

Draft Regulation

Civil Code of Québec
(art. 564; 2004, c. 3, s. 14)

Youth Protection Act
(R.S.Q., c. P-34.1, s. 71.6; 2004, c. 3, s. 22)

Intercountry adoption bodies — Certification

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Order respecting the certification of intercountry adoption bodies, the text of which appears below, may be made by the Minister on the expiry of 45 days following this publication.

The draft Order sets out the conditions and qualifications that a body must meet to obtain certification to make intercountry adoption arrangements on behalf of persons domiciled in Québec. Among other things, the draft Order establishes the obligations required of bodies certified by the Minister in order to maintain certification, specifies the conditions for certification renewal and describes the types of offences that may give rise to a suspension or revocation of certification or a refusal to renew certification on conviction of the certified body or any of its officers, managers or directors.

Further information may be obtained by contacting

Luce de Bellefeuille
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Secrétariat à l'adoption internationale
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Any interested person having comments to make on the draft Order is asked to send them in writing, before the expiry of the 45-day period, to the Minister of Health and Social Services, 1075, chemin Sainte-Foy, 15^e étage, Québec (Québec) G1S 2M1.

PHILIPPE COUILLARD,
Minister of Health and Social Services

Order respecting the certification of intercountry adoption bodies

Youth Protection Act
(R.S.Q., c. P-34.1, ss. 71.17, 2nd par., 71.20,
1st par., 71.21 and 71.23, par. 6; 2004, c. 3, s. 22)

DIVISION 1 CONDITIONS AND QUALIFICATIONS FOR CERTIFICATION

1. Intercountry adoption certification is granted to a body that applies therefore in writing and meets the conditions prescribed by this Order.

2. A body applying for intercountry adoption certification must satisfy the following conditions:

(1) have its head office in Québec;

(2) have a board of directors composed of no fewer than five persons domiciled in Québec and who are Canadian citizens or permanent residents;

(3) have intercountry adoption as one of its objects, in its articles, and carry on no activity in Québec or elsewhere that is inconsistent with that object;

(4) have a trust account;

(5) in the previous 12 months, have travelled to the State of origin concerned and observed at first hand the conditions in which the adoption arrangements will be made;

(6) hold a resolution from its board of directors by which the body declares being bound by ethical principles and rules of conduct that are sensitive to the public interest and international context of intercountry adoption and that pertain to such matters as the services provided to adopters, respect for the rights of the children, the biological parents and the adopters, conflicts of interest, the use of the sums disbursed by the adopters, and relations with the other certified bodies; and

(7) have the human, physical and financial resources necessary to make arrangements on behalf of adopters domiciled in Québec for the adoption of a child domiciled in the State of origin concerned.

3. The body must also show that it is directed, managed and administered by persons who

(1) are aware of and adhere to the ethical principles and rules of conduct to which the body has declared itself bound;

(2) have sufficient knowledge of the current intercountry adoption laws in Québec and in the State of origin concerned and of the relevant immigration rules;

(3) have sufficient knowledge of the process leading to the adoption of a child domiciled in the State of origin concerned;

(4) have sufficient knowledge of the culture and socio-political situation in the State of origin concerned;

(5) know the competent intercountry adoption authorities in Québec and in the State of origin concerned;

(6) have the training or relevant experience to work in the field of intercountry adoptions, in particular in the areas of management, law, psychology, social work, international relations, child care and humanitarian aid;

(7) have produced a signed and sworn statement in which they declare having no direct or indirect interest in an enterprise or activity placing their personal interest in conflict with that of the body; and

(8) are domiciled in Québec and are Canadian citizens or permanent residents.

4. The body must make a certification application for each State of origin concerned using the form furnished by the Minister, and provide the following information:

(1) the name and address of the person authorized by the board of directors to file the certification application on the body's behalf;

(2) the name of the body and the registration number assigned to it under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45);

(3) the name, address and occupation of each member of its board of directors;

(4) the name, address and occupation of each person having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned; and

(5) the name and address of the public or private institutions in the State of origin concerned and the name, address and occupation of the persons working therein who collaborate or are in liaison with the body to obtain adoption proposals.

5. The body must submit the following documents with its application:

(1) a copy of the resolution of its board of directors authorizing the filing of a certification application for the State of origin concerned;

(2) the body's articles and general by-laws;

(3) a certified true copy of an official version of the laws of the State of origin concerned;

(4) a copy of the documents establishing the terms of cooperation between the body and the persons having responsibilities assigned by the body in connection with the pursuit of the arrangements made on behalf of the adopter in Québec and in the State of origin concerned, and describing the services that those persons are to provide and the fees charged for them;

(5) a true copy of the internal procedures for opening files and protecting the personal information the body collects, holds, uses or communicates to third parties in the course of its activities;

(6) budget projections for 24 months;

(7) a copy of the standard contract to be entered into with adopters, accompanied by a detailed list of the services offered to the adopters and a detailed breakdown of the costs of adopting in Québec and in the State of origin concerned;

(8) a copy of the resolution of its board of directors attesting that the body has declared itself bound by ethical principles and rules of conduct; and

(9) a certified true copy of the accreditation, if any, granted by the State of origin concerned.

