

- (1) the start of the workday :
- a) the current date ;
 - b) his name ;
 - c) the name of the relief driver, if any ;
 - d) the operator's name and main business address ;
 - e) driving time and work time during the 6, 7 or 13 days, depending on the cycle used, preceding the day on which the trip starts ; this requirement also applies to the driver who begins a trip covered by the first paragraph after returning to home base ;
 - f) the odometer reading ;
 - g) the licence plate number of the bus or minibus or the unit number shown on its registration certificate ;
 - h) the time at the beginning of the workday ;
- (2) during the workday : the start and end of any rest time taken ;
- (3) at the end of the workday :
- a) the time when work ended ;
 - b) the total work time other than rest periods taken during the workday ;
 - c) where work time is more than 13 hours, the time spent on duty other than driving which supports compliance with the limit of 13 hours of driving.

The driver must also sign the log.

2. A driver who keeps a daily log of driving time and work time in accordance with section 1 :

- (1) may not avail himself of the exemption provided under section 10 of the Regulation respecting hours of driving, hours of work and the heavy vehicle driver's record ;
- (2) in addition to the documents set forth in section 11 of that Regulation, the driver must keep aboard his vehicle a document stating that the trip is covered by section 1 ;
- (3) upon his return from the trip, the driver must give a copy of the document to the operator and to the person supplying the services of a driver ; this copy must be kept in the driver's record prescribed by section 14.1 of that Regulation.

3. This regulation comes into force on 20 July 2002.

5169

Gouvernement du Québec

O.C. 850-2002, 26 June 2002

An Act respecting labour relations, vocational training and manpower management in the construction industry
(R.S.Q., c. R-20)

**Construction industry commissioner
— Rules of procedure and practice**

Rules of procedure and practice of the construction industry commissioner

WHEREAS, under section 23.4 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20), the construction industry commissioner may, by regulation, prescribe rules of procedure and practice ;

WHEREAS, under that section, the rules may vary according to the matters, proceedings or applications referred to, brought before or filed with the construction industry commissioner ;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Rules of procedure and practice of the construction commissioner were published in the *Gazette officielle du Québec* of 28 November 2001 with a notice that they could be submitted to the Government which could approve them upon the expiry of a 45-day period following the date of their publication ;

WHEREAS the construction industry commissioner adopted the Rules of procedure and practice of the construction industry commissioner, with amendments, at a meeting on 6 May 2002 ;

WHEREAS it is expedient to approve the Rules ;

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

THAT the Rules of procedure and practice of the construction industry commissioner, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Rules of procedure and practice of the construction industry commissioner

An Act respecting labour relations, vocational training and manpower management in the construction industry
(R.S.Q., c. R-20, s. 23.4)

DIVISION I

SCOPE AND PURPOSE

1. This Regulation applies to matters, applications and proceedings submitted to the construction industry commissioner.

Its purpose is to ensure that proceedings are dealt with simply and expeditiously and in compliance with the rules of natural justice and equality of the parties.

2. For the purposes of this Regulation, the expression “construction industry commissioner” means the commissioner appointed under section 21.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., c. R-20) and the expression “commissioner” means that commissioner or a deputy-commissioner to whom a matter, an application or a proceeding has been referred.

DIVISION II

GENERAL

§1. *Secretariat*

3. The offices of the construction industry commissioner’s secretariat in Québec City and Montréal serve respectively the judicial districts listed in Schedule I.

4. Hearings shall be held at the chief place or its equivalent in the judicial district of the applicant’s residence or in which the cause of action has arisen.

The construction industry commissioner may determine another place in the interests of justice.

§2. *Proceedings*

5. The introductory motion, as well as documents and notices, must be filed with the secretariat of the construction industry commissioner

- (1) by delivery to the secretariat;
- (2) by mail at the address of the secretariat; or
- (3) by fax at the secretariat.

In every case, a copy must be sent to the other party or, as the case may be, to the party’s representative.

