

WHEREAS, in accordance with the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation was published in Part 2 of the *Gazette officielle du Québec* of 2 July 2003 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office des professions du Québec has made its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation to amend the Code of ethics of optometrists, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation to amend the Code of ethics of optometrists*

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

1. The Code of ethics of optometrists is amended by inserting the following after section 38:

“**38.1.** The communication by an optometrist of confidential information to ensure the protection of persons, pursuant to the third paragraph of section 60.4 of the Professional Code (R.S.Q., c. C-26), must:

(1) be made within a reasonable time to achieve the purpose intended by the communication; and

(2) be noted in the patient’s record, along with the name and contact information of any person to whom the information was communicated, the information in question, the reasons for the decision to communicate the information and the method of communication used.”.

* The Code of ethics of optometrists, approved by Order in Council 643-91 dated 8 May 1991 (1991, *G.O.* 2, 1691), was last amended by the regulation approved by Order in Council 1072-95 dated 9 August 1995 (1995, *G.O.* 2, 2680).

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

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Gouvernement du Québec

O.C. 25-2004, 14 January 2004

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

Geologists — Conciliation and arbitration procedure for the accounts

Regulation respecting the conciliation and arbitration procedure for the accounts of geologists

WHEREAS, under section 88 of the Professional Code (R.S.Q., c. C-26), the Bureau of a professional order must establish, by regulation, a conciliation and arbitration procedure for the accounts of the members of the order which may be used by persons having recourse to the services of the members;

WHEREAS the Bureau of the Ordre des géologues du Québec adopted the Regulation respecting the conciliation and arbitration procedure for the accounts of geologists;

WHEREAS, under section 95.3 of the Professional Code, a draft regulation was sent to every member of the order at least 30 days before its adoption by the Bureau;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation was published in Part 2 of the *Gazette officielle du Québec* of 11 June 2003 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS, in accordance with section 95 of the Professional Code, the Office des professions du Québec has made its recommendations;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for the administration of legislation respecting the professions:

THAT the Regulation respecting the conciliation and arbitration procedure for the accounts of geologists, attached to this Order in Council, be approved.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation respecting the conciliation and arbitration procedure for the accounts of geologists

Professional Code
(R.S.Q., c. C-26, s. 88)

DIVISION I CONCILIATION

1. A client who has a dispute with a geologist concerning the amount of an account for professional services, whether such account was paid in whole or in part or not paid, may apply in writing for conciliation by the syndic of the Ordre des géologues du Québec within 45 days following receipt of that account.

For the purposes of this Regulation, a client is a person required to pay the account of a geologist.

2. Where sums for payment of the account were withdrawn or withheld by the geologist from moneys kept or received by the geologist for or on behalf of the client, the time period begins to run when the latter becomes aware of the withdrawal or withholding.

3. An application for conciliation of an account for which no payment, withdrawal or withholding was made may be sent to the syndic after the expiry of 45 days prescribed in section 1, provided that it is sent before the client is served with proceedings concerning the account.

4. A geologist may not institute proceedings in respect of an account for professional fees within 45 days of the date of receipt of that account by the client.

5. Upon receipt of an application for conciliation, the syndic shall notify the geologist involved or, if unable to do so personally, the geologist's firm. The syndic shall also send the client a copy of this Regulation.

6. Once the geologist has been notified that the syndic has received the application for conciliation, the geologist may not institute proceedings in respect of an account for professional fees so long as the dispute may be settled by conciliation or arbitration. A geologist may request provisional measures in accordance with article 940.4 of the Code of Civil Procedure (R.S.Q., c. C-25).

7. The syndic shall proceed with the conciliation in the manner the syndic deems most appropriate.

To that end, the syndic may request from the geologist or client any information or document deemed appropriate.

8. Any agreement during conciliation shall be recorded in writing, signed by the client and the geologist and filed with the secretary of the Order.

9. If conciliation does not lead to an agreement within 30 days from the date of receipt of the application for conciliation, the syndic shall send a report on the dispute by registered or certified mail to the client and the geologist.

The report must contain, where applicable, the following information :

(1) the amount of the account for professional fees in dispute ;

(2) the amount that the client acknowledges owing ;

(3) the amount that the geologist acknowledges having to reimburse or is willing to accept in settlement of the dispute ; and

(4) the amount, if any, suggested by the syndic during conciliation as payment to the geologist or reimbursement to the client.

The syndic shall also send the client a form provided for in Schedule I and describe the procedure and deadline for submitting the dispute to arbitration.

10. The conciliation record shall be filed with the secretary of the Order. The record shall include the application for conciliation and the conciliator's report. The record shall be kept for at least one year, but no longer than five years.

DIVISION II ARBITRATION

§1. *Application for arbitration*

11. Within 30 days of receiving the conciliation report, a client may apply for arbitration of the account by sending the form provided for in Schedule I to the secretary of the Ordre des géologues du Québec by registered or certified mail. The client shall enclose a copy of the conciliation report and a certified cheque in the amount the client acknowledges owing with the application for arbitration.

12. Upon receipt of an application for arbitration, the secretary of the Order shall notify the geologist involved or, if unable to do so personally, the geologist's firm.