6. A body that must be accredited by a competent authority in the State of origin in order to make adoption arrangements must, to the extent possible, obtain that accreditation before filing a certification application. If the body is unable to obtain the accreditation without being certified by the Minister, it must obtain the required accreditation within 12 months after being certified, unless extenuating circumstances exist.

7. Pursuant to the first paragraph of section 71.17 of the Act, every person who is an officer, manager or director of the body must provide the Minister with a criminal record check completed by a police force in Québec, and authorize the Minister in writing to verify the criminal record check with a police force in Québec.

DIVISION 2 **OBLIGATIONS OF A BODY CERTIFIED BY** **THE MINISTER**

§1. General obligations

8. A certified body must comply with the laws and regulations governing the adoption of a child domiciled outside Québec, including the provisions relating to the protection of personal information set out in the Civil Code and in the Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1).

The certified body must also comply at all times with the conditions required to obtain certification, and with any conditions imposed at the time certification is granted.

9. Every document produced pursuant to this Order that is drawn up outside Québec or is intended for a public or private institution in the State of origin concerned, if written in a language other than French or English, must be accompanied by a translation into French certified by an accredited translator, or in the absence of an accredited translator, by a qualified person in Québec.

10. A certified body must suspend registrations if so required by the situation in the State of origin concerned or if the body encounters difficulties in meeting its commitments to the adopters or the Minister. In such a case, the body must immediately so inform the Minister.

§2. Obligations towards adopters

11. Before making arrangements for the adoption of a child domiciled outside Québec on behalf of the adopters, the certified body must enter into a written contract with the adopters that specifies the services the body undertakes to provide to them and the respective responsibilities of each party to the contract; the contract must contain a breakdown of estimated costs with an indication of the person to whom the costs are payable and whether they may fluctuate, the manner in which the contract may be modified or terminated, and the refund procedure in the event the contract is terminated. The contract must specify when it takes effect and when it ends.

The certified body must respect the commitments in the contract and provide to the adopters the services specified therein.

12. As minimum services provided to the adopters, a certified body must

(1) offer information sessions that deal with matters including the services offered by the certified body to adopters, the conditions in the State of origin concerned, the profile of the children proposed for adoption and the support services offered after the child arrives in Québec;

(2) support the adopters in their proposed adoption;

(3) inform the adopters of any change likely to have an impact on how their proposed adoption is to proceed;

(4) verify the documents provided by the adopters, ensure that the file is complete and compliant and forward the file to the State of origin concerned;

(5) receive adoption proposals and ensure that they conform to the recommendations in the psychosocial assessment;

(6) pursue the adoption process in the proper manner, in particular by seeing to the timely forwarding of all documents required by the authorities in Québec and in the State of origin concerned;

(7) inform the adopters on the procedures after the child arrives in Québec, such as the judicial procedure and application for citizenship, and ensure follow-up;

(8) conduct follow-up on the sending of the child's progress reports in accordance with the requirements of the State of origin; and

(9) cooperate in research into family and medical antecedents or reunions.

13. A certified body may not require an amount of money be paid to it by the adopters before the contract has been signed by the parties.

The body must provide receipts for all amounts of money paid to it by the adopters.

14. A certified body may not propose a child for adoption before receiving the positive psychosocial assessment report on the adopters.

An adoption proposal that does not conform to the psychosocial assessment must be processed in collaboration with the Minister.

§3. *Obligations towards the Minister*

15. A certified body must inform the Minister in writing of any change in the information furnished in the certification application within 30 days following the change or, if the body is unable to do so within that time, as soon as the body is able to do so.

16. A certified body must send to the Minister a copy of the documents setting out the terms of its cooperation with the public or private institutions in the State of origin concerned.

The terms of the cooperation must be consistent with the laws that apply in Québec and in the State of origin.

§4. *Trust accounts*

17. A certified body must deposit in its trust account all amounts paid to it for services to be provided, disbursements to be made or charges to be paid to third parties.

18. A certified body must maintain books, records and accounts pertaining to its activities and enter therein all sums of money received by the body in trust, all disbursements made by it out of the trust account and the unexpended balance of the money held by it in trust.

