

This draft regulation aims at modifying the qualifications required to exercise investigative functions within a police force to reflect the changes made to chapter 7 of the Agreement on Internal Trade.

This draft regulation has not revealed any particular impact on businesses, among others SMB., or on citizens.

For additional information, please contact M<sup>e</sup> Gérald Laprise, General Secretary and Registrar of the École nationale de police du Québec, 350, rue Marguerite-D'Youville, Nicolet (Québec) J3T 1X4, phone number: 819 293-8631 extension 6297; fax number: 819 293-2143; email address: glaprise@enpq.qc.ca

Any interested person having comments to make about this regulation may send them in writing, before the expiry of the 45day period, to M<sup>e</sup> Gérald Laprise, General Secretary and Registrar of the École nationale de police du Québec, 350, rue Marguerite-D'Youville, Nicolet (Québec) J3T 1X4.

*The Minister of Public Security,*  
ROBERT DUTIL

## Regulation to amend the Regulation respecting Minimum Qualifications Required to Exercise Investigative Functions within a Police Force

Police Act  
(R.S.Q., c. P-13.1, s. 116)

**1.** The Regulation respecting Minimum Qualifications Required to Exercise Investigative Functions within a Police Force (R.R.Q., c. P-13.1, r. 3) is amended by inserting, after section 3, the following section at the end:

“**3.1.** The person who performs or has performed the function of a police officer or investigator within a police force in other parts of Canada is not obliged to pass the training provided for in section 1 and 2 in order to perform such a function in Quebec.

However, the person must obtain an attestation of equivalence in accordance with the Training Plan Regulation of the École nationale de police du Québec (R.R.Q., c. P-13.1, r. 4).”

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

1842

## Draft By-law

Police Act  
(R.S.Q., c. P-13.1)

### Comité de déontologie policière — Rules of evidence, procedure and practice

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Rules of evidence, procedure and practice of the Comité de déontologie policière, adopted by the Comité de déontologie policière, appearing below, may be approved by the Government on the expiry of 45 days following this publication.

The draft By-law determines the rules of evidence, procedure and practice governing the conduct of hearings before the Comité de déontologie policière and replaces the rules currently in force.

The draft By-law has no impact on the public and enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting M<sup>re</sup>. Gilles Mignault, Comité de déontologie policière, 2525, boulevard Laurier, bureau A-200, 2<sup>e</sup> étage, Québec (Québec) G1V 4Z6; telephone: 418 646-1936; fax: 418 528-0987.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to M<sup>re</sup>. Pierre Gagné, Chair of the Comité de déontologie policière, 2525, boulevard Laurier, bureau A-200, 2<sup>e</sup> étage, Québec (Québec) G1V 4Z6.

ROBERT DUTIL,  
*Minister of Public Security*

### Rules of evidence, procedure and practice of the Comité de déontologie policière

Police Act  
(R.S.Q., c. P-13.1, s. 237)

#### DIVISION I SCOPE AND PURPOSE

**1.** This Regulation applies to any citation referred to in section 195 of the Police Act (R.S.Q., c. P-13.1).

Its purpose is to ensure the simple, flexible and expeditious processing of citations and related proceedings, in keeping with the principles of natural justice and the equality of parties.

## DIVISION II GENERAL

**2.** In computing any time period, the last day is counted, but the day commencing the period is not counted.

If the last day of the time period is a non-judicial day or a day on which the offices of the ethics committee are closed or if an order has been made to perform an act on such a day, the time period is extended to the next business day.

**3.** Any proceeding and document may be filed with the ethics committee in person, by mail, by fax or by electronic mail.

The date on which a proceeding or document is filed with the ethics committee is the date on which it is received at the ethics committee's office.

Proceedings and documents sent by mail are presumed to be received by the ethics committee on the day of the postmark.

Proceedings and documents sent to the ethics committee by fax are deemed to be received on the date appearing on the transmission slip to the office of the ethics committee and those sent by electronic mail are presumed to be received on the date of receipt as recorded by the server at the office of the ethics committee.

**4.** Service of a writing, including a subpoena, may be made by regular mail, by registered or certified mail, by bailiff or by any other means that proves the date of receipt.

**5.** A party may not, in the course of proceedings, withdraw an exhibit that the party has filed in the record, except with the permission of the ethics committees and on the conditions it determines.

If a file is closed and the time limit for appeal to the Court of Québec are expired, a party may, with the permission of the clerk, withdraw an exhibit that the party has filed.

**6.** The ethics committee may combine 2 or more citations, whether or not between the same parties, provided that the questions at issue are substantially the same or the matters involved could suitably be combined.

## DIVISION III ASSISTANCE OR REPRESENTATION

**7.** Every person who assists or represents a person who appears before the ethics committee indicates his or her name, quality, address and telephone number, as well as the name of the assisted or represented person.

That information may be given orally at the hearing.

**8.** Any person or attorney who wishes to no longer assist or represent a person must so notify the ethics committee in writing.

Where a party terminates the mandate of the person representing it, it must immediately notify the ethics committee of that fact in writing.

Such notices may be given orally at the hearing.

## DIVISION IV MOTION

**9.** An application to the ethics committee is made by means of a motion in writing served on the opposing party, to the other police officers who are the subject of a citation, where applicable, and filed with the ethics committee's office.

**10.** A motion must contain

(1) the name and address of the parties and their representatives, where applicable;

(2) the ethics committee's file number;

(3) a statement of the grounds for the motion; and

(4) the conclusions sought.

It must be accompanied by supporting documents.

