

Gouvernement du Québec

O.C. 1193-2002, 2 October 2002

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

**Commission des relations du travail
— Remuneration and other conditions
of employment of commissioners**

Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail

WHEREAS, under the first paragraph of section 137.27 of the Labour Code (R.S.Q., c. C-27), enacted by section 63 of chapter 26 of the Statutes of 2001 and amended by section 34 of chapter 22 of the Statutes of 2002, the Government shall make regulations determining the mode of remuneration of the commissioners of the Commission des relations du travail and the applicable standards and scales, the method for determining the annual percentage of salary advancement up to the maximum salary rate and of the adjustment of the remuneration of commissioners whose salary has reached the maximum rate and the conditions subject to which and the extent to which a commissioner may be reimbursed for the expenses incurred in the performance of his or her duties;

WHEREAS, under the second paragraph of section 137.27 of the Code, the Government may make regulations determining other conditions of employment applicable to all or certain commissioners, including employment benefits other than a pension plan;

WHEREAS, under the third paragraph of section 137.27 of the Code, the regulatory provisions may vary according to whether they apply to a full-time or part-time commissioner or to a commissioner holding an administrative office within the Commission;

WHEREAS, under the fourth paragraph of section 137.27 of the Code, the regulations come into force on the fifteenth day following the date of their publication in the Gazette officielle du Québec or on any later date indicated therein;

WHEREAS, under Order in Council 1192-2002 dated 2 October 2002, section 137.27 of the Code came into force on 2 October 2002;

WHEREAS it is expedient to make the Regulation respecting the remuneration and other conditions of employment of commissioners of 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 remuneration and other conditions of employment of commissioners of 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 remuneration
and other conditions of employment of
commissioners of the Commission des
relations du travail**

Labour Code
(R.S.Q., c. C-27, s. 137.27; 2001, c. 26, s. 63;
2002, c. 22, s. 34)

**DIVISION I
REMUNERATION**

1. The salary scale applicable to commissioners of the Commission des relations du travail is the scale in Schedule I.

The salary scale shall be revised in keeping with the policy adopted by the Government for holders of senior positions appointed by the Government.

2. Part-time commissioners of the Commission shall receive fees in accordance with the hourly rate in Schedule I, up to a maximum of seven hours' work a day.

The maximum number of work hours may be exceeded where authorized by the president of the Commission and where special circumstances warrant it.

For the purposes of this Regulation, fees paid to the commissioners of the Commission are considered to be a salary.

3. The starting salary of full-time commissioners of the Commission shall be determined by their experience and education, the level of the position and their income at the time of appointment established in accordance with the standards prescribed in Schedule II.

Civil servants appointed as full-time commissioners may not receive a salary lower than the regular salary to which they were entitled before their appointment, in accordance with their classification in the public service.

4. Retirees from the public sector defined in Schedule III and appointed commissioners of the Commission shall receive a salary equal to the salary determined in accordance with the standards of this Regulation, from which shall be deducted half the amount of the retirement pension they are receiving from the public sector. The deduction shall be established in the instrument of appointment or upon renewal of the commissioners' term of office. The salary may therefore be lower than the regular minimum of the scale applicable to the position.

5. Whoever has received or is receiving a severance pay or allowance from the public sector defined in Schedule III and receives a salary as a commissioner of the Commission during the period covered by such pay or allowance shall repay the portion of the severance pay or allowance that covers the period for which the person was receiving a salary, or shall cease to receive it during that period.

However, if the salary the person receives as a commissioner is lower than what the person was receiving prior to his or her appointment, the person shall repay only that portion of the severance pay or allowance that equals the amount of the person's new salary and may continue to receive the portion of the severance pay or allowance that exceeds his or her new salary.

The period covered by the severance pay or allowance is the same as that which would have been covered by an equal amount if it had been received as salary for the person's office, employment or previous position.

6. Upon renewal of a term of office, the salary shall remain the same as the salary paid before such renewal, subject to section 4.

7. Full-time commissioners who cease to hold an administrative office within the Commission, in accordance with the second paragraph of section 137.29 of the Labour Code (R.S.Q., c. C-27), shall receive, starting on the effective date, a salary equivalent to what they were receiving without exceeding the maximum of the salary scale for a commissioner's position.

However, in such cases, public servants may not receive a salary lower than the regular salary to which they would be entitled in respect of their classification in the public service.

8. The salary of a full-time commissioner shall be increased, up to the regular maximum salary of the applicable scale, by the annual percentage determined according to the following formula:

$(0.1 \times \% \text{ attributed to an "A" performance rating})$
 $+ (0.3 \times \% \text{ attributed to a "B" performance rating})$
 $+ (0.6 \times \% \text{ attributed to a "C" performance rating})$

The percentages of increase shall be the annual percentages provided for salary advancement under the government policy on performance assessments for members of a body appointed by the Government.

