

## Draft Regulations

### Draft Regulation

An Act respecting municipal courts  
(R.S.Q., c. C-72.01)

#### Municipal courts — Judicial selection procedure

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the draft Regulation respecting the judicial selection procedure for municipal courts, the text of which appears below, may be made by the Government upon the expiry of a period of 45 days from this publication.

The draft Regulation sets out the rules for applying for judicial appointment to a municipal court; the rules on the establishment, composition, and appointment of members of a committee to select candidates for judicial appointment; and the selection criteria to be used by the committee for evaluating candidates.

The draft Regulation also revokes the Regulation respecting the procedure for the selection of persons for appointment as municipal judges made by Order in Council 915-89 dated 14 June 1989.

Up to now, study of the matter has revealed no impact on the public or on businesses.

Further information on the draft Regulation respecting the judicial selection procedure for municipal courts may be obtained by contacting Mtre Pierre Legendre, 1200, route de l'Église, 9<sup>e</sup> étage, Sainte-Foy (Québec) G1V 4M1; by telephone at (418) 643-4090; or by fax at (418) 643-3877.

Any person who wishes to submit comments 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 judicial selection procedure for municipal courts

An Act respecting municipal courts  
(R.S.Q., c. C-72.01, ss. 34, 35 and 118)

#### DIVISION I NOTICE OF JUDICIAL VACANCY

**1.** When a judicial appointment must be made to a municipal court, the Minister of Justice shall publish, *inter alia*, in the journal of the Barreau du Québec or in a daily newspaper of general circulation in Québec, a notice inviting interested persons to submit an application.

**2.** The notice must include the following information:

(1) the court on which there is a vacancy;

(2) the requirement that interested persons apply on the form appearing in Schedule A and provide the documents referred to in section 5;

(3) the application deadline, which must be between the 30th and 40th days following the date of publication of the notice; and

(4) the address of the coordinator designated by the Minister to whom applications must be sent.

**3.** The Minister is not required to have a new notice published so long as a list maintained pursuant to section 22 contains the names of candidates declared suitable for judicial appointment to the same municipal court for which the notice referred to in section 2 was published.

**4.** The coordinator shall forward the notice to the chief judge of the Court of Québec, to the associate chief judge of the Court of Québec responsible for municipal courts, to the Conseil de la magistrature, and to the Bâtonnier of the Province of Québec.

## DIVISION II JUDICIAL CANDIDATES

**5.** Persons who wish to apply must, no later than the date indicated in the notice, submit to the coordinator the form appearing in Schedule A, duly completed, along with a recent photograph and a record of their entry on the Roll of the Order of Advocates.

Paper documents sent by mail are presumed received by the coordinator on the date of mailing. Technology-based documents are presumed received by the coordinator when they become accessible at the address of the coordinator, as provided in section 31 of the Act to establish a legal framework for information technology (R.S.Q., c. C-1.1).

**6.** Notwithstanding section 5, a municipal court judge may apply for a judicial position on another municipal court in writing expressing his or her interest in the position. The application must be sent to the coordinator within the time prescribed in the notice.

**7.** When an applicant's file is complete, the coordinator shall forward it to the chair of the selection committee established by the Minister and inform the applicant thereof. Any application that remains incomplete after the date indicated in the notice shall be returned to the applicant by the coordinator and the applicant is then deemed not to have applied.

## DIVISION III ESTABLISHMENT OF A SELECTION COMMITTEE

**8.** Following publication of the notice, the Minister shall establish a selection committee and appoint the members.

**9.** The committee shall be composed of

(1) the associate chief judge of the Court of Québec responsible for municipal courts or a municipal judge, who shall be the chair;

(2) an advocate who has practised the profession for at least ten years, appointed after consultation with the Barreau du Québec; and

(3) a person who is neither a judge nor an advocate.

The Minister may, in accordance with the procedure set out in the first paragraph, appoint a substitute member to act in the place of a member who is absent or who disqualifies himself or herself.

**10.** A member of the selection committee must disqualify himself or herself with respect to an application

(1) if that member is or has been the applicant's spouse;

(2) if that member is related to the applicant by blood or marriage to the degree of first cousin inclusively; or

(3) if that member is or has been a partner, employer, immediate superior, or employee of the applicant in the last five years.

The applicant may bring a ground for disqualification of one of its members to the committee's attention.

**11.** Committee members must take the oath of discretion appearing in Schedule B.

**12.** A person may be appointed a member of more than one committee at the same time.

## DIVISION IV EXPENSES AND ALLOWANCES OF COMMITTEE MEMBERS

**13.** Committee members receive fees of \$100 per half day for attending meetings, except the associate chief judge of the Court of Québec responsible for municipal courts, municipal judges under the authority of a president judge, and members who hold offices or positions in the public service or in a body or agency whose members are appointed by the Government.

