

Gouvernement du Québec

O.C. 618-2007, 1 August 2007

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

Commission des lésions professionnelles
— Rules of evidence, procedure and practice
— Amendments

Regulation to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles

WHEREAS, under section 429.21 of the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), the Commission des lésions professionnelles may, by way of a by-law passed by a majority of the commissioners, make rules of evidence, procedure and practice specifying the manner in which the rules established under Division XV of Chapter XII of the Act are to be applied;

WHEREAS, under that section, the Commission des lésions professionnelles made the Regulation to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the Regulation to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles was published in Part 2 of the *Gazette officielle du Québec* of 16 August 2006, with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Labour:

THAT the Regulation to amend the Rules of evidence, procedure and practice of the Commission des lésions professionnelles, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation 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. The Title of the Rules of evidence, procedure and practice of the Commission des lésions professionnelles is replaced by the following:

“Regulation respecting evidence and procedure of the Commission des lésions professionnelles”.

2. Section 3 of the Rules respecting 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 that does not 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.”.

3. 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”.

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

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

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

5. Section 6 is replaced by the following:

“6. A party who wishes to discontinue the 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.

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

6. 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 that person declares to be authorized to act for that purpose and identifies each contested case for which that 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.”

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

8. 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 communication of the 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.”

9. 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.”

10. 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.”

11. 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 in order to facilitate its examination.”

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

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

“SUBPOENA”.

14. 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.”

15. 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 as well as 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 to do so as soon as the decision is made.

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

16. Sections 16 and 17 are revoked.

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

18. 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.”.

19. Section 21 is renumbered as 19.

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

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

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

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

23. Sections 26 and 27 are respectively renumbered as 24 and 25.

24. 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.”.

25. Sections 28 to 39 are respectively renumbered as 26 to 37.

26. 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.”.

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

28. 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.”.

29. 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”.

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

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Gouvernement du Québec

O.C. 647-2007, 7 August 2007

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

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

WHEREAS the Government approved the Program for the awarding of lands in the domain of the State for the installation of wind turbines by Order in Council 928-2005 dated 12 October 2005;

WHEREAS the program may apply to lands in the domain of the State that have already been the subject of a delegation of management in favour of municipalities or regional county municipalities under sections 17.13 and following of the Act respecting the Ministère des Ressources naturelles et de la Faune (R.S.Q., c. M-25.2);

WHEREAS it is expedient to amend the Program for the awarding of lands in the domain of the State for the installation of wind turbines to allow the municipalities or regional county municipalities to manage the Program on lands in the domain of the State whose management has been delegated to them;

WHEREAS it is expedient to amend the Program to allow the bidder who has entered into a contract with Hydro-Québec for the purchase of wind energy, following a tender solicitation, to obtain a reserved land area for the carrying out of the wind turbine installation project;

WHEREAS it is expedient to amend the Program to fix the rent for lands in the domain of the State on which wind turbines are to be installed and to determine an annual indexing mechanism;

WHEREAS it is expedient to amend the Program for various technical and consequential considerations;

IT IS ORDERED, therefore, on the recommendation of the Minister of Natural Resources and Wildlife:

THAT the Program for the awarding of lands in the domain of the State for the installation of wind turbines, approved by Order in Council 928-2005 dated 12 October 2005, be amended

(1) by striking out the definitions of “legal person” and “market rent” in section 2;

(2) by replacing section 3 by the following:

“3. TERRITORY OF APPLICATION

The Program applies to lands in the domain of the State under the authority of the Minister, including lands whose management is delegated to a regional county municipality or a municipality under a management delegation program for lands in the domain of the State.

A regional county municipality or a municipality that participates in a management delegation program for lands in the domain of the State or that has signed a territory management agreement or a management delegation agreement with the Minister under such a program may be authorized by the Minister to manage the provisions of the wind program on those lands.

A regional county municipality or a municipality thus authorized must apply the terms and conditions of this Program in compliance with the instructions of the Minister, including the analytical framework for the installation of wind turbines on lands in the domain of the State (Ministère des Ressources naturelles et de la Faune, March 2007), and the orientations stated in the Plan régional de développement du territoire public (PRDTP) – Volet éolien ou à l’analyse territoriale – Volet éolien pour la région concernée.

The terms and conditions in the territory management agreement or the management delegation agreement signed with the Minister that are not inconsistent with those of this Program apply to its management by the regional county municipality or the municipality.”;

(3) by replacing the first paragraph of section 10 by the following: