

Gouvernement du Québec

O.C. 647-2009, 4 June 2009

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

Bailiffs

— Code of ethics
— Amendments

Regulation to amend the Code of ethics of bailiffs

WHEREAS, under section 87 of the Professional Code (R.S.Q., c. C-26), amended by section 56 of chapter 11 of the Statutes of 2008, the board of directors of a professional order must make, by regulation, a code of ethics governing the general and special duties of the professional towards the public, clients and the profession, particularly the duty to discharge professional obligations with integrity;

WHEREAS the board of directors of the Chambre des huissiers de justice du Québec made the Regulation to amend the Code of ethics of bailiffs;

WHEREAS, under section 95.3 of the Professional Code, a draft of the Regulation was sent to every member of the Chambre at least 30 days before being made by the board of directors;

WHEREAS, pursuant to section 95 of the Professional Code, amended by section 63 of chapter 11 of the Statutes of 2008, and subject to section 95.2 of the Code, amended by section 65 of chapter 11 of the Statutes of 2008, every regulation made by the board of directors of a professional order under the Code or an Act constituting a professional order must be transmitted to the Office des professions du Québec for examination and be submitted, with the recommendation of the Office, to the Government which may approve it with or without amendment;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Code of ethics of bailiffs was published in Part 2 of the *Gazette officielle du Québec* of 16 July 2008 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 has examined the Regulation and made its recommendation;

WHEREAS it is expedient to approve the Regulation with amendments;

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

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

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Code of ethics of bailiffs*

Professional Code
(R.S.Q., c. C-26, s. 87; 2008, c. 11, ss. 1 and 56)

1. The Code of ethics of bailiffs is amended by inserting the following after section 5:

“**5.1.** Bailiffs who practise the profession within a partnership or joint-stock company must take reasonable measures to ensure that the partnership or joint-stock company, as well as the persons, employees, students, trainees, shareholders or partners working with them in the practice of the profession comply with the Court Bailiffs Act, the Professional Code (R.S.Q., c. C-26) and the regulations thereunder.

5.2. The duties and obligations under the Court Bailiffs Act, the Professional Code and their regulations are in no way changed or reduced by the fact that the bailiff practises the profession within a partnership or joint-stock company.”

2. The following is inserted after section 8:

“**8.1.** Bailiffs who foresee that essential aspects of all or a part of the services for which they are being retained may be provided by another person must so inform the client.

8.2. Bailiffs must handle with care any property entrusted to them. They may not lend it or use it for purposes other than those for which it was entrusted to them and must return it to its rightful possessor once the professional services have been performed.

* The Code of ethics of bailiffs, approved by Order in Council 550-2002 dated 7 May 2002 (2002, *G.O.* 2, 2504), has been amended once, by the regulation approved by Order in Council 836-2003 dated 20 August 2003 (2003, *G.O.* 2, 2715).

Bailiffs who practise the profession within a partnership or joint-stock company must take reasonable measures to ensure that the partnership or joint-stock company complies with the requirements of the first paragraph when the property is entrusted to the partnership or joint-stock company in the performance of the professional services.”.

3. Section 14 is amended by replacing “liability” by “their liability or, if applicable, the liability of the partnership or joint-stock company within which they practise the profession or the liability of another person who also practises there”.

4. The following is inserted after section 18:

“**18.1.** A bailiff must take reasonable measures to ensure that confidential information or documents relevant to the file are not disclosed to a partner, shareholder, director, officer or employee of a partnership or joint-stock company in which the bailiff practises the profession or has an interest, as soon as the bailiff becomes aware that the partner, shareholder, director, officer or employee has a conflict of interest.

The following factors must be taken into particular account in assessing the effectiveness of such measures:

- (1) the size of the partnership or joint-stock company;
- (2) the precautions taken to prevent access to the bailiff’s file by the person in the conflict of interest;
- (3) the instructions given to protect confidential information or documents relating to the conflict of interest;
- (4) the isolation of the person in the conflict of interest with respect to the bailiff.”.