Where a commissioner's salary reaches the maximum, the remuneration shall be adjusted with a lump sum the annual percentage of which is determined according to the above formula. The percentages shall be the annual percentages for performance bonuses under that policy. The lump sum shall, if applicable, be reduced to take into account the percentage of increase that the commissioner has received under the first paragraph or the portion of the salary that exceeds the regular maximum of the applicable salary scale.

For a full-time commissioner who has retired from the public sector as defined in Schedule III, the regular maximum of the applicable salary scale shall be established by taking into account the deduction made at the time of the commissioner's appointment or renewal of office in accordance with section 4.

A full-time commissioner who has been in office less than four months during the period used as reference for salary advancement and remuneration adjustment does not benefit from the provisions of this section.

9. The annual performance assessment of a commissioner shall be made by the president of the Commission or the vice-president designated by the president. The criteria and ratings used to assess a commissioner's performance in accordance with the principle of independence in the performance of adjudicative functions appear in Schedule IV.

The annual assessment of a vice-president's performance shall be made by the president of the Commission and shall measure, as to the performance of the vice-president's administrative duties, the efficiency and effectiveness of the vice-president's management of resources in carrying out the Commission's mission. Where applicable, it shall also pertain to the performance as commissioner and the criteria and ratings used for the assessment in accordance with the principle of independence in the performance of adjudicative functions appear in Schedule IV.

The president's performance shall be assessed annually by the Minister of Labour and shall exclusively measure the efficiency and effectiveness of the president's management of resources in carrying out the Commission's mission. The ratings used for the assessment of the president's performance appear in Schedule IV.

10. Commissioners whose term of office has expired and who are concluding the cases they have begun to hear but have yet to determine shall continue to receive, for a period to be determined by the president of the Commission, the annual salary to which they were entitled. However, if the president considers that the new situation warrants the commissioners' performing their duties part time, commissioners may be remunerated on an hourly basis calculated according to the annual salary they were receiving at the time their term of office expired. For the purposes of this paragraph, commissioners are deemed to work 35 hours a week.

If the situation applies to part-time commissioners, they shall receive the hourly rate to which they were entitled.

11. The commissioner designated by the president of the Commission as the person in charge of assigning cases shall receive, while performing that duty, an additional remuneration equivalent to 3% of the commissioners' annual salary.

The additional remuneration shall be paid only if the duty is performed for at least 45 consecutive days.

Such additional remuneration may not be paid to more than three commissioners at the same time.

DIVISION II OTHER CONDITIONS OF EMPLOYMENT

§1. *Insurance plans*

12. Full-time commissioners shall participate in the group insurance plans for managerial staff of the Québec public and parapublic sectors.

In the case of a commissioner's disability giving entitlement to salary insurance benefits during a term of office, the benefits provided for under the long- or short-term salary insurance plans shall be paid and the commissioner shall be exempted from paying premiums to the pension and insurance plans for the duration of the period of disability, even if the commissioner's term expires during that period.

§2. *Pension plans*

13. In accordance with section 137.30 of the Labour Code, full-time commissioners of the Commission shall participate in the Pension Plan of Management Personnel or, as the case may be, in the Civil Service Superannuation Plan.

§3. *Annual vacation leave*

14. Full-time commissioners shall be entitled to a paid annual vacation of 20 working days, to be calculated proportionally to the time in office during the fiscal year.

Persons on full leave without pay from the public service shall be entitled to an annual vacation equivalent to the number of days of leave they would be entitled to under their classification in the public service.

Where part or all of the annual vacation to which a commissioner is entitled cannot be taken in a given fiscal year, a request for its carryover shall be made to the president of the Commission before the end of that fiscal year.

The number of days of annual vacation carried over may not exceed the number of days of annual vacation to which the commissioner is entitled.

§4. *Legal holidays*

15. Full-time commissioners shall have the same annual statutory holidays as those that apply to the public service.

§5. *Travel and living expenses*

16. The commissioners shall be entitled to the reimbursement of travel and living expenses incurred in the performance of their duties in accordance with Décret 2500-83 dated 30 November 1983 concernant les règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux, as amended.

17. For the purposes of reimbursing expenses, the principal location for the performance of a commissioner's duties is specified in the instrument of appointment.

§6. *Resignation notice*

18. For the purposes of section 137.23 of the Labour Code, the notice of resignation given to the Minister of Labour shall be sent to the president of the Commission who shall send a copy thereof to the Associate Secretary General for Senior Positions at the Ministère du Conseil exécutif.

