

Gouvernement du Québec

O.C. 851-2002, 26 June 2002

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

Arbitrators
— **Remuneration**

Regulation respecting the remuneration of arbitrators

WHEREAS, under section 103 of the Labour Code (R.S.Q., c. C-27) the Government made the Regulation respecting the remuneration of arbitrators by Order in Council 1486-96 dated 27 November 1996;

WHEREAS, under section 103 of the Code, amended by section 57 of chapter 26 of the statutes of 2001, the Government may determine, by regulation, after consultation with the Conseil consultatif du travail et de la main-d'oeuvre, the remuneration and expenses to which the arbitrators of disputes and grievances appointed by the Minister are entitled, one or more methods for determining the remuneration and expenses to which the arbitrators chosen by the parties are entitled, and the situations in which the regulation does not apply;

WHEREAS the Government may also, under that section, determine who shall assume the payment of such remuneration and expenses and, where applicable, in what proportion;

WHEREAS it is expedient to replace the Regulation respecting the remuneration of arbitrators;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation respecting the remuneration of arbitrators, attached to this Order in Council, was published in Part 2 of the *Gazette officielle du Québec* of 24 April 2002 with a notice that it could be made by the Government upon the expiry of a 45-day period from that publication;

WHEREAS the comments received were studied;

WHEREAS it is expedient to make the Regulation with amendments;

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 remuneration of arbitrators, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the remuneration of arbitrators

Labour Code
(R.S.Q., c. C-27, s. 103; 2001, c. 26, s. 57)

1. This Regulation applies to arbitrators of grievances and disputes.

It does not apply to the arbitration of a grievance involving an association of employees within the meaning of the Labour Code (R.S.Q., c. C-27) and the Government or a department, a government agency the personnel of which is appointed or remunerated under the Public Service Act (R.S.Q., c. F-3.1.1), a college or school board referred to in the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

2. An arbitrator is entitled to fees of \$120 for each hour of arbitration hearing, for each hour of deliberation with the assessors and, subject to section 4, for each hour of deliberation and drafting of an award.

An arbitrator is entitled, for each day of hearing, to a minimum remuneration equivalent to three hours of fees at the rate set by the first paragraph.

3. A grievances arbitrator is also entitled to fees at the rate set by section 2 for each hour of a pre-hearing conference.

4. For deliberation and the drafting of awards, a grievances arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours per day of hearing, 22 hours for two days of hearing and, where there are three days of hearing or more, 22 hours for the first two days and 5 hours for each subsequent day.

A disputes arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours per day of hearing, 22 hours for two days of hearing, 27 hours for three days of hearing and, where there are four days of hearing or more, 27 hours for the first three days and 3 hours for each subsequent day.

An arbitrator is entitled to fees at the rate set by section 2 up to a maximum of 14 hours if no arbitration hearing is held.

5. For all expenses related to arbitration, namely fees for opening files, telephone calls, correspondence and the drafting and filing of duplicates or copies of the arbitration award, an arbitrator is also entitled to one hour of fees at the rate set by section 2.

6. An arbitrator's transportation costs and meal and accommodation expenses shall be reimbursed in accordance with the *Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents* (C.T. 194603 dated 30 March 2000) as it reads at the time it applies.

7. An arbitrator is entitled to a travel allowance when performing duties outside an 80-kilometre radius from the office.

The amount of the allowance corresponds to the amount obtained by multiplying the rate of \$80 by the number of hours required for a round trip using the fastest means of transportation.

8. When a case is discontinued or fully settled more than 30 days before the hearing date, an arbitrator is entitled to one hour of fees at the rate set by section 2 as indemnity.

When a case is discontinued, fully settled or postponed at the request of a party 30 days or less before the date of the hearing, an arbitrator is entitled to three hours of fees at the rate set by section 2 but is not entitled to the expenses related to arbitration provided for in section 5.

9. An arbitrator is entitled to reimbursement of the actual costs incurred in renting a room for a hearing.

10. Except as provided for in sections 11, 15, 16 and 17, an arbitrator may not claim any fees, expenses, allowances or indemnities other than those set by sections 2 to 9.

11. An arbitrator chosen and remunerated by the parties or by any one of them may claim a remuneration that differs from that set by sections 2 to 8.

To that end, an arbitrator must declare to the Minister of Labour a tariff of remuneration that includes the hourly rate that the arbitrator will claim under sections 2 to 5, the amount of the expenses, allowances and indemnities referred to in sections 6 to 8 and the conditions for the application of those amounts.

12. The tariff of remuneration must be declared using the form proposed by the Ministère du Travail from 15 April to 15 May of each year.

13. The remuneration provided for in the tariff may be claimed only in respect of a grievance or dispute submitted to an arbitrator as of 1 July that follows the period referred to in section 12.

14. The tariff of remuneration remains in effect as long as it is not modified in accordance with section 12. Section 13 applies to the modified tariff of remuneration.

