

“The amounts provided for in section 21 shall be, as of 1 January 2004, indexed on the basis of the index referred to in the first paragraph.”.

**6.** These Amendments come into force on the fifteenth day following the date of their publication in the *Gazette officielle du Québec*.

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## Draft Regulation

An Act to foster the development of manpower training (R.S.Q., c. D-7.1)

### Determination of total payroll

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 determination of total payroll, the text of which appears below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation gives effect to the 2003-2004 Budget Speech. Currently, only those employers whose total annual payroll is \$250,000 or less are exempted from the application of the Act to foster the development of manpower training (R.S.Q., c. D-7.1). The purpose of the draft Regulation is to increase that amount to \$1,000,000 as of 1 January 2004.

Further information may be obtained by contacting André Bertoldi, Direction du Fonds national de la formation de la main-d'œuvre, ministère de l'Emploi, de la Solidarité sociale et de la Famille, édifice Tour de la Place-Victoria, 800, rue du Square-Victoria, 28<sup>e</sup> étage, C.P. 100, Montréal (Québec) H4Z 1B7, telephone: (514) 864-3682; fax: (514) 873-2189.

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 Employment, Social Solidarity and Family Welfare, 425, rue Saint-Amable, 4<sup>e</sup> étage, Québec (Québec) G1R 4Z1.

CLAUDE BÉCHARD,  
*Minister of Employment, Social  
Solidarity and Family Welfare*

## Regulation respecting the determination of total payroll

An Act to foster the development of manpower training (R.S.Q., c. D-7.1, s. 3)

**1.** Every employer whose total payroll for a calendar year exceeds \$1,000,000 is required to participate for that year in the development of manpower training as provided in section 3 of the Act to foster the development of manpower training (R.S.Q., c. D-7.1).

**2.** This Regulation replaces the Regulation respecting the determination of total payroll made by Order in Council 1585-95 dated 6 December 1995.

**3.** It comes into force on 1 January 2004.

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## Draft Regulation

Professional Code  
(R.S.Q., c. C-26)

### Notaries

— Code of ethics  
— Amendments

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 to amend the Code of ethics of notaries”, adopted by the Bureau of the Chambre des notaires du Québec, may be submitted to the government, which may approve it with or without amendment upon the expiry of 45 days following this publication.

According to the Chambre des notaires du Québec, the main purpose of the draft regulation is to adapt certain rules of ethics to the realities of the practice of the notarial profession within a partnership or company as provided by the Regulation respecting the practice of the notarial profession within a partnership or company.

The draft regulation is also intended to introduce into the Code of ethics of notaries the terms and conditions under which a notary may communicate information protected by professional secrecy in order to prevent an act of violence, as required under the Act to amend various legislative provisions as regards the disclosure of confidential information to protect individuals (2001, c. 78).

The draft regulation has no impact on the economic burden of citizens and enterprises.

Further information may be obtained by contacting M<sup>re</sup> Nathalie Provost, notary, at Direction des services juridiques, Chambre des notaires du Québec, tour de la Bourse, 800, place Victoria, case postale 162, Montréal, (Québec), H4Z 1L8; telephone: (514) 879-1793 or 1-800-668-2473; fax: (514) 879-1923.

Any interested person having comments to make is requested to send them, before the expiry of the 45-day period, to the President of the Office des professions du Québec, 800, place d'Youville, 10<sup>e</sup> étage, Québec, (Québec), G1R 5Z3. The comments will be forwarded by the Office to the minister responsible for the administration of legislation governing the professions. They may also be forwarded to the professional order that has adopted the regulation, as well as to the persons, departments, and agencies concerned.

JEAN-K. SAMSON,  
*Chairman of the Office  
des professions du Québec*

## Regulation to amend the Code of ethics of notaries

Professional Code  
(R.S.Q., c. C-26, s. 87)

**1.** Section 12 of the Code of ethics of notaries is amended by the insertion of “immediately” before “responsible” and by the addition of the following at the end:

“The notary must ensure that the Notaries Act (R.S.Q., c. N-3) and the Professional Code (R.S.Q., c. C-26), and regulations made pursuant thereto, are respected by the employees, students, trainees, shareholders, partners, and all other persons he works with in the practice of the profession.