19. A certified body must also maintain accounting records showing all receipts and all disbursements, distinguishing between

(1) money received in trust for adopters and disbursements of money held in trust; and

(2) money received and money disbursed in the body's own account.

§5. *Reports and follow-up on the body's activities*

20. The fiscal year of a certified body begins on 1 April and ends on 31 March.

21. A certified body must make an annual report to the Minister on its activities. The report, which is to cover the period ending on 31 March of the current year, must be made on or before 30 June of each year and contain the following information and documents:

(1) its financial statements prepared by a certified accountant, a certified management accountant or a certified general accountant;

(2) a copy of the standard contract used by the body;

(3) a list of adopters who have completed the process and the date on which their file was forwarded to the State of origin concerned;

(4) the name and address of the financial institution in which the trust account has been opened, the account number and the balance at 31 March;

(5) the average cost for the current year of fully processing an adoption file, with a breakdown by spending item, and the cost range for the entire file base if the charges vary from one file to another; and

(6) a summary of its development activities that concern intercountry adoption and mutual humanitarian assistance.

The certified body is to make only one report if it is certified or accredited in more than one State of origin. In such a case, the required information and documents must enable the report to be examined State by State.

22. The Minister is to monitor the activities of the certified body for the entire duration of certification. The Minister may send a written notice of non-compliance to a certified body if the body

(1) does not comply with the conditions of its certification;

(2) fails to perform a legal duty; or

(3) fails to inform the Minister of a change in the particulars submitted in support of the certification application such as the costs of adoption, the names of the foreign collaborators or the standard contract.

23. A written notice of non-compliance becomes part of the certified body's file.

DIVISION 3

CONDITIONS FOR CERTIFICATION RENEWAL

24. A certified body wishing to renew certification must make a written application to the Minister six months before the expiry of current certification, using the form furnished by the Minister. A certification renewal application must include an updating of the documents submitted under section 5.

25. The requisite conditions and qualifications referred to in section 1 also apply to certification renewal.

26. Before renewing certification, the Minister must assess the certified body's past record in intercountry adoptions and the situation in the State of origin concerned. For that purpose the Minister may consult the competent adoption or immigration authorities.

The Minister must consider such factors as

(1) the number of adoptions that have taken place and the conduct of the process in those adoptions;

(2) the number of complaints made against the certified body;

(3) the notices of non-compliance entered in the certified body's file;

(4) the certified body's relations with the institutions and public or private authorities in the State of origin concerned; and

(5) the certified body's relations with the Minister and the competent adoption or immigration authorities in Québec.

DIVISION 4 LIST OF OFFENCES

27. For the purposes of paragraph 6 of section 71.23 of the Act, the offences that may lead the Minister to suspend, revoke or refuse to renew certification are the following, whether committed in Québec or abroad:

(1) an offence with violence or of a sexual nature;

(2) an offence relating to child protection;

(3) an offence relating to the falsification of documents, fraud, false pretenses, theft, false representation or corruption;

(4) a criminal organization offence;

(5) an offence relating to privacy or the protection of personal information; and

(6) an offence relating to the possession, trafficking, importing or exporting of weapons, drugs or other illicit substances.

The certified body, and any officer, manager or director wishing to remain in office, must without delay notify the Minister of any conviction for an offence listed in the first paragraph and as soon as feasible provide the Minister with any document or information enabling the

Minister to make an enlightened decision regarding the suspension or revocation of certification or refusal to renew certification.

DIVISION 5 COMING INTO FORCE

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

7002

Draft Regulation

An Act respecting occupational health and safety (R.S.Q., c. S-2.1)

Occupational health and safety — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1) and section 224 of the Act respecting occupational health and safety (R.S.Q., c. S-2.1), that the Regulation to amend the Regulation respecting occupational health and safety, the text of which appears below, may be made by the Commission de la santé et de la sécurité du travail and submitted to the Government for approval on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to ensure the health and safety of workers by amending the Regulation respecting occupational health and safety.

To that end, it proposes to amend certain provisions respecting air quality and certain lifting apparatus, such as fork lift trucks and aerial basket lifting devices. It also proposes the addition of certain provisions concerning the minimum age and the training of fork lift truck and aerial basket lifting device operators. It provides for amendments to Parts 1 and 4 of Schedule I concerning certain substances and their characteristics. It also provides for additional safety measures concerning work in enclosed spaces and welding and cutting operations. In addition, it makes a reference to the most recent standard concerning safety shoes.

To date, study of the matter has shown little impact on enterprises and in particular on small and medium-sized businesses.

Further information may be obtained by contacting Louis Tremblay, Commission de la santé et de la sécurité du travail, 524, rue Bourdages, Québec (Québec) G1K 7E2. Telephone: (418) 266-4699; fax: (418) 266-4698.