**14.** Members are entitled to be reimbursed for expenses incurred to attend committee meetings, as provided in the order made under section 119 of the Courts of Justice Act (R.S.Q., c. T-16).

## DIVISION V OPERATION OF THE COMMITTEE

**15.** The chair shall convene each candidate, except candidates referred to in section 6, to an interview with the committee.

The chair shall determine the date and place of interviews and shall inform the candidates thereof.

**16.** A candidate may withdraw an application at any time before the interview with the committee. The candidate must notify the coordinator in writing as soon as possible. The candidate is then deemed, for the purposes of section 21, not to have submitted an application. Immediately upon receiving the notice of withdrawal, the coordinator shall inform the chair.

Where a candidate, owing to exceptional circumstances, cannot attend the scheduled interview, the committee may, on the candidate's request, postpone the interview or remove his or her name from the list of candidates. A candidate whose name is removed is deemed, for the purposes of section 21, not to have submitted an application. The chair shall inform the coordinator and the candidate thereof.

If a candidate does not attend the scheduled interview without exceptional circumstances as grounds for postponing it, the committee shall remove the candidate's name from the list of candidates. A candidate whose name is removed may not reapply for appointment to the same municipal court during the 12 months following the date of publication of the notice to which the candidate had responded.

**17.** The committee shall interview candidates privately.

#### **DIVISION VI** SELECTION CRITERIA

**18.** To assess a candidate, the committee shall consider the following criteria :

- (1) the candidate's conception of the judicial office ;
- (2) the candidate's involvement in the community ;
- (3) the candidate's ability to adapt to social realities ;
- (4) recognition by the legal community of the candidate's qualifications and skills ; and
- (5) the candidate's skills, including
  - (a) personal and intellectual qualities, integrity, knowledge, and general experience ;
  - (b) extent of knowledge of the law ; and
  - (c) capacity for judgment, insight, level-headedness, ability to set priorities and to render a decision within a reasonable time, and quality of expression.

#### **DIVISION VII** REPORT OF THE COMMITTEE

**19.** At the end of the interviews, the committee shall draw up a report indicating the names of the candidates it considers suitable for judicial appointment and include the candidates referred to in section 6.

The chair shall send the report to the Minister and a copy to the coordinator.

**20.** A member may dissent from all or part of the committee's report.

**21.** The decision of the committee on a candidate's suitability for judicial appointment is valid for any judicial appointment to the same municipal court for which a notice is published within 12 months following the date of publication of the notice to which the candidate had responded.

No candidate, except candidates referred to in section 6, may reapply for appointment to the same municipal court during that period.

**22.** The coordinator shall establish and maintain a list of the candidates who have been declared suitable for judicial appointment.

The coordinator shall send the updated list to the Minister after receiving a report.

#### **DIVISION VIII** MISCELLANEOUS, TRANSITIONAL AND FINAL

**23.** If, after receiving a committee's report and considering the list of candidates declared suitable for judicial appointment, the Minister is of the opinion that, in the best interests of justice, an appointment cannot be recommended to the Government, the Minister may have another notice published as provided in Division I.

The committee that made a report following the first notice shall then convene the candidates who submit an application following the second notice and report to the Minister as provided in this Regulation.

**24.** The names of judicial candidates, committee reports, the lists of candidates declared suitable for judicial appointment, and the documents relating to applications are confidential. All documents shall be kept by the coordinator.

However, where the judicial vacancy for which a candidate applied has been filled, the coordinator shall write to the candidates who had been convened by the committee to inform them as to whether they have been declared suitable for judicial appointment and the period of validity of the committee's decision regarding them as provided in section 21.

The coordinator shall not disclose any other information contained in the report or related to the Minister's recommendation.

**25.** The coordinator shall take the oath of discretion appearing in Schedule B upon his or her designation.

**26.** The Regulation respecting the procedure for the selection of persons for appointment as municipal judges made by Order in Council 915-89 dated 14 June 1989 is revoked.

However, that Regulation continues to apply to the selection procedures in progress on the date of coming into force of this Regulation.

