

(2) the guides recognized for the maintenance of water cooling towers such as:

(a) Guideline-WTB-148(08)-Best Practices for Control of Legionella published by the Cooling Technology Institute (CTI);

(b) the manuals of the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), including Guideline-12-2000-Minimizing the Risk of Legionellosis Associated with Building Water Systems;

(c) Legionella 2003: An Update and Statement by the Association of Water technologies (AWT).

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Notice

An Act respecting legal aid and the provision of certain legal services
(chapter A-14)

Agreement between the Minister of Justice and the Barreau du Québec respecting the tariff of fees and expenses of advocates rendering services in criminal and penal matters and the dispute settlement procedure

Notice is hereby given that the Agreement between the Minister of Justice and the Barreau du Québec respecting the tariff of fees and expenses of advocates rendering services in criminal and penal matters and the dispute settlement procedure, appearing below, was entered into on 19 March 2013.

In accordance with section 83.21 of the Act respecting legal aid and the provision of certain legal services (chapter A-14), the Agreement has force of law and takes effect on the date of its publication in the *Gazette officielle du Québec*.

BERTRAND ST-ARNAUD,
Minister of Justice

Agreement between the Minister of Justice and the Barreau du Québec respecting the tariff of fees and expenses of advocates rendering services in criminal and penal matters and the dispute settlement procedure

An Act respecting legal aid and the provision of certain other legal services
(chapter A-14, s. 83.21)

PRELIMINARY

1. This Agreement establishes the tariff of fees applicable to advocates in private practice who render services in criminal and penal matters to persons who receive legal aid or other legal services under the Act respecting legal aid and the provision of certain other legal services (chapter A-14), except advocates who entered into a professional services contract with the Commission des services juridiques.

The Agreement also provides rules concerning expenses and dispute settlement.

PART I TARIFF OF FEES

CHAPTER I GENERAL

2. A day may comprise a maximum of 3 work periods, one in the morning, one in the afternoon and one in the evening. Morning ends at 1:00 p.m. and evening starts at 6:00 p.m.

A preparation period, a period of participation in a conference ordered or convened by a judge and a hearing period are considered work periods.

3. For the purposes of this Agreement,

(1) a trial held before judge only begins with the presentation of the prosecutor's evidence and a trial held before jury begins by jury selection;

(2) a trial ends with a decision on a conviction.

4. The following fees apply to the services rendered by an advocate:

(1) if the court refuses or is unable to proceed in the presence of the parties on the day fixed for the hearing: \$100;

(2) all professional services related to an application for an extension concerning the execution of a sentence or order of the court: \$80;

(3) when to cease representing, the advocate must file a motion: \$60;

(4) when the advocate is replaced at a hearing: \$60.

5. For services rendered during a facilitation conference in criminal and penal matters, the fees are \$275 per period.

6. The Commission determines the fees applicable to services not included in the tariff by taking into account the fees provided for in this Agreement for similar services, if applicable.

CHAPTER II SPECIAL RULES

DIVISION I FEES APPLICABLE UNDER THE LEGAL AID PLAN AND FOLLOWING A COURT DESIGNATION ORDER ISSUED PURSUANT TO THE CRIMINAL CODE (R.S.C., 1985, c. C-46) OR FOLLOWING DETERMINATION BY THE COMMISSION PURSUANT TO SECTION 83.12 OF THE ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES

§1. *General*

7. Subject to section 23, a flat fee includes up to 2 hearing periods in the same day, that is, one in the morning and one in the afternoon.

If, once under way, the hearing or conference may not end before 6:00 p.m. in the same day, the advocate is entitled, for the evening and for each additional work period, to fees of:

(1) in first instance: \$275;

(2) in appeal: \$285.

8. An advocate who receives a mandate during the proceedings and who sees a case through is entitled to the full remuneration where a flat fee is provided and no other advocate has rendered services in the record.

Where a mandate is entrusted following an order issued pursuant to the Criminal Code, the advocate is entitled to the full flat-rate remuneration upon completion of the mandate.

9. Where a flat fee is prescribed for all services and more than one advocate has rendered services, each advocate, if in private practice, is entitled to the part of the flat rate corresponding to the services rendered by the advocate, subject to sections 81.1 and 104 of the Regulation respecting the application of the Act respecting legal aid and the provision of certain other legal services (chapter A-14, r. 4).