A notary who practices his profession in a partnership or company within the meaning of the Civil Code of Quebec or a limited liability partnership or joint-stock company within the meaning of chapter VI.3 of the Professional Code shall ensure that the partnership or company respects the Notaries Act and the Professional Code, and regulations made pursuant thereto. Moreover, where he acts in his capacity as a public officer, he shall ensure that the partnership allows him to carry on his professional activities while respecting the principle of impartiality inherent to this role.”

**2.** Section 14 of the Code is amended by the insertion of the following paragraph after the first paragraph:

“Similarly, he shall not falsely represent the competence of, or the effectiveness of the services generally ensured by, persons carrying on professional activities within the partnership or company.”

**3.** Section 18 of the Code is amended by the replacement of “legal person” with “partnership or company” and by the replacement of “owns” with “holds”.

**4.** Section 19 of the Code is amended by the insertion of “a” before “notarial act” and by the replacement of “his partner” with “a partner, shareholder, director, manager, officer, or employee of the partnership or company within which he carries on professional activities”.

**5.** Subparagraph 2 of section 26 of the English version of the Code is replaced by following:

“(2) the fact that the notary has a conflict of interest or is in a situation where his professional independence could be called into question;”

**6.** Section 29 of the Code is replaced by the following:

“**29.** Every notary shall safeguard his professional independence at all times and shall subordinate his personal interests and those of the partnership or company within which he carries on professional activities or in which he has an interest to those of his client.”

**7.** The Code is amended by the addition of the following after section 29:

“**29.1.** No notary shall conclude an agreement that could jeopardize the independence, impartiality, objectivity, or integrity required to practice the notarial profession.”

**8.** Section 30 of the Code is replaced by the following:

“**30.** A notary shall avoid all situations where he could have a conflict of interest.

A notary has an apparent conflict of interest where the interests are such that he may be inclined to give preference to some of them, or his judgment or loyalty may be unfavourably affected.

A notary has a conflict of interest where the interests are such that he gives preference to some of them, and his judgment or loyalty is unfavourably affected.

The notary shall promptly notify his client as soon as he is aware that he has an apparent conflict of interest. He shall reveal the family or business relationships, ties, or interests that are the source of the apparent conflict and must obtain written authorization from the client before proceeding with the mandate.

The notary shall cease to perform his duties as soon as he is aware that he has a conflict of interest.”

**9.** The Code is amended by the addition of the following after section 30:

**30.1** A notary shall take prompt measures to ensure that information and documents relevant to professional secrecy are not disclosed to a partner, shareholder, director, manager, officer, or employee of a partnership or company within which the notary carries on professional activities or in which he has an interest, where he becomes aware that the partner, shareholder, director, manager, officer, or employee has a conflict of interest.

The following factors must be considered in assessing the efficacy of such measures:

- (1) size of the partnership or company;
- (2) precautions taken to prevent access to the notary's file by the person or persons having the conflict of interest;
- (3) instructions given to protect confidential information or documents relating to the conflict of interest;
- (4) isolation, from the notary, of the person or persons having a conflict of interest.”.

**10.** Section 32 of the Code is replaced by the following:

**32.** No notary shall share his fees with a person who is not a member of a professional order governed by the Professional Code or of an organization listed in Schedule A of the Regulation respecting the practice of the notarial profession within a partnership or company.

Where a notary practices his profession within a partnership or company, the revenues generated by professional services rendered within and for the partnership or company belong to the partnership or company, unless agreed otherwise.”.

**11.** Section 34 of the Code is amended by the replacement of the English version of each occurrence of the word “person” with the word “party” and by the addition of the following paragraph at the end:

“For the purposes of this section, a partner, shareholder, director, manager, officer, or employee of a partnership or company within which the notary carries on professional activities is not a third party.”.

**12.** Section 36 of the Code is amended by the addition of the following at the end:

“A notary who, under section 14.1 of the Notaries Act, communicates information protected by professional secrecy in order to prevent an act of violence shall provide the following in a statement under professional oath:

- (1) the circumstances under which the information was communicated to him;
- (2) the content of the information;
- (3) the mode, date, and time of communication, the name and address of the person to whom the information was communicated, and if applicable, in what capacity that person received the information.