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

## SCHEDULE A

(ss. 2 and 5)

### APPLICATION FOR JUDICIAL APPOINTMENT TO A MUNICIPAL COURT

#### I. GENERAL

1. Indicate the court on which there is a vacancy.
2. Indicate the number of the notice of the judicial vacancy.
3. Surname :
4. Given name :
5. Date of birth :
6. Business address :  
Telephone number :  
Fax number :  
E-mail address :
7. Residential address :  
Telephone number :  
Fax number :  
E-mail address :
8. Where should your mail be sent ?  
 Office                       Residence
9. Date on which you obtained your permit to practise the profession of advocate in Québec :
10. Since that date, have you always been entered on the Roll of the Order of Advocates ?  
 yes                       no (specify)
11. In which section of the Bar are you currently entered ?
12. Are you or have you ever been a member of another professional order ?  
 yes (specify)                       no

#### II. POST-COLLEGE STUDIES

##### § UNIVERSITY

13. Name of institution :
14. Degree obtained :
15. Year degree obtained :

##### § PROFESSIONAL TRAINING

16. Name of institution :
17. Year permit to practise obtained :

#### III. EMPLOYMENT AND PROFESSIONAL ACTIVITIES

18. Indicate the positions you held and the experience you acquired before obtaining an undergraduate degree in law that you consider relevant to judicial office.

19. Indicate all the positions you have held, including your current position, as well as the experience you have acquired since you obtained your undergraduate degree in law, whether or not the position or experience is related to the practice of the profession of advocate.

20. Are you currently performing adjudicative functions, for example in a judicial or administrative tribunal, government body or agency, or on a committee on discipline of a professional order ?

21. Indicate your legal activities or experience that you consider relevant to the exercise of judicial office.

22. Indicate your activities, experience, or involvement in other areas that you consider relevant to judicial office.

23. Explain the reasons for your interest in a judicial position.

#### IV. OTHER INFORMATION

24. Have you ever been summoned by a committee of the Bar entrusted with verifying your eligibility to practise the profession ?

25. Have you ever been disqualified from practising the profession of advocate under section 122 of the Act respecting the Barreau du Québec (R.S.Q., c. B-1) ?

26. Are you or have you ever been the subject of a penalty or a recommendation rendered by the Committee on Discipline of the Barreau du Québec, by the Professional Inspection Committee of Advocates, by a committee on discipline of another professional order, or by the Professions Tribunal ? (If so, indicate the nature of the penalty or recommendation and the reasons.)

27. Are you or have you ever been the subject of a penalty or a recommendation rendered outside Québec which, if it had been rendered in Québec, would have had the effect of a penalty or a recommendation rendered by a court or committee referred to in Question 26 ? (If so, indicate the nature of the penalty or recommendation and the reasons.)

28. Have you ever been found guilty of contempt of court ? (If so, explain and indicate the nature of the decision and the reasons.)

29. Have you ever been found guilty of a criminal offence or an indictable offence ? (If so, explain and specify the offence and the sentence given.)

30. If you have been found guilty of such an offence, were you granted a pardon ?

31. Are you a plaintiff or defendant in a pending suit before a court or committee referred to in Question 26 or 27 ? (If so, explain and indicate the file number.)

32. Are there currently one or more unexecuted judgments against you in any civil, criminal, matrimonial, or penal matter ? (If so, explain.)

33. Are you currently having or have you ever had any other problems with the law ? (If so, explain briefly.)

34. Are you or have you been in the last five years in serious financial difficulties that could compromise your impartiality if you were appointed as a judge ?

35. Do you have any physical or mental ailment that could prevent you from performing judicial duties ? (If so, explain.)

36. Do you have a dependency on drugs or alcohol ?

## V. DOCUMENTS

The applicant must include with this form a recent photograph and a record of his or her entry on the Roll of the Order of Advocates.

## VI. CONSENT

I declare that all the information provided in this form and the attached documents are complete and accurate. Any declaration made in this document that I know to be false or misleading or to contain inaccurate, misleading, or incomplete information renders my application null and void.

I authorize inquiries to be made concerning me of any disciplinary body, any professional order to which I belong or have belonged, and of police authorities. I also authorize consultations with persons or organizations that could be useful for the assessment of my application concerning the information provided in this form, the attached documents, and any other aspect of my application.

I undertake not to disclose anything about my interview with the selection committee.

I undertake to inform the coordinator designated by the Minister to implement the judicial selection procedure for municipal courts of any change likely to modify the information provided in this document during the period of validity of the committee's decision concerning my application.

Signed at \_\_\_\_\_ this \_\_\_\_\_  
(day, month, year)

\_\_\_\_\_  
Signature

## SCHEDULE B (ss. 11 and 25)

### OATH OF DISCRETION

I declare under oath that I will not reveal or disclose anything that may come to my knowledge in the discharge of my duties, unless duly authorized to do so.

\_\_\_\_\_  
Name of declarant

Sworn before me

at \_\_\_\_\_

this \_\_\_\_\_

\_\_\_\_\_  
Person authorized to take oaths

5634