5. Section 20 is amended by replacing “interest nor” by “interest,” and by adding “, or in matters that concern a partner or shareholder of the partnership or joint-stock company in which the bailiff performs professional activities” at the end.

6. Section 22 is replaced by the following:

“**22.** Bailiffs may share their fees only with the partnership or joint-stock company within which they practise the profession, another bailiff, a trust or a partner or shareholder in that partnership or joint-stock company.

Where a bailiff practices the profession within a partnership or joint-stock company, the revenues generated by professional services rendered within and

for the partnership or joint-stock company belong to the partnership or joint-stock company, unless agreed otherwise.

The first and second paragraph do not apply to the fees received by a bailiff who is employed exclusively by a municipal court.”.

7. Section 23 is amended by inserting the “or who practise the profession within the same partnership or joint-stock company as the bailiffs” after “in their employ”.

8. Section 32 is amended by replacing the first paragraph by the following:

“**32.** For the acts described in section 8 of the Court Bailiffs Act, all the bailiffs who are partners or shareholders and practise the profession within the same partnership or joint-stock company are solidarily liable in the partnership or joint-stock company for the application of the Tariff of fees and transportation expenses for bailiffs (R.R.Q., 1981, c. H-4, r.3), unless it is demonstrated that the derogation is attributable to the personal initiative of one bailiff.”.

9. Section 40 is amended

- (1) by replacing paragraph 9 by the following:

“(9) except for bailiffs employed exclusively by a municipal court, concluding a pact, an agreement or an understanding with a view to sharing or distributing fees with any person other than the partnership or joint-stock company within which the bailiff practises the profession, another bailiff, a trust or a partner or shareholder of the partnership or joint-stock company;”;

- (2) by replacing paragraph 11 by the following:

“(11) using blackmail, intimidation, threats or assault in the performance of professional duties, either personally or through an agent, the partnership or joint-stock company within which the bailiff practises the profession or the partners, directors, officers or shareholders of the partnership or joint-stock company;”;

- (3) by replacing paragraph 15 by the following:

“(15) the direct or indirect purchase of movable or immovable property by the serving bailiff or bailiffs who are partners, shareholders, directors, officers, employees or ordinary mandataries of the partnership or joint-stock company within which the bailiff practises the profession, in any judicial sale under the Code of Civil Procedure (R.S.Q., c. C-25);”;

(4) by inserting “and to the Regulation respecting the practice of the profession of bailiff within a partnership or a joint-stock company, approved by Order in Council 646-2009 dated 4 June 2009 in paragraph 22 after “Act”;

(5) by replacing paragraph 24 by the following:

“(24) failing to promptly inform the secretary of an intended assignment of property by the bailiff or the partnership or joint-stock company within which the bailiff practises the profession, that such an assignment has been made or that the bailiff, partnership or joint-stock company is the subject of a receiving order;”;

(6) by adding the following after paragraph 26:

“(27) practising the profession within, or having an interest in, a partnership or joint-stock company, with a person who, to the knowledge of the bailiff, performs acts that are derogatory to the dignity of the profession of bailiff;

(28) practising the profession within, or having an interest in, a partnership or joint-stock company if a partner, shareholder, director, officer or employee of the partnership or joint-stock company has been struck off the roll for more than 3 months or has had his or her professional permit revoked, unless the partner, shareholder, director, officer or employee

(a) ceases to hold the position of director or officer within the partnership or joint-stock company 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 board of directors;

(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 board of directors; 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 permit revocation becomes executory, or within any other period authorized by the board of directors.”.

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*.

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Gouvernement du Québec

O.C. 648-2009, 4 June 2009

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

**Certified management accountants
— Compulsory continuing education for Québec
certified management accountants who hold
a public accountancy permit**

Regulation concerning compulsory continuing education for Québec certified management accountants who hold a public accountancy permit

WHEREAS, under the second paragraph of section 187.10.2 of the Professional Code (R.S.Q., c. C-26, amended by chapter 11 of the Statutes of 2008), the board of directors of the Ordre professionnel des comptables agréés du Québec must determine, by regulation, the continuing education activities in which a chartered accountant who practises public accountancy is required to take part, the