13. An application for arbitration may only be withdrawn in writing and with the geologist's consent.

14. If an agreement is reached between the parties after the application for arbitration, the agreement shall be recorded in writing, signed by the parties and filed with the secretary of the Order.

Where the agreement is reached after the council of arbitration has been formed, the agreement shall be recorded in the arbitration award and the council shall decide the expenses in accordance with the manner provided for in section 31.

§2. *Council of arbitration*

15. The council of arbitration shall be composed of three arbitrators when the amount in dispute is \$10 000 or more and of a single arbitrator when the amount in dispute is less than \$10 000.

16. The Bureau shall appoint the member or members of the council of arbitration from among the members of the Order. If the council consists of three arbitrators, the Bureau shall appoint the chair and secretary.

17. The secretary of the Order shall inform the arbitrators and the parties by mail that a council of arbitration has been formed.

18. A request that an arbitrator be recused may be filed only for a reason provided for in article 234 of the Code of Civil Procedure, except paragraph 7 of that article. It must be sent in writing to the secretary of the Order, to the council of arbitration and to the parties or their advocates within ten days of receiving the notice provided for in section 17 or of the day on which the reason for the request becomes known.

The Bureau shall rule on such request and, where required, shall see that the recused arbitrator is replaced.

19. Before acting, the members of the council of arbitration shall take the oath in Schedule II to the Professional Code (R.S.Q., c. C-26).

§3. *Hearing*

20. The secretary of the Order shall give the council of arbitration and the parties or their advocates at least ten days' written notice of the date, time and place of the hearing.

21. The parties are entitled to be represented by an advocate or to be assisted.

22. The council of arbitration may require the parties to submit to it, within a specified time limit, a statement of their claims together with supporting documents.

23. The council of arbitration shall, with diligence, hear the parties, receive their evidence or record their failure to appear. To that end, it shall follow the rules of procedure it deems most appropriate.

24. The chair shall draw up the minutes of the hearing and shall have them signed by the other members of the council, if applicable.

25. A party requesting that the testimony be recorded shall assume the cost thereof.

26. In the event of an arbitrator's death or inability to act, the other arbitrators shall see the matter to its completion. If that arbitrator is the chair of the council of arbitration, the Bureau shall designate one of the other two members to act as chair.

If the council of arbitration consists of a single arbitrator, that arbitrator shall be replaced by a new arbitrator appointed by the Bureau and the dispute shall be reheard.

§4. *Arbitration Award*

27. The council of arbitration shall issue its award within 60 days of the end of the hearing.

28. The award shall be issued by a majority of the members of the council. Failing a majority, the award shall be issued by the chair.

The award shall give reasons and shall be signed by all the members. If an arbitrator refuses or is unable to sign, the others shall indicate that fact and the award shall have the same effect as though it had been signed by all the arbitrators.

29. In its award, the council of arbitration may uphold, reduce or cancel the amount of the account in dispute, determine the reimbursement or payment to which a party is entitled and, where applicable, rule on the amount that the client acknowledged owing and that the client sent with the application for arbitration.

30. The expenses incurred by the parties for the holding of the arbitration shall be paid by each of them.

31. In its award, the council of arbitration may rule on the arbitration expenses, namely the expenses incurred by the Order for the arbitration. However, the total amount of the expenses must not exceed 15% of the amount in dispute.

32. Where the account in dispute is upheld in whole or in part or where a reimbursement is granted, the council of arbitration may also add interest and an indemnity in accordance with articles 1618 and 1619 of the Civil Code, calculated from the date of the application for conciliation.

33. The arbitration award is binding on the parties and is subject to compulsory execution in accordance with articles 946 to 946.6 of the Code of Civil Procedure.

34. An arbitration award shall be filed with the secretary of the Order by the council of arbitration. A copy of the arbitration award shall be sent to the parties or to their advocates within ten days after its filing.

35. The arbitration record shall be filed with the secretary of the Order. The record shall include the applications for conciliation and arbitration of accounts, the documents tabled by the parties and the award; the arbitration record shall be kept for at least one year, but no longer than five years.

Upon request, the secretary shall return to a party the documents it filed with the record.

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

SCHEDULE I

(s. 9)

APPLICATION FOR ARBITRATION OF ACCOUNT

I, the undersigned, _____
(name of client)

(domicile)

Declare that:

1. _____ is claiming from me
(name of geologist)
(or refuses to reimburse me) a sum of money for professional services.

2. I have enclosed a copy of the conciliation report.

3. I am applying for arbitration of the account under the Regulation respecting the conciliation and arbitration procedure for the accounts of geologists.

4. I declare that I have received and have taken cognizance of the above-mentioned Regulation.

5. I agree to abide by the procedure provided for in the Regulation and, where required, to pay to _____
(name of geologist) the amount of the arbitration award.

Signature

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Gouvernement du Québec

O.C. 28-2004, 14 January 2004

An Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs
(R.S.Q., c. M-25.2)

Program for the awarding of lands in the domain of the State for the installation of wind turbines

WHEREAS, under section 17.13 of the Act respecting the Ministère des Ressources naturelles, de la Faune et des Parcs (R.S.Q., c. M-25.2), amended by chapter 8 of the Statutes of 2003, the Minister may, with the approval of the Government, prepare programs for the development of lands or forest resources in the domain of the State that are under the Minister's authority in order to encourage regional development or implement any other governmental policy;