10. Where a recipient's legal aid is suspended or withdrawn or a recipient ceases to be eligible for legal aid or waives it, the advocate is remunerated for the services rendered until reception of the notice provided for in section 74 of the Regulation respecting the application of the Act respecting legal aid and the provision of certain other legal services and for the legal services rendered subsequently for the performance of conservatory acts necessary for the preservation of the rights of the recipient or required by the court.

11. Services rendered on a finding or a plea of guilty to a less and included offence are remunerated according to the tariff applicable in respect of the offence charged.

12. Where an advocate represents a client indicted by more than one information and the trial or a hearing during which the accused pleads guilty to the various charges is held in the same court and on the same day, the advocate is entitled to the full remuneration for the best paid information and to one-half of the prescribed tariff for each other information.

13. An advocate who represents 2 or more persons charged with the same offence or with a like offence arising from the same course of events and for which the proceedings are held in the same court at or about the same time is entitled to the remuneration applicable to a mandate, increased by the following percentage according to the number of represented persons:

(1) 2 persons: 50%;

(2) 3 persons: 100%;

(3) 4 persons: 150%;

(4) 5 persons or more: 200%.

14. Where the mandate is of an exceptional nature owing to the circumstances of the work or the complexity of the case, the advocate may submit an application for special consideration so that the Commission determines the excess fees.

15. Where the advocate must, at the director general's request, justify in writing an application for a legal aid mandate, fees in the amount of \$75 are payable if the mandate is granted.

16. All services rendered under a consultation mandate: \$65.

17. To represent, for appearance, a person arrested under a warrant issued in another judicial district, regardless of the technological means used: \$100.

18. To represent a detained person for the purposes of section 503 of the Criminal Code, where the appearance is held using technological means, outside regular court house hours and under a presiding justice of the peace: \$150.

19. Release hearing actually held: \$150.

20. All services related to a granted request to change location, where the advocate subsequently ceases to act: \$80.

21. Where an advocate pleads in writing, at the court's request or under its authorization, fees of \$160 are payable.

§2. Tariff of fees for certain services in first instance

22. For all services rendered to persons charged with indictable offences under section 553 of the Criminal Code or summary conviction offences under Part XXVII of the Code, until sentencing, if applicable: \$330.

23. For all services rendered to persons charged with indictable offences other than those referred to in section 22 of this Agreement or section 239 of the Criminal Code, or within the exclusive jurisdiction of the Superior Court, under section 469 of the Code, until sentencing, if applicable: \$550.

The tariff includes up to 2 hearing periods for the preliminary inquiry and up to 2 hearing periods for the trial, where in each case, the hearings are held on the same day. The other hearing periods are remunerated \$275 each for the preliminary inquiry and for trial before judge only and \$400 each for trial before judge and jury.

Exceptionally, the tariff provided for in this section is also applicable to the services referred to in section 22 when they are rendered to a person liable to a minimum term of imprisonment or charged with a sexual offence.

§3. Tariff of fees for services rendered to persons charged with indictable offences under section 239 of the Criminal Code, or offences within the exclusive jurisdiction of the Superior Court under section 469 of the Code

24. Sections 13, 14 and 19 do not apply to this subdivision.

25. For preparation of hearings and conferences held before trial, and during those hearings and conferences, the fees are \$275 per period.

The number of preparation periods an advocate has is limited to 5 periods per application heard by the court.

26. For preparation of trial, the fees are \$275 per period.

The number of preparation periods for trial an advocate has is limited to

(1) 3 periods for each day of hearing scheduled for the presentation of the prosecution's evidence as established during the pre-trial conference or as indicated in the court's record;

(2) 1 period for each day of hearing during the trial.

27. If the trial is interrupted for more than 3 consecutive weeks, an advocate has a maximum of 8 additional preparation periods to be worked during the interruption.

28. Where an advocate represents more than one accused in a single trial, the number of preparation periods to which the advocate is entitled is established by subparagraph 1 of the second paragraph of section 26, increased by 50%, regardless of the number of accused the advocate represents.

29. The Commission may, at the advocate's request, reconsider the number of preparation periods to which the advocate was entitled pursuant to subparagraph 1 of the second paragraph of section 26 or section 28 where the number of hearing days actually held for the trial is greater than one and a half the number of hearing days scheduled for the presentation of the prosecution's evidence.

The advocate submits his or her request in the advocate's final statement of fees.

