

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

7754

### Draft Regulation

An Act respecting industrial accidents and occupational diseases  
(R.S.Q., c. A-3.001)

#### Commission des lésions professionnelles — Evidence, procedure and practice — 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 Rules to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles, the text of which appears below, may be approved by the Government on the expiry of 45 days following this publication.

The purposes of the draft Regulation are

- to adapt the current Regulation to new information technologies;
- to facilitate the processing of contested cases pertaining to the existence of an occupational disease;
- to specify the procedure governing the representation of a party;
- to modify the summoning procedure;
- to introduce a requirement to produce prior notice of the presence at the hearing of a professional to testify on the state of health of a worker or as an expert witness;
- to change the list of non-judicial days.

Further information may be obtained by contacting Claude Verge, Commission des lésions professionnelles, 900, place D'Youville, bureau 800, Québec (Québec) G1R 3P7; telephone: 418 643-7129; fax: 418 528-6063; e-mail: procedure@clp.gouv.qc.ca

Any 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 undersigned at the Commission des lésions professionnelles, 900, place D'Youville, bureau 800, Québec (Québec) G1R 3P7; e-mail: procedure@clp.gouv.qc.ca

MICHELINE BÉLANGER,  
*President of the Commission  
des lésions professionnelles*

### Rules to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles\*

An Act respecting industrial accidents and occupational diseases  
(R.S.Q., c. A-3.001, s. 429.21)

**1.** Section 3 of the Rules of evidence, procedure and practice of the Commission des lésions professionnelles is amended

(1) by inserting the following after subparagraph 3 of the first paragraph:

“(3.1) if the applicant contests a decision not to recognize the existence of an occupational disease, the applicant must communicate to the board the names of the employers for whom the work of a nature to induce the disease was carried on;”;

(2) by replacing the second paragraph by the following:

“Unless the application instituting the proceeding is sent to the board using an information technology medium, the applicant must send a copy of the contested decision.”.

**2.** Section 4 is amended

(1) by replacing “of address, telephone, fax number or electronic mail address” by “in the contact information”;

(2) by replacing “notified” by “communicated”.

**3.** Section 5 of the English text is replaced by the following:

“**5.** Every application other than an application to institute proceedings must specify the number assigned by the board to each case to which the application refers.”.

**4.** Section 6 is replaced by the following:

“**6.** A party who wishes to discontinue his application must send the board a notice that clearly reflects that choice. The notice must be signed by the party or the party’s representative.

\* The Rules of evidence, procedure and practice of the Commission des lésions professionnelles, approved by Order in Council 217-2000 dated 1 March 2000 (*G.O.* 2, 1298), have not been amended since.

A party may also do so orally at the hearing.”.

**5.** Section 8 is replaced by the following :

“**8.** A person who accepts to represent a party after the case is opened shall send the board a notice in which the person declares to be authorized to act for that purpose and identifies each contested case for which the person is authorized to act. The board shall consider that the authorization to act is valid for all the stages of the case.

If the authorization to act is revoked before a case is closed, the party or the party’s representative must send the board a notice to that effect.”.

**6.** The heading of Division IV is amended by replacing “EXHIBITS” by “EVIDENCE”.

**7.** Section 9 is replaced by the following :

“**9.** The board must communicate to the party the proceedings, evidence, notices and other information related to the progress of the case. If a party is represented, the communications must be sent to the representative.

However, even if the party is represented, the party must receive proceedings that have an impact on the continuation or closure of the record of the contestation or on the hearing, as well as the decision.”.

**8.** Section 10 is replaced by the following :

“**10.** A party wishing to file evidence in the record shall send it to the board as soon as possible so that the board may reproduce it and send it to the other parties before the hearing.”.

**9.** Section 11 is replaced by the following :

“**11.** If the board encounters technical difficulties reproducing a piece of evidence, the board may require the party who filed the evidence to reproduce it and to send it to the other parties within the time and on the conditions determined by the board.”.

**10.** The following is inserted after section 11 :

“**11.1.** If evidence filed in the record by a party may not be communicated to the other parties by the board, because of the nature or characteristics of the evidence, the board must inform the parties that the evidence has been filed and that it may be examined at the office of the board where it was filed.

