

Gouvernement du Québec

O.C. 79-2011, 9 February 2011

An Act respecting administrative justice
(R.S.Q., c. J-3)

Administrative Tribunal of Québec
— **Remuneration and other conditions of office**
of members
— **Amendment**

Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec

WHEREAS, under section 56 of the Act respecting administrative justice (R.S.Q., c. J-3), the Government may, by regulation, determine conditions of office applicable to all or certain members of the Administrative Tribunal of Québec;

WHEREAS the third paragraph of that section provides that the regulatory provisions may vary according to whether they apply to full-time or part-time members or to a member charged with an administrative office within the Tribunal;

WHEREAS the Government made the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec by Order in Council 318-98 dated 18 March 1998;

WHEREAS it is expedient to amend the Regulation;

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

THAT the Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec*

An Act respecting administrative justice
(R.S.Q., c. J-3, s. 56)

1. The Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec is amended in section 15

(1) by replacing “20 working days, to be calculated proportionally to the time in office during the fiscal year.” in the first paragraph by “20 to 25 working days, granted in accordance with the Règles concernant la rémunération et les autres conditions de travail des titulaires d’un emploi supérieur à temps plein (Décret 450-2007 dated 20 June 2007).”;

(2) by striking out the second paragraph.

2. 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. 80-2011, 9 February 2011

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

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

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

WHEREAS, under paragraph *p* of section 94 of the Professional Code (R.S.Q., c. C-26), the board of directors of a professional order may authorize the members of the order to carry on their professional activities

* The Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec, made by Order in Council 318-98 dated 18 March 1998 (1998, *G.O.* 2, 1443), was last amended by the Regulation to amend the Regulation respecting the remuneration and other conditions of office of members of the Administrative Tribunal of Québec, made by Order in Council 1180-2002 dated 2 October 2002 (2002, *G.O.* 2, 5464).

within a limited liability partnership or a joint-stock company constituted for that purpose and, as appropriate, determine the applicable terms and conditions and restrictions;

WHEREAS, under paragraphs *g* and *h* of section 93 of the Professional Code, the board of directors of a professional order must impose on its members carrying on their professional activities within a partnership or a joint-stock company the obligation to furnish and maintain coverage, on behalf of the partnership or company, against liabilities of the partnership or company arising from fault in the practice of their profession and fix the conditions and procedure applicable to a declaration made to the Order;

WHEREAS the board of directors of the Ordre des psychologues du Québec made the Regulation respecting the practice of the profession of psychologist within a partnership or a joint-stock company;

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

WHEREAS, pursuant to section 95 of the Professional Code and subject to sections 95.0.1 and 95.2, 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, pursuant to the first paragraph of section 95.2 of the Professional Code, a regulation made by the board of directors of an order under paragraph *g* or *h* of section 93 must be transmitted to the Office for examination, which may approve it with or without amendment;

WHEREAS the first regulation made by the board of directors of an order under paragraph *p* of section 94 of the Professional Code must be submitted to the Government for approval;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation respecting the practice of the profession of psychologist within a partnership or a joint-stock company was published in Part 2 of the *Gazette officielle du Québec* of 28 July 2010 with a notice that it could be submitted to the Government for approval on the expiry of 45 days following that publication;

WHEREAS the Office approved the Regulation, except Chapter I, sections 7, 8 and 10, and Chapters IV and V;

WHEREAS the Office has examined the Regulation and made its recommendation to the Government;

WHEREAS it is expedient to approve Chapter I, sections 7, 8 and 10, and Chapters IV and V of the Regulation with amendments;

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

THAT Chapter I, sections 7, 8 and 10, and Chapters IV and V of the Regulation respecting the practice of the profession of psychologist within a partnership or a joint-stock company, attached to this Order in Council, be approved.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation respecting the practice of the profession of psychologist 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*)

CHAPTER I GENERAL

1. Psychologists are authorized to carry on their professional activities within a limited liability partnership or a joint-stock company within the meaning of Chapter VI.3 of the Professional Code (R.S.Q., c. C-26), subject to the conditions provided for in this Regulation.