30. Where an advocate replaces, during the proceedings, an advocate whose remuneration is governed by this subdivision, the advocate must submit to the Commission a detailed application of the preparation time the advocate deems necessary to represent his or her client.

The Commission examines the application by taking into account the circumstances of the case and determines the maximum number of preparation periods which the advocate has instead of the preparation periods provided for in subparagraph 1 of the second paragraph of section 26 or section 28.

31. During the trial, the fees are \$400 per hearing period.

32. For services rendered during representations on sentence, the fees are \$275 per period.

§4. Tariff of fees of services other than in criminal and penal matters

33. Where a judgment orders the designation of an attorney: \$150.

34. All services rendered before a Review Board under sections 672.38 et seq. of the Criminal Code: \$500.

35. All services rendered until sentencing, if applicable, for hearings held under

(1) section 742.6 of the Criminal Code: \$200;

(2) sections 110, 111, 112, 810.01 (5) and 810.2 (5) of the Criminal Code: \$200.

36. In matters of extraordinary remedies provided for in the Criminal Code,

(1) for preparation and service of the proceeding: \$300;

(2) per hearing period: \$275.

37. For services rendered following an order under section 486.3 of the Criminal Code: \$275 per work period. The advocate is entitled to 3 preparation periods per day of hearing already held when the mandate is entrusted to the advocate and to a maximum of 4 additional preparation periods.

For all services rendered following an order under section 672.24 of the Criminal Code: \$330.

38. All services rendered for an application for release from custody or for review of the decision rendered on release addressed to a judge of the Superior Court: \$200.

39. In matters of preventive detention,

(1) for the preparation of the record for a contestation of an application for preventive detention under Part XXIV of the Criminal Code, including interviews and other necessary services: \$1,000;

(2) per hearing period: \$275.

40. All services rendered for an application for a change of a probation order under section 732.2 (5) of the Criminal Code: \$150.

41. All services rendered for an application for the issue of an order of imprisonment for default of payment of fines under section 734.7 of the Criminal Code or article 346 of the Code of Penal Procedure (chapter C-25.1): \$220.

42. All services rendered until sentencing, if applicable, under the Youth Criminal Justice Act (S.C. 2002, c. 1)

(1) on an application for review under section 59 (1): \$185;

(2) on an application under section 64 (1): \$425.

§5. Tariff of fees for services rendered in appeal

43. Appeal on extraordinary remedies, appeal in matters of preventive detention or appeal from the decision on a conviction, sentence or both:

(1) preparation of all proceedings preliminary to the appeal, including drafting and filing of notice of appeal: \$600;

(2) hearing of application for leave to appeal: \$220;

(3) motion for extension of the time to appeal: \$200;

(4) preparation of factum: \$800;

(5) hearing of appeal: \$800.

44. All services rendered for an application for release from custody until the decision on the appeal: \$270.

45. For services rendered following an order made under section 684 of the Criminal Code, the fees are \$800 for the hearing at the Court of Appeal. The advocate is entitled to a maximum of 4 preparation periods remunerated \$275 each.

46. During appeal to the Supreme Court, the fees are the following:

(1) for the preparation of all proceedings preliminary to the appeal, including drafting and filing of notice of appeal or application for leave to appeal: \$3,000;

(2) preparation of factum: \$3,000;

(3) hearing of appeal: \$4,000.

47. For services rendered following an order made under section 694.1 of the Criminal Code, the fees are \$2,000 for the hearing at the Supreme Court. The advocate is entitled to a maximum of 8 preparation periods remunerated \$275 each.

DIVISION II

FEES APPLICABLE UNDER A LENGTHY AND COMPLEX CASE, FOLLOWING DETERMINATION BY THE COMMISSION PURSUANT TO SECTION 83.12 OF THE ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES

48. For services rendered at hearings and conferences held before trial, the fees are \$275 per period.

49. For preparation of trial, the fees are \$275 per period.

The number of preparation periods an advocate has is limited to

(1) 3 periods for each day of hearing scheduled for the presentation of the prosecution's evidence as established during the pre-trial conference or as indicated in the court's record;

(2) 1 period for each day of hearing during the trial.

50. If the trial is interrupted for more than 3 consecutive weeks, an advocate has a maximum of 8 additional preparation periods to be worked during the interruption.

51. Where an advocate represents more than one accused in a single trial, the number of preparation periods to which the advocate is entitled is established by subparagraph 1 of the second paragraph of section 49, increased by 50%, regardless of the number of accused the advocate represents.

