

(b) ceases to attend shareholder meetings and to exercise voting rights, if applicable, within 10 days of the date on which the striking off the roll or permit revocation becomes executory, or within any other period authorized by the Bureau; and

(c) disposes of his or her voting shares or transfers them to a trustee within 10 days of the date on which the striking off the roll or or permit revocation becomes executory, or within any other period authorized by the Bureau.”.

10. Section 51 is amended by inserting “and, if applicable, the name of the partnership or joint-stock company within which the bailiff practises the profession” after “title of bailiff”.

11. Section 53 is amended by replacing “All the partners in a bailiff partnership are jointly and severally” by “All the bailiffs who are partners or shareholders and practise the profession within the same partnership or joint-stock company are solidarily”.

12. Division X is replaced by the following:

**“DIVISION X
NAME OF THE PARTNERSHIP OR JOINT-STOCK
COMPANY**

57. Bailiffs may not practise the profession within a partnership or joint-stock company under a name that is misleading, deceptive or contrary to the honour or dignity of the profession or that is a number name.

58. Bailiffs who practise the profession within a partnership or joint-stock company must take reasonable measures to ensure that any document produced by the partnership or joint-stock company in the practice of the profession is identified in the name of a bailiff.”.

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

8854

Draft Regulation

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

Bailiffs

— Practice of the profession within a partnership or a joint-stock company

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 practice of the profession of bailiff within a partnership or a joint-stock company”, made by the Bureau of the Chambre des huissiers de justice du Québec, may be submitted to the Government which could approve it with or without amendment, on the expiry of 45 days following this publication.

The Draft Regulation contains specific provisions to set the terms and conditions authorizing the practice of the profession of bailiff within a partnership or joint-stock company, in particular as regards the management of the partnership or joint-stock company and the holding of shares or units.

In accordance with Chapter VI.3 of the Professional Code (R.S.Q., c. C-26), the conditions proposed include the obligation to subscribe liability insurance for the partnership or joint-stock company to cover faults on the part of the partners in the practice of the profession within the partnership or joint-stock company. The partners must also provide the Ordre with the required information on the partnership or joint-stock company and keep it up-to-date.

The Chambre des huissiers de justice du Québec foresees no impact on enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Ronald Dubé, Director General and Secretary of the Chambre des huissiers de justice du Québec, 390, boulevard Henri-Bourassa Ouest, Montréal (Québec) H3L 3T5; telephone: 514 721-1100; fax: 514 721-7878; e-mail: rdube@huissiersquebec.qc.ca

Any interested person having comments to make is asked to send them, before the expiry of the 45-day period, to the Chair of the Office des professions du Québec, 800, place D'Youville, 10^e étage, Québec (Québec) G1R 5Z3. The comments will be sent by the Office to the Minister responsible for the administration of legislation respecting the professions; they may also be sent to the professional order which adopted the Regulation and to interested persons, departments and bodies.

JEAN PAUL DUTRISAC,
*Chair of the Office des
professions du Québec*

Regulation respecting the practice of the profession of bailiff within a partnership or a joint-stock company

Professional Code
(R.S.Q., c. C-26, s. 93, pars. *g* and *h* and s. 94, par. *p*)

DIVISION I GENERAL

1. Bailiffs may, subject to the terms, conditions and restrictions established in this Regulation, carry on their professional activities within a joint-stock company or a limited liability partnership within the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26).

Bailiffs must at all times take reasonable measures to ensure that the company or partnership allows them to comply with the Court Bailiffs Act (R.S.Q., c. H-4.1), the Professional Code (R.S.Q., c. C-26) and the regulations made under that Code or that Act.