**11.2.** A writing filed in the record less than 15 days before the date of the hearing must be filed in 5 copies. It must also have been communicated to the other parties.

**11.3.** A party at the hearing who wishes to submit a document using an information technology medium must ensure that the board has the equipment required to read it.

The party must provide the required equipment if the board does not have it.

The board may require that the party file a copy of the document on another medium to make its examination easier.”.

**11.** Section 14 is amended by replacing “an exhibit” by “evidence”.

**12.** The heading of Division V is replaced by the following :

“SUBPOENA”.

**13.** Section 15 is replaced by the following :

“**15.** A witness may be required to testify before the board, to file a document with it, or both.”.

**14.** The following is inserted after section 15 :

“**15.1.** A witness is summoned by means of a subpoena issued by the board.

The subpoena form is signed by a commissioner and completed and notified by the party at the party’s expense, and it is incumbent on the party to prove the date of notification.

It contains information useful to the party who completes it and to the witness.

**15.2.** The subpoena must be notified at least 10 days prior to the date of appearance.

Despite the foregoing, in cases of urgency, a commissioner may, by special order entered on the subpoena, reduce the 10-day notification period; however, the notification must be carried out at least 24 hours before the time set for the appearance.

**15.3.** A witness who is required to provide documents concerning the state of health of a person must take the necessary measures to protect the confidentiality of the information in the documents, where applicable.

**15.4.** A party who proposes to have a professional testify on the state of health of a worker or to produce an expert witness must inform the board of his decision as soon as the decision is made.

The party must then give the name and profession of the witness to the board.”.

**15.** Sections 16 and 17 are revoked.

**16.** Sections 18 and 19 are respectively renumbered as 16 and 17.

**17.** Section 20 is renumbered as 18 and is replaced by the following:

“**18.** The board may record testimony and arguments on audiotape, by videoconference or by any other appropriate means.

No one else may do so without the board’s authorization.

Only the board is authorized to record images of the hearing.”.

**18.** Section 21 is renumbered as 19.

**19.** Section 22 is renumbered as 20 and is amended by replacing “the exhibits” in paragraph 5 by “each piece of evidence”.

**20.** Sections 23 and 24 are respectively renumbered as 21 and 22.

**21.** Section 25 is renumbered as 23 and the third paragraph is replaced by the following:

“The witness must then state his name and address.”.

**22.** Sections 26 and 27 are respectively renumbered as 24 and 25.

**23.** The following is inserted after section 25:

“**25.1.** The cost of the services of an interpreter is borne by the party who hires the interpreter. However, the board must provide the services of an interpreter to a deaf person.”.

**24.** Sections 28 to 39 are respectively renumbered as 26 to 37.

**25.** Section 40 is renumbered as 38 and is replaced by the following:

“**38.** If the board receives a notice of return of a notice of proof and hearing, it may give notice thereof by posting it in one of its offices.”.

**26.** Section 41 is renumbered as 39 and is amended by replacing “filed with” in the first, second and third paragraphs by “received by”.

**27.** Section 42 is renumbered as 40 and is amended

(1) by replacing “computing a delay” in the first paragraph by “computing a time period” and “the start of the delay” by “the start of the period”;

(2) by striking out “, except for a delay in clear days,” in that paragraph;

(3) by replacing the second paragraph by the following:

“The following are non-judicial days:

(1) Sundays;

(2) 1 and 2 January;

(3) Good Friday;

(4) Easter Monday;

(5) 24 June;

(6) 1 July or 2 July if 1 July is a Sunday;

(7) the first Monday of September;

(8) the second Monday of October;

(9) 25 and 26 December;

(10) the day fixed by proclamation or order of the Governor General for the celebration of the birthday of the Sovereign;

(11) any other day fixed by proclamation or order of the Government as a public holiday or as a day of thanksgiving.”.

**28.** Section 43 is renumbered as 41 and is amended in the French text by replacing “accomplir un acte” by “faire une chose” and “cet acte peut être valablement fait” by “cette chose peut être valablement faite”.

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