**11.** A motion may be made orally during the hearing, with leave from the ethics committee.

**12.** Before the date set for the hearing, the ethics committee may hear a motion by way of a conference call, videoconference or any other appropriate means of communication.

## DIVISION V POSTPONEMENT

**13.** The ethics committee may postpone the hearing on serious grounds.

An application for postponement must be made as soon as the reasons therefor become known.

No postponement is granted solely by the parties' consent.

#### **DIVISION VI** PRE-HEARING CONFERENCE

**14.** The pre-hearing conference, held in the presence of the parties or by way of a conference call, is intended to, in particular,

- (1) identify the questions to be argued at the hearing;
- (2) examine the possibility of admitting certain facts;
- (3) examine the possibility of an agreement; and
- (4) plan the course of the hearing.

**15.** The agreements and decisions made at the pre-hearing conference are recorded in minutes signed by an ethics committee member.

The hearing is governed by those agreements and decisions, unless an ethics committee member authorizes a derogation thereto to prevent an injustice.

#### **DIVISION VII** SUMMONING OF WITNESSES

**16.** A summons must be served by the party requiring it, at its own expense.

**17.** An incarcerated person may be summoned only by order of a member enjoining the director or guard to bring the person before the ethics committee.

**18.** A summons must be served at least 3 clear days before the date of the hearing.

Despite the foregoing, if it is impossible to comply with the 3-day period, a member may permit a shorter period and such permission must appear on the summons. Sections 8 and 9 do not apply to such a request.

#### **DIVISION VIII** HEARING

**19.** The hearings of the ethics committee are held in Québec, Montréal or any other place determined by the ethics committee.

The ethics committee may hold hearings by way of a conference call, videoconference or any other appropriate means of communication.

**20.** Persons attending a hearing must act with dignity, respect and not disrupt the course of the hearing.

**21.** A police officer, special constable, highway controller or wildlife protection officer who is the subject of a citation must appear before the ethics committee unarmed, in plain clothes or in uniform.

**22.** The ethics committee records the depositions and representations made at the hearing by any appropriate means.

**23.** Any person may obtain, upon application in writing and at the person's own expense, a copy of the recording made by the ethics committee.

**24.** The ethics committee or any person designated by the ethics committee keeps minutes of the hearing, including

- (1) the name of the presiding member;
- (2) the date and location of the hearing and the time at which it begins and ends;
- (3) the names and addresses of all parties, their representatives and the witnesses heard;
- (4) the name of the person in charge of the recording;
- (5) the name and address of the interpreter and an indication that the interpreter took an oath;
- (6) whether a conference call, videoconference or any other appropriate means of communication is used;
- (7) the various stages of the hearing;
- (8) identification of and the number assigned to the exhibits produced;
- (9) incidental proceedings and objections;
- (10) any decision rendered at the hearing;
- (11) any admission and agreement; and
- (12) the date on which the matter is taken under advisement.

**25.** The ethics committee may accept any evidence it considers useful for the purposes of deciding the matters within its jurisdiction.

**26.** Hearsay evidence is admissible provided that it offers reasonable guarantees of credibility and subject to the rules of natural justice.

**27.** The ethics committee may, of its own authority or upon application by a party, order a witness to testify in the absence of the other witnesses.

**28.** A witness must take an oath before testifying.

**29.** The ethics committee may visit the scene.

The ethics committee informs the parties in advance, allows them to make representations and be present during the visit on the conditions it determines.

**30.** A party that is permitted to produce exhibits during a hearing must file copies in sufficient number for the ethics committee, the clerk, the other party and, where applicable, the other cited police officers.

**31.** A party may produce an expert's report if, at least 15 days before the date fixed for the hearing, it files the report at the office and remits a copy to the opposing party and, where applicable, to the other cited police officers.

Despite the foregoing, the ethics committee may reduce the 15-day period on the conditions it determines.

**32.** Photography and filming or recording are prohibited in the hearing room.

**33.** A party that provides evidence in a language other than French or English must use the services of an interpreter at its own expense.

#### **DIVISION IX** DECISION

**34.** The ethics committee must base its decision on the evidence gathered with the knowledge of the parties and on which they have been given the opportunity to be heard.

**35.** If the ethics committee deems that it must consider, for the purposes of its decision, a scientific or technical document that has not been filed, the ethics committee so informs the parties and gives them the opportunity to be heard.

**36.** Where the ethics committee has taken a matter under advisement, it may, of its own authority or upon request by a party and until such time as it gives its decision, order the hearing reopened for such purposes and on such conditions as it may determine, in particular to hear any evidence that it considers to be reliable and relevant or to ensure compliance with the rules of natural justice.

**37.** The ethics committee's decision must be recorded in the registers kept for that purpose at the office.

#### **DIVISION X** RECUSATION

**38.** A member must recuse himself or herself particularly in cases of

(1) a conflict of interest;

(2) personal, family or social relations with one of the parties or a party's representative;

(3) a reasonable fear that the member could be partial.

**39.** Any concern regarding a reasonable apprehension of bias on the part of a member must be raised at the beginning of the hearing or as soon as a party becomes aware of the circumstances giving rise to the apprehension.

**40.** Where a member recuses himself or herself, the hearing must be postponed, unless it is held in the presence of another member.

#### **DIVISION XI** RECTIFICATION

**41.** The ethics committee may rectify a decision that it has rendered in order to correct an error in writing, in computation or any other clerical error.

It may do so of its own authority or upon request, so long as the decision is not under appeal.

#### **DIVISION XII** FINAL PROVISIONS

**42.** This Regulation replaces the Rules of evidence, procedure and practice of the Comité de déontologie policière, approved by Order in Council 908-92 dated 17 June 1992.

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