§7. *Full leave without pay from the public service*

19. For the purposes of section 137.31 of the Labour Code, a public servant who is appointed commissioner of the Commission shall be, for the duration of the appointment and to discharge the duties of commissioner, on full leave without pay from the Ministère du Travail.

20. Commissioners who are on full leave without pay from the public service and resign their office or whose term is not renewed shall be reinstated in the Ministère du Travail with the salary received at the Commission if that salary is equal to or lower than the maximum of the applicable salary scale in the public service. If the salary at the Commission was higher, commissioners shall be reinstated with a salary equal to the maximum of the salary scale applicable under their classification in the public service.

§8. *Transition allowance and other similar measures*

21. Full-time commissioners who are not on full leave without pay from the public service and whose term of office is not renewed or who do not request a renewal of their term, shall receive a transition allowance.

The allowance at the time of departure is equal to one month's salary for each year of continuous service since the beginning of their term as full-time holders of a senior position appointed by the Government, without exceeding 12 months.

If the period is less than one year, the allowance shall be calculated proportionally to the number of days of service completed.

22. Commissioners who are dismissed or removed shall not receive a transition allowance.

23. Commissioners who no longer perform their duties, who received or are receiving the transition allowance prescribed in section 21 and who hold an office, employment or any other remunerated position in the public sector defined in Schedule III during the period to which the allowance applies, shall either repay the portion of the allowance that covers the period for which they received a salary, or cease to receive it during that period.

However, if the salary they receive is lower than that which they were previously receiving, they shall repay the allowance that equals the amount of the new salary and may continue to receive the portion of the allowance that exceeds their new salary.

The period covered by the transition allowance is the same as that which would have been covered by an equal amount had the commissioner received it as a salary while holding an office, an employment or a previous position.

24. Full-time commissioners who no longer perform their duties, who have benefited from a departure incentive program or its equivalent and who, within the two years following their departure, return to office, an employment or any other remunerated position in the public sector defined in Schedule III shall repay an amount equal to the amount received under the program up to the amount of the remuneration received during that two-year period as a result of their return.

25. Part-time teaching activities are not included in sections 23 and 24.

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

SCHEDULE I

(ss. 1, 2)

SALARY SCALE APPLICABLE TO COMMISSIONERS OF THE COMMISSION DES RELATIONS DU TRAVAIL

1. The salary scale applicable to commissioners of the Commission des relations du travail is the scale established for Level 3 full-time members of bodies under Décret 713-2000 dated 14 June 2000, as amended.

2. The hourly rate paid to commissioners of the Commission performing their duties part-time is calculated as follows:

The maximum of the scale applicable to Level 3 full-time members of bodies + 20%* ÷ 261 working days ÷ 7 hours per working day.

* Compensation for the absence of fringe benefits

SCHEDULE II

(s. 3)

**DETERMINATION OF THE STARTING SALARY
OF A COMMISSIONER APPOINTED TO THE
COMMISSION DES RELATIONS DU TRAVAIL**

For the purposes of determining the income to be used as a basis for the calculation of the starting salary of a commissioner appointed to the Commission des relations du travail, the following rules shall apply:

1. Take into account the regular salary with the previous employer, supported by a compulsory attestation by the employer.

2. Determine self-employment income by one of the following means:

— a financial statement prepared by an accounting firm;

— a copy of the T4 or Relevé 1 slips(s) showing the income for the year(s) of reference required;

— an affidavit in which the candidate attests to his or her income; or

— any other acceptable and accurate proof of the candidate's income.

3. Exclude from the salaries, earnings or income provided, any amount that is not of a regular nature such as premiums, overtime or other such bonuses.

4. Take into account, for the purposes of determining the salary, only the income from the principal employment, excluding income from casual employment or work done outside regular hours.

5. Subtract, in the case of candidates who are contract or casual employees of the Gouvernement du Québec, the percentage of their salary compensating for the absence of fringe benefits, where such a percentage is provided.

6. Establish an average over a number of years where income varies considerably because of profit-sharing income or income of another type.

SCHEDULE III

(ss. 4, 5, 8, 23, 24)

PUBLIC SECTOR

The public sector includes

1. the Government, a government department, the Conseil exécutif and the Conseil du trésor;

2. the Lieutenant-Governor's staff, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the National Assembly, where the law provides that its personnel is appointed in accordance with the Public Service Act (R.S.Q., c. F-3.1.1) and any body to which the National Assembly or one of its committees appoints the majority of the members;

3. any body that is established by an Act, pursuant to an Act, or by a decision of the Government, the Conseil du trésor or a Minister and that meets one of the following conditions:

(1) all or part of its appropriations for operating purposes appear under that heading in the budgetary estimates tabled in the National Assembly;

(2) its employees are required by law to be appointed in accordance with the Public Service Act;

