

(3) university level institutions 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) and which are not included in paragraph 2 of this section;

(4) general and vocational colleges established under the General and Vocational Colleges Act (R.S.Q., c. C-29);

(5) school boards governed by 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;

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

(7) any other educational institution over half of the expenditures of which are provided for in the estimates tabled in the National Assembly otherwise than under a transferred appropriation;

(8) public or private institutions under agreement referred to in the Act respecting health services and social services (R.S.Q., c. S-4.2);

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

(10) municipalities of fewer than 10,000 inhabitants and any body referred to in section 18 or 19 of the Act respecting the pension plan of elected municipal officers (R.S.Q., c. R-9.3);

(11) regional development councils and local development centres referred to in the Act respecting the Ministère des Régions (R.S.Q., c. M-25.001); and

(12) any person whose job or function consists, even substantially, in lobbying on behalf of an association or other non-profit group not constituted to serve employer, union or professional interests, nor composed of a majority of members that are profit-seeking enterprises or representatives of profit-seeking enterprises.

**2.** Considering section 71 of the Lobbying Transparency and Ethics Act, the provisions of paragraph 10 of section 1 will cease to have effect on 1 July 2005.

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

## Draft Regulation

Code of Civil Procedure  
(R.S.Q., c. C-25)

### Mediation small claims

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the mediation of small claims, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of this draft Regulation is to determine the conditions a mediator must satisfy to be certified, the rules and obligations applicable to the function of certified mediator, as well as the sanctions for non-compliance with those rules and obligations, and also the tariff of fees payable to certified mediators by the mediation service in relation to the same action.

The draft Regulation should not have a significant impact on businesses.

Further information may be obtained by contacting Mtre Sylvie Lachance or Mtre Jacques Fiset, Direction générale des services de justice, 1200, route de l'Église, 7<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4M1; telephone: (418) 644-7700 or (418) 644-1163; fax: (418) 644-9968.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Justice, 1200, route de l'Église, 9<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4M1.

NORMAND JUTRAS,  
*Minister of Justice*

## Regulation respecting the mediation of small claims

Code of Civil Procedure  
(R.S.Q., c. C-25, a. 997, pars. b, c and d; 2002, c. 7, s. 148)

### DIVISION I CONDITIONS FOR CERTIFICATION

**1.** Advocates or notaries must apply for certification to their professional order.

To be certified as a mediator, an advocate or notary must have taken mediation training, given under the responsibility of his or her professional order, on the following subjects :

- (1) the mediation process;
- (2) modes of alternative dispute resolution;
- (3) helping parties to reach an agreement;
- (4) preparing draft agreements; and
- (5) interest-based mediation.

**2.** Advocates and notaries certified as mediators on (*insert the date of coming into force of this Regulation*), pursuant to the Regulation respecting family mediation, made by Order in Council 1686-93 dated 1 December 1993, are considered to have the training referred to in section 1.

**3.** Mediators certified under section 1 or 2 must obtain an accreditation certificate from their professional order.

**4.** Certified mediators must ensure that their professional order forwards the following information to the Minister of Justice without delay :

- (1) the mediator's name;
- (2) the address of the mediator's professional domicile;
- (3) the name of the judicial district where the mediator practises his or her profession;
- (4) the mediator's telephone numbers, and where applicable, fax number;
- (5) the mediator's e-mail address, where applicable; and
- (6) the mediator's membership number.

## DIVISION II DUTIES AND OBLIGATIONS

**5.** A mediation mandate is entrusted to a mediator in an individual capacity, and the mediator shall undertake to hold the mediation session, without the possibility of transferring the mandate to another mediator.

**6.** A mediator who has been entrusted with a mediation mandate by the clerk of the Court of Québec shall communicate with the parties to schedule the mediation session. The date and time must suit both parties and must be respected by the mediator.

**7.** The mediator must hold the mediation session within 30 days following the date on which the mandate was received from the clerk.

**8.** The mediation session must be held at the location agreed upon by both parties.

If either of the parties is absent, or if both parties are absent, the mediator must wait a minimum of 30 minutes after the scheduled time before cancelling the mediation session.

**9.** During the mediation session, the mediator shall examine the claim and supporting documents. The mediator shall inquire about each party's allegations and arguments, provide them with legal information regarding their situation, suggest courses of action that may lead to a resolution and propose solutions, if required. The mediator must create an atmosphere conducive to the amicable settlement of the conflict.

**10.** If the mediation is successful, the mediator shall assist the parties in drafting an agreement or the notice provided for in article 973 of the Code of Civil Procedure (R.S.Q., c. C-25), replaced by section 148 of chapter 7 of the Statutes of 2002.

If the mediation fails, the mediator shall file a report of the failure with the clerk of the Court of Québec and attach it to the report referred to in article 973 of the Code.

**11.** Mediators must clearly act in an impartial manner at all times in performing their duties. They must refrain from intervening in a dispute in which their impartiality may be questioned, and from placing themselves in situations of potential conflict of interest.

**12.** The clerk may terminate the mandate of a mediator who does not comply with the provisions of this Regulation.

The clerk may also stop assigning mandates to the mediator.

**13.** An advocate or notary who, pursuant to the Professional Code (R.S.Q., c. C-26), has been temporarily or permanently struck off the roll, whose permit has been revoked or suspended, may not act as a mediator from the date on which the advocate or notary was struck off, had his or her permit revoked or suspended.

On being notified about this situation, the clerk must inform the parties and appoint another mediator to the case.

**14.** Mediators who stop performing their mediator duties or practising their profession must require their professional order to inform the Minister of Justice, without delay, of the cessation.

### **DIVISION III**

#### **TARIFF OF FEES**

**15.** The fee for carrying out a mediation mandate is \$95 per session and the mediator may not claim any other remuneration from the parties.

**16.** Where the mediator's report states that a mediation session was not held due to the absence of one or both of the parties invited to attend, the mediator receives \$50 in fees and may not claim any other remuneration from the parties.

**17.** Transportation expenses, research fees, communication expenses and any other charges, costs or expenses are borne by the mediator and the mediator may not claim, directly or indirectly, payment or reimbursement from the parties.

**18.** The fees prescribed in this Regulation are indexed on 1 April of each year on the basis of the rate of increase in the general Consumer Price Index for Canada for the 12-month period ending on 31 December of the preceding year, as determined by Statistics Canada.

The fees, thus indexed, are reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50; they are increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50.

The Minister of Justice shall inform the public, through Part 1 of the *Gazette officielle du Québec* and by such other means as the Minister considers appropriate, of the indexing calculated under this section.

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