If any of those conditions, or any condition set out in Chapter VI.3 of the Professional Code, is no longer met, the psychologist must, within 15 days after he or she becomes aware of the non-compliance, take the necessary measures to comply, failing which, the psychologist is no longer authorized to carry on activities within the partnership or joint-stock company.

2. Psychologists may carry on their professional activities within a partnership or joint-stock company if the following conditions are met:

(1) more than 50% of the voting rights attached to the company shares or partnership units are held:

(a) by psychologists, persons legally authorized to practise the profession outside Québec or other professionals governed by the Professional Code;

(b) by legal persons, partnerships or joint-stock companies, or any other enterprises whose voting rights attached to shares or partnership units are held entirely by one or more of the persons referred to in subparagraph a;

(c) by trusts where the trustees are one or more of the persons mentioned in subparagraph a; or

(d) at the same time by persons, enterprises or trusts referred to in subparagraphs a, b or c;

(2) a majority of the directors of the board of directors of the joint-stock company, the partners or, if applicable, the directors appointed by the partners to manage the affairs of the limited liability partnership are the persons referred to in subparagraph a of subparagraph 1 of the first paragraph; they must constitute the majority of the quorum of the board of directors or internal management board.

Psychologists must ensure that those conditions appear in the articles of the joint-stock company or in the written contract of the limited liability partnership and that the documents also provide that the partnership or joint-stock company is constituted for the purposes of carrying on professional activities.

3. Where a psychologist carries on professional activities within a joint-stock company, the income derived from the professional services rendered within and on behalf of the company belongs to the company, unless it has been agreed otherwise.

CHAPTER II PROFESSIONAL LIABILITY COVERAGE

4. Psychologists carrying on professional activities within a partnership or joint-stock company must furnish and maintain, for the partnership or company, by means of an insurance or suretyship contract, or by joining a group plan contract entered into by the Order, security against the professional liability of the partnership or company that may arise from fault on the part of the psychologists in carrying on professional activities within the partnership or joint-stock company.

5. The security must include:

(1) an undertaking by the insurer or surety to pay in lieu of the partnership or joint-stock company, over and above the amount of the security to be furnished by the

psychologist pursuant to the Règlement sur l'assurance de la responsabilité professionnelle des membres de l'Ordre des psychologues du Québec, approved by the Office des professions du Québec on 8 February 2001 (2001, G.O. 2, 1456), any sum that the partnership or joint-stock company may be legally bound to pay to a third person on a claim filed during the coverage period and arising from fault on the part of the psychologist in carrying on professional activities within the partnership or joint-stock company;

(2) an undertaking by the insurer or surety 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 that the security extends to all claims submitted in the 5 years after the date on which a psychologist in 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 on the part of the psychologist while carrying on professional activities within the partnership or joint-stock company;

(4) an amount of at least \$1,000,000 per claim and \$3,000,000 for all claims filed against the partnership or joint-stock company within a 12-month coverage period; and

(5) an undertaking by the insurer or surety to provide the secretary of the Order with a 30-day notice of intent to cancel the insurance or suretyship contract, to amend a condition of this section or not to renew the contract.

6. The suretyship contract must be with a bank, savings and credit union, trust or insurance company domiciled in Canada and having and maintaining sufficient property in Québec to meet the coverage required under this Chapter.

The institution referred to in the first paragraph must undertake to provide the coverage in accordance with the conditions set out in this Chapter and must waive the benefit of division and discussion.

CHAPTER III COMMUNICATION OF INFORMATION

7. If more than one psychologist carries on professional activities within a partnership or joint-stock company referred to in section 1, one representative

must be designated to satisfy the terms and conditions in sections 8 to 10 on behalf of the partnership or joint-stock company.

The representative is also mandated to reply to requests made, pursuant to this Regulation, by a syndic, an inspector, an investigator or any other representative of the Order and provide, where applicable, any other document the psychologists are required to submit. The representative is also mandated to receive all forms of communications from the Order addressed to the partnership or joint-stock company.

The representative must be a psychologist and carry on professional activities in Québec within the partnership or joint-stock company.

The representative must ensure the accuracy of the information provided to the Order.