The statement must be kept in the client's file.”.

**13.** Section 37 of the Code is amended by the insertion of “, except for purposes of the internal administration of the partnership or company within which he carries on professional activities,” after “No notary shall”.

**14.** Section 40 of the Code is amended as follows:

- (1) by the replacement in the last line of the French version of “il” with “elle”;
- (2) by the replacement in the last line of the English version of “person” with “party”.

**15.** The English version of section 42 of the Code is amended by the replacement of “person” with “party”.

**16.** Section 44 of the Code is replaced by the following:

**44.** A notary who receives from a person concerned a request for access to a document or correction of information must accede to the request with due diligence, and in any event, not later than twenty days following the request.”.

**17.** Section 56 of the Code is amended as follows:

- (1) paragraph 2 is replaced by the following:
  - “(2) communicating, without the prior written permission of the syndic or assistant syndic, with a person who has requested an inquiry where he is informed that he is the subject of an inquiry into his conduct or professional competence or where he has been served notice of a complaint against him;”;

- (2) paragraph 12 is replaced by the following:

“(12) failing to promptly notify the Secretary of the Order where, pursuant to the Bankruptcy and Insolvency Act (S.C., 1997, c. 12), he or the partnership or company within which he carries on professional activities has made an assignment of property for the benefit of his creditors, is the subject of a receiving order, or has made a proposal that has been rejected by his creditors or dismissed or annulled by the court;”;

(3) the following paragraphs are added at the end :

“(13) carrying on professional activities within, or having an interest in, a partnership or company, with a person who, to the notary’s knowledge, acts in a manner compromising the dignity of the notarial profession ;

(14) carrying on professional activities within, or having an interest in, a partnership or company where a partner, shareholder, director, manager, officer, or employee of the partnership or company has been suspended for more than three (3) months or whose professional permit has been revoked, unless the partner, shareholder, director, manager, officer, or employee

(a) ceases to occupy the position of director, manager, or officer within the partnership or company within ten (10) days of the date on which his suspension or the revocation of his permit takes effect, or within any other period authorized by the Bureau ;

(b) ceases to attend shareholder meetings and to exercise his voting rights within ten (10) days of the date on which his suspension or the revocation of his permit takes effect, or within any other period authorized by the Bureau ;

(c) disposes of his voting shares or transfers them to a trustee within ten (10) days of the date on which his suspension or the revocation of his permit takes effect, or within any other period authorized by the Bureau.”.

**18.** Section 60 of the Code is replaced by the following :

“**60.** No notary shall unduly retain a file or document belonging to a client. The notary shall, upon request and upon payment of the fees and disbursements due to him or to the partnership or company within which he carries on professional activities, remit a client’s files and documents to the client or to a colleague with the client’s authorization.”.

**19.** Section 68 of the Code is amended by the addition of the following paragraph at the end :

“No notary shall allow a partnership or company within which he carries on professional activities to engage in, by any means whatsoever, advertising that is false, deceitful, incomplete, or liable to be misleading.”.

**20.** The heading of Chapter V of the Code is replaced by the following :

“**CHAPTER V**  
**FIRM NAME AND GRAPHIC SYMBOL”**

**21.** Section 74 of the Code is replaced by the following :

“**74.** No notary shall practise his profession within a partnership or company under a number name or under a name or designation that is deceitful or misleading or that compromises the honour or dignity of the notarial profession.

Only partnerships or companies where all services are offered by notaries may use the titles reserved for notaries in their names.”.

**22.** The English version of section 75 of the Code is replaced by the following :

“**75.** Where a notary retires from a partnership or company, or dies, his name must no longer appear in the name or advertising of the partnership or company after one year following retirement or death unless an agreement to the contrary has been entered into with him or with his successors and assigns.”.

**23.** The English version of section 76 of the Code is replaced by the following :

“**76.** Where a notary uses the graphic symbol or coat of arms of the Order for advertising purposes, he must ensure that they are associated with his name or the name of his partnership or company and that they are identical to the original held by the secretary of the Order.”.

**24.** The English version of section 77 of the Code is amended by the deletion of “the” before “coat of arms”.

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