In addition, in the case provided for in the second paragraph of section 21 of the Act respecting labour relations, vocational training and manpower management in the construction industry, the introductory motion shall be sent to the job site owner and to the contractor involved in the dispute, to every contractors’ association listed in subparagraph *c.1* of the first paragraph of section 1 of the Act, as well as to every association of employees that holds a certificate of representativeness under section 34 of the Act. Any other notice, motion or document shall be sent to the persons or associations that have appeared.

6. The date of filing of a document is the date on which the document is received at the secretariat of the construction industry commissioner.

7. The introductory motion shall be made in writing and shall contain the following information:

(1) the applicant’s name, address, telephone number and, if applicable, the applicant’s e-mail address and fax number;

(2) if the applicant is represented, the representative’s name, address, telephone number and, if applicable, the representative’s e-mail address and fax number;

(3) the name, address and telephone number of any other party to the motion and, if applicable, the party’s e-mail address and fax number;

(4) a summary of the grounds in support of the matter, application or proceeding; and

(5) the relief sought.

8. The motion instituting proceedings under the third paragraph of section 21, or section 80.1 or 80.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry may be made on the form proposed by the construction industry commissioner.

9. The contested decision or the documents related to the facts that have given rise to the matter, application or proceeding must be attached to the motion.

Failing that, the motion must specify,

(1) if the subject of the matter, application or proceeding is a decision,

(a) the name of the authority that rendered the decision;

(b) the date of the decision; and

(c) the record number attributed by the authority; or

(2) if the subject of the matter, application or proceeding is not a decision, the facts that have given rise to it.

The motion must be signed by the applicant or the applicant's representative.

10. Any other party identified by the applicant in the introductory motion shall appear in writing within 10 days of the filing of the motion. Notwithstanding the foregoing, for proceedings under section 7.7 of the Act respecting labour relations, vocational training and manpower management in the construction industry, that time limit is 48 hours.

The appearance must contain the following information:

(1) the party's name, address, telephone number and, where applicable, the party's e-mail address and fax number;

(2) if the party is represented, the representative's name, address, telephone number and, if applicable, the representative's e-mail address and fax number.

No later than 30 days after the filing of the introductory motion, the party shall complete its appearance by providing

(1) a summary of its arguments; and

(2) the relief sought.

11. Any person may intervene, in writing, in a matter, an application or a proceeding to which that person is not a party, at any time before a decision is rendered.

The intervention must contain the following information:

(1) the intervening party's name, address and telephone number and, if applicable, the party's e-mail address and fax number;

(2) if the intervening party is represented, the representative's name, address and telephone number and, if applicable, the party's e-mail address and fax number;

(3) a summary of the intervening party's specific interest and grounds for the intervention; and

(4) the relief sought.

12. Any party may object to an intervention as soon as it is filed, on the ground of the intervening party's lack of interest; however, the intervention shall be received if the intervening party establishes the interest.

13. Any party to a matter, application or proceeding may, upon authorization of the construction industry commissioner and on the conditions determined by the commissioner, call upon a third party whose presence is necessary to reach a complete settlement of the case.

The commissioner may, *ex officio*, implead any party whose interests may be affected by the commissioner's decision.

14. Upon receipt of an introductory motion, the construction industry commissioner shall send an acknowledgement of receipt to the applicant, to the other party or, as the case may be, to their representatives.

15. The administrative authority whose decision is contested shall, within 30 days of receipt of the copy of the introductory motion, send to the construction industry commissioner a copy of the record in its possession relating to the contested decision. Notwithstanding the foregoing, for proceedings under section 7.7 of the Act respecting labour relations, vocational training and manpower management in the construction industry, that time limit is 48 hours.

16. The commissioner may accept a proceeding despite a defect of form or an irregularity.

17. 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; and
- (11) any other holiday fixed by the Government.

18. If the date on which an act must be done falls on a non-judicial day, that act may be validly done on the next judicial day.

19. In computing time limits, the day which marks the start of the period is not counted but, except in the case of clear days, the final day is counted.

§3. Representation

20. The parties may be represented by a person of their choice.

21. A representative shall notify in writing the construction industry commissioner and the other parties of his mandate.