(3) the Government or a Minister appoints at least half of its members or directors and at least half of its operating costs are borne directly or indirectly by the consolidated revenue fund or by other funds administered by a public body referred to in section 1 or 2 of this Schedule or by both at the same time;

4. the Public Curator;

5. any body or agency, other than those referred to in section 1, 2 or 3 of this Schedule, established by an Act, pursuant to an Act, or by a decision of the Government, the Conseil du trésor or a Minister and at least half of whose members or directors are appointed by the Government or a Minister;

6. any joint-stock company, other than a government body referred to in section 3 of this Schedule, of which more than 50% of the voting shares are part of the domain of the State or are owned by a government body referred to in sections 1 to 3 and 5 of this Schedule or by an undertaking referred to in this section;

7. any educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (R.S.Q., c. E-14.1);

8. any general and vocational college established in accordance with the General and Vocational Colleges Act (R.S.Q., c. C-29);

9. any school board referred to in the Education Act (R.S.Q., c. I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., c. I-14), and the Conseil scolaire de l'Île-de-Montréal;

10. any private institution accredited for purposes of subsidies under the Act respecting private education (R.S.Q., c. E-9.1);

11. any other educational institution of which more than one-half of the operating expenses are paid out of the appropriations entered in the budgetary estimates tabled in the National Assembly;

12. any public or private institution under agreement and any regional board referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2);

13. a regional council established under the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5);

14. any municipality, and any body declared by law to be the mandatory or agent of a municipality, and any body whose board of directors is composed of a majority of members of a municipal council, as well as any body otherwise under municipal authority;

15. any metropolitan community, intermunicipal board, intermunicipal transit corporation, intermunicipal board of transport, Kativik Regional Government and any other body whose board of directors is composed of a majority of elected municipal officers, except a private body.

SCHEDULE IV

(s. 9)

PERFORMANCE ASSESSMENT CRITERIA AND RATINGS

Annual performance assessments shall be based on the following criteria:

(1) Qualitative criteria include factors and standards for assessing the knowledge, skills, attitudes and behaviour of commissioners in the exercise of their powers and duties, in particular,

(a) the knowledge and use of statutes, regulations, rules of evidence and procedure, and jurisprudence acquired through the means available to commissioners;

(b) the written quality of decisions, in particular, clarity, precision and conciseness;

(c) behaviour with respect to the parties, their witnesses and representatives, in particular during hearings;

(d) compliance with the code of ethics applicable to commissioners of the Commission des relations du travail;

(e) availability and interest in the work;

(f) communications and relations with the management and staff of the Commission; and

(g) participation in committees and activities related to a commissioner's duties.

(2) Quantitative criteria assess the quantitative contribution of commissioners with respect to the handling of cases, in particular,

(a) the number of cases settled following conciliation, withdrawal or an amicable settlement;

(b) the number of cases handled following inquiries and hearings of the parties, and the testimonies, arguments and the entire documentation pertaining to a case taken under advisement; and

(c) the number of decisions rendered.

The annual performance assessment shall be in keeping with the following ratings:

- A: performance that far exceeds required standards
- B: performance that exceeds required standards
- C: performance that meets required standards
- D: performance that is below required standards
- E: performance that is far below required standards.

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Gouvernement du Québec

O.C. 1194-2002, 2 October 2002

An Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001)

Commission des lésions professionnelles
— Procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners and for the renewal of their term of office
— Amendments

Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office

WHEREAS, under section 395 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), amended by section 29 of chapter 22 of the Statutes of 2002, the Government shall establish a procedure for the renewal of the term of office of a commissioner of the Commission des lésions professionnelles; the regulation may, in particular, fix the composition of the committees to examine the renewal of a commissioner's term of office and the mode of appointment of committee members, who shall neither belong to nor represent the Administration within the meaning of the Public Administration Act (R.S.Q., c. A-6.01);

WHEREAS section 39 of the Act to amend the Act respecting administrative justice and other legislative provisions (2002, c. 22) provides namely that the first regulation made under section 395 of the Act respecting

industrial accidents and occupational diseases shall not be subject to the publication requirement provided for in section 8 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS, by Order in Council 566-98 dated 22 April 1998, the Government made the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office;

WHEREAS it is expedient to amend the Regulation;

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

THAT the Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office*

An Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001, s. 395; 2002, c. 22, s. 29)

1. The following is substituted for the second and third paragraphs of section 26 of the Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office:

* The Regulation respecting the procedure for the recruiting and selection of persons declared to be qualified for appointment as commissioners to the Commission des lésions professionnelles and for the renewal of their term of office, made by Order in Council 566-98 dated 22 April 1998 (1998, *G.O.* 2, 1752), has not been amended since it was made.