52. The Commission must, at the advocate's request, reconsider the number of preparation periods to which the advocate was entitled under subparagraph 1 of the second paragraph of section 49 or section 51 where the number of hearing days actually held for the trial is greater than one and a half the number of hearing days scheduled for the presentation of the prosecution's evidence.

The advocate submits his or her request in the advocate's final statement of fees.

53. Where an advocate replaces an advocate whose remuneration was governed by this Division or where an advocate's remuneration becomes governed by this Division during the proceedings, the advocate must submit to the Commission a detailed application of the preparation time the advocate deems necessary to represent his or her client.

The Commission examines the application by taking into account the circumstances of the case and determines the maximum number of preparation periods which the advocate has instead of the preparation periods provided for in subparagraph 1 of the second paragraph of section 49 or section 51.

54. During the trial, the fees are \$400 per hearing period.

55. Where an advocate pleads in writing, at the court's request or under its authorization, fees of \$275 are payable per work period, for a maximum of 10 periods.

56. For preparation and hearings of representations on sentence, the fees are \$275 per period.

The number of preparation periods is limited to 15 periods.

57. Subdivision 5 of Division I of this Chapter applies to appeals, with the necessary modifications.

PART II EXPENSES

58. Expenses include travel allowances and fees authorized by the director general or the Commission, if applicable, in particular fees for expert reports. They also include other fees pertaining to proceedings incidental to the mandate.

The fees of a counsel and the fees pertaining to professional assistance services of a second advocate during hearing of the trial are treated as expert reports. Assistance fees are only eligible for the services rendered in accordance with Chapter II of the Act and are limited to \$175 per hearing period.

59. An advocate is entitled to a reimbursement of \$0.10 per page for photocopies made during written proceedings or to reproduce authorities.

60. At the end of a legal aid mandate, an advocate who sees the case through receives \$25 as a reimbursement of administrative overhead costs, except consultation mandates and mandates that end with a consultation.

The provision applies only to mandates entrusted since 1 April 2012 and the amount is increased to \$50 for mandates entrusted as of 1 April 2014.

61. An advocate is entitled to a travel allowance only if the destination is farther than a radius of 25 km from his or her office.

When using his or her personal motor vehicle, an advocate is entitled to the travel allowance per kilometre provided for in section 8 of the Directive sur les frais remboursables lors d'un déplacement et autres frais inhérents (C.T. 202754 dated 30 August 2005) as established under the Public Administration Act (chapter A-6.01), subject to the following special rules:

(1) according to the distance actually travelled, in the case of a trip made within the boundaries of the judicial district where the advocate has his or her office;

(2) according to the distance actually travelled up to a maximum of 200 km, in the case of a trip made within the boundaries of the judicial district where the advocate has his or her office;

(3) according to the distance actually travelled, in the case of a trip to the Supreme Court of Canada, the Court of Appeal of Québec, the Federal Court or to any court or body, exercising its jurisdiction outside the boundaries of the judicial district where the advocate has his or her office; despite the preceding, where the advocate's office is in a judicial district other than the district where the legal aid centre which issued the mandate is located, the advocate elects to receive either the reimbursement established in subparagraph 2 or a reimbursement established according to the distance between the place where the mandate was issued and that where the court in question sits;

(4) according to the distance actually travelled, in the case of a trip made with the authorization of the director general of the legal aid centre, outside the boundaries of the judicial district where the advocate has his or her office, where the nature or complexity of the matter requires that the mandate be entrusted to that advocate.

The advocate who is entitled to a travel allowance is also entitled to the reimbursement of the parking expenses incurred.

62. Subject to sections 59 and 60, expenses may not exceed the actual expenses actually incurred by the advocate and are paid on presentation of supporting documents.

PART III

DISPUTE SETTLEMENT PROCEDURE

CHAPTER I

SUBMISSION OF A DISPUTE AND CONCILIATION

63. A dispute means any disagreement concerning the interpretation or application of this Agreement, in particular on a claim for fees for a service not included or an application for special consideration, and any disagreement concerning a statement of fees or expenses submitted pursuant to the Regulation respecting the report relating to the services rendered by certain advocates and notaries (chapter A-14, r. 8).

A dispute must be submitted within 6 months of receiving the notice provided for in section 8 of the Regulation.

