

Regulations and other Acts

Gouvernement du Québec

O.C. 700-2010, 18 August 2010

An Act respecting legal aid and the provision of certain other legal services
(R.S.Q., c. A-14)

Report relating to the services rendered by certain advocates and notaries

Regulation respecting the report relating to the services rendered by certain advocates and notaries

WHEAREAS, under subparagraph *u* of the first paragraph of section 80 of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., c. A-14), as amended by section 27 of chapter 12 of the Statutes of 2010, the Government may, by regulation, determine how an advocate or notary must report to the Commission des services juridiques du Québec under the Act concerning the fees and expenses relating to the legal services rendered, when the report must be made, and the exceptional cases in which no such report is required;

WHEAREAS, under subparagraph *v* of the first paragraph of section 80 of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., c. A-14), as amended by section 27 of chapter 12 of the Statutes of 2010, the Government may, by regulation, determine the rules applicable to the payment of fees and expenses by the Commission, including the date on which prescription of a claim relating to a statement of fees and expenses payable by a centre or the Commission under the Act begins to run;

WHEAREAS, under section 35 of the Act to provide a framework for mandatory state financing of certain legal services (2010, c. 12), the Regulation, provided it is made in the year 2010, is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., c. R-18.1) and it comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date set in the Regulation and its provisions may have effect from any date not prior to 4 June 2010;

WHEAREAS it is expedient to make the Regulation;

WHEAREAS, it is advisable that the Regulation come into force on 7 September 2010;

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

THAT the Regulation respecting the report relating to the services rendered by certain advocates and notaries, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting the report relating to the services rendered by certain advocates and notaries

An Act respecting legal aid and the provision of certain other legal services
(R.S.Q., c. A-14, s. 80, 1st par, subpars. *u* and *v*; 2010, c. 12, s. 35)

1. This Regulation applies to an advocate or notary who is not in the employ of a regional legal aid centre or the Commission des services juridiques and who represents a person under the Act respecting legal aid and the provision of certain other legal services (R.S.Q., c. A-14), except an advocate who has entered into a services contract with the Commission.

2. An advocate or notary must report to the Commission by sending a statement of fees and expenses relating to the services rendered.

3. The statement of fees and expenses may be used for billing purposes.

The fees and expenses may be reported in separate statements.

A statement includes a description of the steps taken by the advocate or notary and of the results obtained as well as the fees or expenses the advocate or notary intends to claim by indicating in particular the services rendered according to the nomenclature of the tariff set under section 83.21 of the Act.

Such statement is made on the form provided by the regional legal aid centre or by the Commission.

4. Subject to the second paragraph, an advocate or notary who renders services under Chapter II of the Act must submit a statement of fees where his or her mandate is completed.

A provisional statement may be submitted for professional services rendered

(1) in a case ready for hearing at 30 June of a given year;

(2) more than 12 months before;

(3) in matters of immigration, for the preparation of personal information forms for the applicant or for each of the other family members in the same file;

(4) in a long trial for indictable offences under the exclusive jurisdiction of the Superior Court of criminal jurisdiction under section 469 of the Criminal Code, rendered during the 30 days before the statement is sent.

5. An advocate who renders services under Chapter III of the Act may send the Commission a statement of fees and expenses every month.

Despite the first paragraph, an advocate to whom a contribution is paid under the first paragraph of section 83.14 of the Act sends a statement of fees to the Commission every month for as long as that contribution is payable.

6. An advocate or notary submits a statement of fees within 3 years of the end of the mandate. Where the mandate ends with a judgment, prescription runs from the 30th day following the date of the judgment.

A claim for excess fees must be submitted with the statement of fees or, at the latest, within the 6 months that follow.

7. The Commission pays the fees and expenses to the advocate or notary within 30 days of receiving the statement.

8. The Commission may refuse to pay fees or expenses where it considers that the statement is not in compliance or that its content is not warranted.

The Commission must then send a notice giving reasons to the advocate or notary.

9. Any amount due and unpaid on a statement of fees and expenses completed in accordance with this Regulation bears annual interest 30 days after it is received.

The interest rate is the discount rate of the Bank of Canada in force on 1 April and 1 October each year, plus 1.5%. The rate thus fixed is in force for the 6 months that follow.

10. Where an advocate or notary is replaced under sections 81.1 and 104 of the Regulation respecting the application of the Legal Aid Act (R.R.Q., 1981, c. A-14, r. 1), as amended by the regulation made by Order in Council 702-2010 dated 18 August 2010, the advocate or notary to whom the mandate was entrusted sends the statement of fees to the Commission and fees and expenses are paid as if there had been no replacement.

In any other case of replacement, the advocate or notary sends a statement of fees and expenses as soon as the advocate or notary is informed in writing that the record was entrusted to another advocate or notary.

TRANSITIONAL AND FINAL

11. An advocate to whom a legal aid mandate was entrusted before the coming into force of the Act to provide a framework for mandatory state financing of certain legal services (2010, c. 12) and for which the Commission decided to render Chapter III of the Act applicable must, within 30 days of the Commission's decision made under section 61.1 of the Act, send the Commission a statement of fees and expenses for services rendered under Chapter II of the Act.

12. This Regulation comes into force on 7 September 2010.

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Gouvernement du Québec

O.C. 701-2010, 18 August 2010

An Act respecting legal aid and the provision of certain other legal services
(R.S.Q., c. A-14)

Regulation respecting the application of certain provisions of Chapter III of the Act

Regulation respecting the application of certain provisions of Chapter III of the Act respecting legal aid and the provision of certain other legal services

WHEREAS, under section 83.17 of the Act respecting legal aid and the provision of certain other legal services (R.S.Q., c. A-14), as amended by section 30 of chapter 12 of the Statutes of 2010, the Government may, by regulation, determine what the cost of the legal services referred to in section 83.16 of the Act includes;