The designation of a representative in a motion or another written document constitutes a notice of representation for the whole case to which it relates.

22. Any person who

- (1) has agreed to represent a party after the filing of a motion,
- (2) has ceased to represent a party, or
- (3) has dismissed a representative or has replaced a representative

shall immediately notify in writing the construction industry commissioner and the other parties.

23. Every party and representative shall immediately inform the construction industry commissioner of any change in address or telephone number.

24. If a party is represented, communications from the construction industry commissioner, except the notice to appear and the notification of the commissioner's decision, shall be addressed to the representative only.

DIVISION III ENTRY ON THE ROLL AND NOTICE OF HEARING

25. A notice of proof and hearing shall be sent to the parties within a reasonable time before the hearing and specify

- (1) the subject, date, time and place of the hearing;
- (2) the right of the parties to be assisted or represented; and
- (3) the authority of the commissioner to proceed, without further notice or delay, notwithstanding the failure of a party to be present at the scheduled time and place if the party has not provided a valid excuse for the absence.

26. A party is validly called to the hearing by a notice sent to the party's last address appearing in the record of the construction industry commissioner. The notice is also sent to the representative at the representative's last address.

27. The commissioner may, with the consent of the parties, replace the hearing with a meeting with the parties in an attempt to bring them to settle the dispute by conciliation as provided for in section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry, by written arguments, by a telephone conference call, by an examination of the record or by any other means.

28. The filing of a discontinuance or notice of settlement, other than a settlement reached through the conciliation provided for in section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry, shall terminate the proceedings.

DIVISION IV PRE-HEARING CONFERENCE

29. If the commissioner considers it useful and if the circumstances of a matter, application or proceeding allow it, the commissioner shall convene the parties to a pre-hearing conference.

The pre-hearing conference may be held by any means of communication.

30. The purpose of the pre-hearing conference is

- (1) to define the issues to be dealt with at the hearing;
- (2) to assess the advisability of clarifying and adding detail to the allegations of the parties and the relief sought;
- (3) to facilitate the disclosure of documentary evidence between the parties;

(4) to plan the conduct of proceedings and the adducing of evidence at the hearing;

(5) to examine the possibility for the parties to admit some facts or to evidence them by affidavits;

(6) to examine any other issue likely to simplify or accelerate the conduct of the hearing;

(7) to examine the possibility of agreeing to a meeting among the parties to try to bring them to an agreement; and

(8) to examine the possibility of designating a person to meet with the parties for conciliation purposes pursuant to section 21.0.3 of the Act respecting labour relations, vocational training and manpower management in the construction industry.

31. Where applicable, minutes of the pre-hearing conference shall be drawn up and signed by the commissioner who convened the parties. The text of any admission written and signed by the parties shall be attached to the minutes.

The agreements and decisions reported in the minutes shall govern the conduct of the hearing, unless the commissioner allows a departure therefrom during the hearing in order to prevent an injustice.

DIVISION V HEARING

32. The commissioner may, *ex officio* or upon application by a party, prohibit or restrict the disclosure, publication or broadcasting of designated information or documents, where required to maintain public order or where their confidentiality must be protected to ensure the proper administration of justice.

33. The minutes of the hearing shall be drawn up in the manner established by the construction industry commissioner. They must include

(1) the date and place of the hearing;

(2) the name of the commissioner;

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

(4) the name and address of the interpreter, where applicable, and an indication that the interpreter took an oath;

(5) an indication that the hearing was recorded;

(6) a list of the exhibits that were produced;

(7) the incidental proceedings, objections and decisions rendered at the hearing, where applicable;

(8) every admission and any full or partial settlement;

(9) the date on which the matter was taken under advisement, where applicable.

34. The commissioner may, for cause, *ex officio* or upon application by one of the parties, postpone the hearing to another date or adjourn it.

The commissioner may attach conditions to the postponement or adjournment.

35. A party that wishes to have the hearing postponed shall file an application with the construction industry commissioner as soon as the grounds for the postponement become known.