64. A dispute is submitted by an advocate by means of a notice addressed to the regional centre or, as the case may be, to the Commission. The notice must contain a summary of the facts and the relief sought.

65. The regional centre or, as the case may be, the Commission, answers in writing to any notice of dispute it receives.

66. Before submitting a dispute, an advocate may resort to conciliation by a written notice to the director general of the regional legal aid centre, to the Commission and to the section of the Barreau du Québec to which the advocate belongs.

67. Resorting to conciliation interrupts the 6-month prescription.

68. Within 15 days of receiving the notice provided for in section 66, the director general of the regional legal aid centre and the bâtonnier of the section each designate an advocate.

69. Within 30 days of their designation, the advocates so appointed and the advocate who applied for conciliation meet and endeavour to reach a settlement.

CHAPTER II

ARBITRATION

70. An advocate who submitted a dispute may, if no answer is received within 30 days of sending the notice or if the advocate is dissatisfied with the answer, submit the dispute to arbitration.

Resorting to arbitration is prescribed by 6 months.

The application for arbitration is made by a letter addressed to the chief judge of the Court of Québec, which is also sent to the regional centre, to the Commission and to the Barreau du Québec.

The chief judge designates one of the judges of that court to act as arbitrator.

71. After giving at least 30 days' notice to the Commission, the Barreau du Québec may either intervene or take up the defence for the advocate who submitted a dispute to arbitration.

72. Stenography fees and fees to reproduce a recording of the judicial hearings, if any, are borne by the regional centre or the Commission, as the case may be.

73. The arbitrator has jurisdiction, to the exclusion of any court, to rule on a dispute within the meaning of this Agreement. The arbitrator may uphold, modify or rescind the disputed decision and, by the terms of the arbitration award, order a payment or determine compensation, restore a right or issue any other order the arbitrator considers fair in the circumstances.

The arbitration award is final and binding on the parties.

74. The arbitrator may issue an interim award at any time.

75. The arbitrator sends every arbitration award to the parties and the Barreau du Québec.

PART IV MISCELLANEOUS, TRANSITIONAL AND FINAL

76. This Agreement replaces, in criminal and penal matters, the Regulation to ratify the Agreement between the Minister of Justice and the Barreau du Québec respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan (chapter. A-14, r. 6) entered into on 4 April 2008.

This Agreement takes effect on the date of its publication in the *Gazette officielle du Québec* and, subject to the exceptions in sections 77 and 78, applies to the services rendered under the legal aid mandates entrusted since 1 April 2010.

This Agreement does not have the effect of reducing fees already paid before its publication.

77. The tariffs provided for in the third paragraph of section 23 apply to services rendered under mandates entrusted as of the date on which this Agreement takes effect and under mandates entrusted previously if services are rendered after that date.

78. The tariffs provided for in sections 24 to 32 and 43 to 47 apply to the services rendered under mandates entrusted as of the date on which this Agreement takes effect.

For the services referred to in those sections and rendered under mandates entrusted between 1 April 2010 and that date, the Regulation to ratify the Agreement between the Minister of Justice and the Barreau du Québec respecting the conditions of practice, the procedure for the settlement of disputes and the tariff of fees of advocates under the legal aid plan entered into on 4 April 2008 continue to apply despite their replacement.

The Regulation also continues to have effect for the services rendered under mandates entrusted between 1 April 2007 and 1 April 2010 and in the cases that are not referred to in section 77.

79. The maximum amount of fees that may be paid to an advocate who renders services under the legal aid plan is set at \$140,000 for mandates entrusted to the advocate between 1 April and 31 March of the years covered by this Agreement. Beyond that amount, the fees paid to the advocate are reduced by 35% for each mandate.

80. This Agreement also replaces the Regulation respecting the tariff of fees and expenses of advocates in the course of providing certain legal services and the dispute settlement procedure (chapter A-14, r. 9). It takes effect, as regards the fees payable for the services rendered under Chapter III of the Act respecting legal aid and the provision of certain other legal services, on the date of its publication in the *Gazette officielle du Québec*.

81. By exception, section 51 of this Agreement does not apply to the remuneration of an advocate who, on the day it comes into force, represents more than one accused in a long and complex trial. In such case, that advocate's remuneration continues to be adjusted pursuant to section 59 of the Regulation respecting the tariff of fees and expenses of advocates in the course of providing certain legal services and the dispute settlement procedure.

82. This Agreement ends on 30 September 2017, but continues to have effect until it is replaced.