2. Bailiffs may carry on their professional activities within a partnership or company referred to in the first paragraph of section 1 that holds itself out exclusively as a partnership or joint-stock company of bailiffs if at all times

(1) the majority of the voting rights attached to the company shares or partnership units are held

(a) by one or more bailiffs;

(b) by a joint-stock company where at least 90% of the voting rights attached to the shares are held by one or more bailiffs carrying on their professional activities within the partnership or joint-stock company;

(c) by a trust where all the trustees are bailiffs carrying on their professional activities within the partnership or joint-stock company; or

(d) by both persons and trusts referred to in subparagraphs *a* to *c*;

(2) a majority of the directors of the board of directors of the joint-stock company or of the partners or directors appointed by the partners to manage the affairs of the limited liability partnership are bailiffs carrying on their professional activities;

(3) no partner, director, officer or shareholder of the partnership or joint-stock company is to assume responsibilities or perform duties incompatible with the practice of the profession of bailiff, as provided in the Code of ethics of bailiffs approved by Order in Council 550-2002 dated 7 May 2002; and

(4) to constitute a quorum at a meeting of the board of directors or, as the case may be, the internal management board of the partnership or joint-stock company, the majority of members present who may express themselves must be bailiffs.

Bailiffs who are partners, directors, officers or shareholders of the partnership or joint-stock company must ensure that the conditions listed in the first paragraph appear in the articles of the joint-stock company or in the contract of the limited liability partnership and that the documents stipulate that the partnership or joint-stock company is constituted for the purpose of carrying on professional activities.

3. If a person referred to in section 2 is struck off the roll for a period in excess of three months or has had his or her permit revoked, the person may not, during the period of the striking off or revocation, directly or indirectly hold any units in the partnership or shares in the joint-stock company.

During that period, the person may not hold the position of director, officer or representative of the partnership or joint-stock company.

4. A bailiff who wishes to carry on professional activities within a partnership or joint-stock company must, before starting to carry on the activities, provide the secretary of the Order with the following:

(1) a sworn declaration in compliance with section 5, accompanied by a fee of \$150;

(2) a written document from the competent authority to the effect that the partnership or joint-stock company is covered by security in compliance with Division II;

(3) in the case of a joint-stock company, a copy of the incorporating instrument issued by the competent authority, certifying the existence of the joint-stock company;

(4) a written document from the competent authority to the effect that the partnership or joint-stock company is registered in Québec;

(5) an irrevocable written undertaking from the partnership or joint-stock company within which the bailiff carries on professional activities allowing a person, committee or tribunal referred to in section 192 of the Professional Code to require disclosure of and obtain any document listed in section 12 of this Regulation from a person, or to obtain a true copy of such a document; and

(6) where applicable, a true copy of the declaration required under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., c. P-45), stating that the general partnership has become a limited liability partnership.

5. The sworn declaration in paragraph 1 of section 4 is made on the form provided for that purpose by the secretary of the Order and contains

(1) the bailiff's name, member number and status within the partnership or joint-stock company;

(2) the name of the partnership or joint-stock company within which the bailiff carries on professional activities and any other names used by the partnership or joint-stock company, as well as the business number assigned to it by the enterprise registrar;

(3) the legal form of the partnership or joint-stock company;

(4) a confirmation that the conditions referred to in section 2 are met;

(5) the address of the head office or, as the case may be, of the principal establishment of the partnership or joint-stock company and the address of its other establishments;

(6) in the case of a joint-stock company, the names and home addresses of the directors and officers of the company and the order or professional group to which they belong, where applicable;

(7) in the case of a limited liability partnership, the names and home addresses of the partners and directors of the partnership and the order or professional group to which they belong, where applicable;

(8) where applicable, the date on which the general partnership is continued as a limited liability partnership; and

(9) identification, where applicable, of the respondent acting under section 6 and confirmation that the respondent accepts the mandate and undertakes to ensure the accuracy of the information provided to the Order and immediately notify the Order of the end of the mandate.

6. If more than one bailiff carries on professional activities within a partnership or joint-stock company, one respondent may make a declaration for all the bailiffs in the partnership or company.

The respondent's declaration is each bailiff's declaration and each bailiff remains fully responsible for the accuracy of the information provided pursuant to paragraphs 1 and 2 of section 5.

The respondent must be a bailiff who is a partner, director, officer or shareholder of the partnership or company.

