D-2), any levy regulation must be approved by the Government;