The postponement shall be granted only if it is based on serious grounds and would better serve the interests of justice. No postponement shall be granted merely upon consent of the parties.

36. All persons attending a hearing shall behave with dignity and in a manner that shows respect for the judicial process. They shall refrain from doing anything that could disrupt the hearing.

DIVISION VI PROCEEDINGS

37. The construction industry commissioner is not required to apply the rules of civil procedure except those relating to the time limits for summoning witnesses.

38. The party that requires the summoning of a witness shall complete the subpoena.

The party must serve the subpoena issued by a commissioner at least five clear days before the hearing or, for a subpoena to a minister or deputy minister of the Government, at least ten clear days before the hearing.

If the matter is urgent, a commissioner may reduce the time for service of a subpoena; it may not, however, be less than 12 hours. The commissioner shall indicate that such is the case on the subpoena.

39. Any witness that is heard shall swear to tell the truth.

A witness who does not understand the nature of the oath shall be exempted from that formality; the witness shall nonetheless be informed of the obligation to tell the truth.

40. Any party may examine and cross-examine a witness to the extent necessary to ensure procedural fairness.

41. The commissioner may order that witnesses must testify without the presence of any other witness.

42. A party that intends to produce an expert's report in evidence shall file it with the secretariat of the construction industry commissioner and send a copy to the other parties or, as the case may be, to their representatives, on the date fixed by the commissioner or, failing such a date, at least 30 days before the scheduled hearing date.

43. A party that intends to produce documents at the hearing shall provide a sufficient number of copies for the commissioner and the other parties.

44. A party may, at its own expense, have the hearing of the matter, application or proceeding recorded mechanically or by shorthand or stenotype.

A party that has the proceedings transcribed shall provide the construction industry commissioner with a copy of the transcript without charge.

DIVISION VII DECISION

45. A commissioner who has taken a case under advisement may, *ex officio* or upon application by one of the parties before the decision is rendered, order the reopening of the case for the purposes and on the conditions the commissioner determines.

46. The original of the decision shall be kept in the file and a true copy shall be sent to every party and to their representatives.

DIVISION VIII COMING INTO FORCE

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

SCHEDULE I (s. 3)

1. The construction industry commissioner's secretariat in Québec City serves the following judicial districts and chief places:

District	Chief place	Other place
Alma	Alma	
Arthabaska	Victoriaville	–
Beauce	Saint-Joseph-de-Beauce	–
Bonaventure	New-Carlisle	–
Charlevoix	La Malbaie	–
Chicoutimi	Saguenay	–
Frontenac	Thetford-Mines	–
Gaspé	Percé	Sainte-Anne-des-Monts Îles-de-la-Madeleine
Hauterive	Baie-Comeau	–
Kamouraska	Rivière-du-Loup	–
Mingan	Sept-Îles	–
Montmagny	Montmagny	–
Québec	Québec City	–
Rimouski	Rimouski	Matane
Roberval	Roberval	Dolbeau
Saint-Maurice	Shawinigan	La Tuque
Trois-Rivières	Trois-Rivières	–

2. The construction industry commissioner's secretariat in Montréal serves the following judicial districts and chief places:

District	Chief place	Other place
Abitibi	Amos	Chibougamau, La Sarre, Val-d'Or
Beauharnois	Salaberry-de-Valleyfield	–
Bedford	Cowansville	Granby
Drummond	Drummondville	–
Hull	Gatineau	–
Iberville	Saint-Jean-sur-Richelieu	–
Joliette	Joliette	–
Labelle	Mont-Laurier	Maniwaki
Laval	Laval	–
Longueuil	Longueuil	–
Mégantic	Lac-Mégantic	–
Montréal	Montréal	–
Pontiac	Campbell's Bay	–
Richelieu	Sorel-Tracy	–
Rouyn-Noranda	Rouyn-Noranda	–
Saint-François	Sherbrooke	–
Saint-Hyacinthe	Saint-Hyacinthe	–
Témiscamingue	Ville-Marie	–
Terrebonne	Saint-Jérôme	–