7. A bailiff or respondent must

(1) update and provide, before 31 March of each year, the declaration prescribed in paragraph 1 of section 4, accompanied by a fee of \$50; and

(2) promptly notify the secretary of the Order of any change in the security prescribed in Division II or in the information given in the declaration prescribed in paragraph 1 of section 4 that might violate the conditions set out in section 2.

8. If a bailiff becomes aware that a condition set out in this Regulation or in Chapter VI.3 of the Professional Code is no longer met, the bailiff must, within 15 days, take the necessary measures to comply, failing which the bailiff is no longer authorized to carry on professional activities within the partnership or joint-stock company.

DIVISION II

PROFESSIONAL LIABILITY COVERAGE

9. A bailiff who carries on professional activities within a partnership or joint-stock company must furnish and maintain, for the partnership or company, security against the professional liability of the partnership or company that may arise from fault or negligence on the part of the bailiff in carrying on professional activities within the partnership or joint-stock company, by joining the professional liability group insurance plan contract entered into by the Order.

10. The security must include

(1) an undertaking by the insurer to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the bailiff pursuant to the Règlement sur l'assurance de la responsabilité professionnelle de la Chambre des huissiers de justice du Québec, approved by the Office des professions du Québec on 3 February 2000 according to a notice of approval published in the *Gazette officielle du Québec* dated 23 February 2000, up to the amount of the security, any sum that the partnership or joint-stock company may be legally bound to pay to third parties on a claim filed during the coverage period and arising from fault or negligence on the part of the bailiff in the carrying on of professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer to take up the cause of the partnership or joint-stock company and defend it in any action against it and to pay, in addition to the amounts covered by the security, all legal costs of actions against the partnership or joint-stock company, including the costs of the inquiry and defence and interest on the amount of the security;

(3) an undertaking by the insurer that the security is not less than \$1,000,000 per claim and not less than \$1,000,000 for all claims per annual coverage period, regardless of the number of members in the partnership or joint-stock company;

(4) an undertaking by the insurer that the security extends to all claims submitted in the five years following the date on which a bailiff carrying on professional activities within the partnership or joint-stock company dies, withdraws from the partnership or joint-stock company or ceases to be a member of the Order, in order to maintain coverage for the partnership or joint-stock company for fault or negligence on the part of the bailiff while carrying on professional activities within the partnership or joint-stock company;

(5) where a bailiff carries on alone all professional activities within a joint-stock company, an undertaking by the insurer that the security is not less than \$500,000 per claim and not less than \$1,000,000 for all claims per annual coverage period; and

(6) an undertaking by the insurer to give the secretary of the Order a 30-day prior notice of intent to terminate the coverage, to modify it with respect to any of the conditions set out in this section or not to renew it.

DIVISION III
ADDITIONAL INFORMATION

11. Bailiffs carrying on professional activities within a general partnership that is continued as a limited liability partnership, or within a joint-stock company or a limited liability partnership that is established, must send to their clients, within 15 days of the occurrence, a notice informing them of the nature and effects of the occurrence of the partnership or joint-stock company, in particular with respect to the bailiff's professional liability and that of the partnership or joint-stock company.

12. The documents that may be required from a partnership or company pursuant to paragraph 5 of section 4 are as follows:

(1) if the bailiff carries on professional activities within a joint-stock company,

(a) an up-to-date register of the articles and by-laws of the joint-stock company;

(b) an up-to-date register of the shares of the joint-stock company;

(c) an up-to-date register of the shareholders of the joint-stock company;

(d) an up-to-date register of the directors of the joint-stock company;

(e) any shareholders' agreement or voting agreement, and amendments;

(f) any agreement concerning a stock option with voting rights or concerning any other right, even if conditional, granted to a person and enabling the person to be issued such stock;

(g) the declaration of registration of the joint-stock company and any update; and

(h) the names and home addresses of the company's principal officers;

(2) if the bailiff carries on professional activities within a limited liability partnership,

(a) the partnership contract and amendments;

(b) the declaration of registration of the partnership and any update;

(c) the names and home addresses of the partnership's principal officers;

(d) an up-to-date register of the partners; and

(e) where applicable, an up-to-date register of the directors of the partnership.

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

8853