15. An arbitrator whose name is entered on the list of arbitrators referred to in section 77 of the Labour Code after the period referred to in section 12 may nonetheless declare the tariff of remuneration within 30 days following the date of that entry.

Notwithstanding section 13, the remuneration provided for in the tariff declared under the first paragraph may be claimed only in respect of a grievance or dispute submitted to an arbitrator from the date on which the Minister notifies the arbitrator that the declared tariff was entered on the list referred to in section 18.

16. Where an arbitrator belongs to a group of arbitrators, the arbitrator remunerated by the parties or by one of them may, to the extent provided for in this section, claim as remuneration, the lump sum provided for in the group tariff in respect of the grievance or dispute that was submitted to the arbitrator by the group.

The group of arbitrators must be constituted according to a juridical form prescribed by law and governed by an expedited arbitration process that prescribes in particular a common tariff of remuneration for all members.

The tariff must specify, among the remunerated acts and expenses referred to in sections 2 to 8, the acts and expenses included in the lump sum provided and the conditions for the application of the amount.

The tariff of remuneration must be declared to the Minister of Labour by the group of arbitrators and sections 12 to 14 apply, adapted as required.

The group of arbitrators must also send a copy of its deed of incorporation, the list of its members and of its expedited arbitration process.

17. A grievances arbitrator acting as a member of the Tribunal d'arbitrage procédure allégée (TAPA) shall be remunerated in accordance with the tariff established by the provisions of the expedited arbitration of grievances process administered by that court.

18. The Minister of Labour shall draw up a list of tariffs of remuneration declared under sections 11, 15 and 16, send a copy thereof to the Conseil consultatif du travail et de la main-d'œuvre and ensure periodically

the updating and distribution thereof in particular with the most representative associations of arbitrators, employees and employers.

The Minister shall put a copy of that list at the disposal of the public by any means deemed appropriate.

19. Unless otherwise provided for in the collective agreement, the parties shall assume jointly and equally payment of the fees, expenses, allowances and indemnities of a grievances arbitrator.

The parties shall assume jointly and equally payment of the fees, expenses, allowances and indemnities of an arbitrator in the case of a dispute referred under section 75 of the Labour Code or where the collective agreement prescribes that the dispute be referred to arbitration.

The Minister of Labour shall assume payment of the fees, expenses, allowances and indemnities of the arbitrator of a dispute referred under sections 93.3 and 97 of the Labour Code.

20. An arbitrator shall submit a detailed account of fees, making it possible to verify the validity of the fees, expenses, allowances and indemnities claimed per day.

21. This Regulation replaces the Regulation respecting the remuneration of arbitrators made by Order in Council 1486-96 dated 27 November 1996.

22. The provisions of the Regulation respecting the remuneration of arbitrators as they read before being replaced by this Regulation continue to apply in respect of the grievances and disputes submitted to arbitration before 1 December 2002.

23. For grievances and disputes submitted as of 1 December 2002, the arbitrator referred to in section 11 and the arbitrator belonging to a group of arbitrators referred to in section 16 may claim a remuneration that differs from the remuneration set by sections 2 to 8 insofar as the arbitrator referred to in section 11 and the group of arbitrators transmit to the Minister of Labour, between 1 September and 30 September 2002, their tariff of remuneration which includes the elements referred to in the second paragraph of section 11 and in the first paragraph of section 16.

24. This Regulation comes into force on 1 December 2002, except for section 3 which comes into force, whichever is later, on 1 December 2002 or on the date of coming into force of section 49 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) and section 23 which comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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M.O., 2002

Order of the Minister of State for Human Resources and Labour and Minister of Labour dated 26 June 2002

Building Act
(R.S.Q., c. B-1.1)

Delegation Agreement between the Régie du bâtiment du Québec and Ville de Montréal

The Minister of State for Human Resources and Labour and Minister of Labour,

CONSIDERING that, under the first paragraph of section 132 of the Building Act (R.S.Q., c. B-1.1), the Régie du bâtiment du Québec may enter into a written agreement with a local municipality to delegate to it, within its territory and to the extent specified, its powers and duties pursuant to sections 14 to 19, 21, 22, 24 to 27, 32 to 37.2 and 37.4 to 39 of the Act, with a view to ensuring the quality of construction work and public safety;

CONSIDERING that, under section 136 of the Act, an agreement requires approval by the Minister of State for Human Resources and Labour and Minister of Labour and comes into force on the tenth day following the date of its publication in the *Gazette officielle du Québec* of a notice to that effect or on any later date fixed therein;

CONSIDERING that the Delegation Agreement entered into on 26 March 2002 between the Régie du bâtiment du Québec and Ville de Montréal was approved by Minister's Order dated 27 March 2002 and is in force until 30 June 2002;

CONSIDERING that the Delegation Agreement entered into on 25 June 2002 between the Régie du bâtiment du Québec and Ville de Montréal replaces the 26 March 2002 Agreement and that it will be in force for an indefinite period;

CONSIDERING that it is expedient to approve that Agreement and to have it come into force ten days after the date of its publication in the *Gazette officielle du Québec* of this Minister's Order;