8. Psychologists who wish to carry on professional activities within a partnership or joint-stock company must, before carrying on those activities, provide the Order with

(1) the declaration referred to in section 9, with the fees set by the board of directors of the Order;

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

(3) if the psychologist carries on professional activities within a joint-stock company, a written document from a competent authority certifying the existence of the joint-stock company;

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

(5) a written document from a competent authority certifying that the partnership or joint-stock company has an establishment in Québec;

(6) where applicable, a certified true copy of the declaration to the competent authority stating that the general partnership has been continued as a limited liability partnership;

(7) an irrevocable written authorization from the partnership or joint-stock company within which the psychologist carries on professional activities allowing a person, committee, disciplinary body or tribunal referred to in section 192 of the Professional Code to

require disclosure of and obtain any document listed in section 11 from any person or to obtain a copy of such a document;

(8) a written document certifying that the shares or units held and the rules of administration of the partnership or joint-stock company comply with the conditions set out in this Regulation; and

(9) a written undertaking from the partnership or joint-stock company that its shareholders having voting rights, its partners, directors and officers, as well as the members of its staff who are not psychologists are aware of and comply with the Code of ethics of psychologists.

A psychologist is exempt from satisfying those conditions if a representative of the partnership or joint-stock company within which the psychologist is to practise has already satisfied the conditions.

9. The declaration referred to in subparagraph 1 of the first paragraph of section 8 must be made on the form supplied by the Order and contain the following information:

(1) the psychologist's name, home address and professional address, and status within the partnership or joint-stock company;

(2) the partnership or joint-stock company name and any other names used in Québec by every partnership or joint-stock company within which the psychologist carries on professional activities and the business number assigned by the competent authority;

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

(4) if the psychologist carries on professional activities within a limited liability partnership, the address of the establishments of the partnership in Québec, specifying the address of the principal establishment; and

(5) if the psychologist carries on professional activities within a joint-stock company, the address of the head office of the company and of its establishments in Québec.

10. To retain the right to carry on professional activities within a partnership or joint-stock company, a psychologist or representative must

(1) immediately inform the Order of any amendment or cancellation of the insurance coverage required by Chapter II, the striking off, dissolution, assignment of

property, bankruptcy, voluntary or forced liquidation of the partnership or joint-stock company or any other cause likely to prevent the partnership or joint-stock company from carrying on its activities and any change in the information given in the declaration referred to in section 9 that is contrary to the conditions set out in section 2; and

(2) update, before 31 March of each year, the declaration prescribed in section 9 and pay the fees fixed by the board of directors.

CHAPTER IV ADDITIONAL INFORMATION

11. The documents for which the psychologist must obtain an authorization from the partnership or joint-stock company to communicate or obtain copies pursuant to subparagraph 7 of the first paragraph of section 8 are the following:

(1) if the psychologist 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 securities 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 and voting agreement, and amendments;

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

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

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

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

(b) the partnership contract and amendments;

(c) an up-to-date register of the partners of the partnership;

(d) if applicable, an up-to-date register of the directors of the partnership; and

(e) the names and home addresses of the partnership's principal officers.

CHAPTER V TRANSITIONAL AND FINAL PROVISIONS

12. Psychologists who carry on professional activities within a joint-stock company constituted for that purpose before the date of coming into force of this Regulation must comply with the Regulation not later than one year after that date.

13. This Regulation comes into force on March 10, 2011.

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Gouvernement du Québec

O.C. 89-2011, 9 February 2011

Labour Code
(R.S.Q., c. C-27)

Commission des relations du travail — Remuneration and other conditions of employment of commissioners — Amendment

Regulation to amend the Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail

WHEREAS, under section 137.27 of the Labour Code (R.S.Q., c. C-27), the Government may, by regulation, determine conditions of employment applicable to all or certain commissioners of the Commission des relations du travail;

WHEREAS the third paragraph of that section provides that the regulatory provisions may vary according to whether they apply to a full-time or part-time commissioner or to a commissioner holding an administrative office within the Commission;

WHEREAS the Government made the Regulation respecting the remuneration and other conditions of employment of commissioners of the Commission des relations du travail by Order in Council 1193-2002 dated 2 October 2002;