

Draft Regulations

Draft Regulation

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

Legal aid — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting legal aid, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation falls within the scope of the amendments made to the legal aid system by the Act to promote access to justice in family matters (2012, chapter 20), assented to on 15 June 2012. It takes into account the legal services, introduced in the Act respecting legal aid and the provision of certain other legal services (chapter A-14), for the purpose of obtaining a judgment on an agreement, submitted in a joint application, for the review of a judgment, which settles all child custody matters or all matters relating to either child support alone or child and spousal support. With respect to those legal services, the draft Regulation makes amendments in relation to

- (1) what the costs of legal aid consist of;
- (2) the place where a person financially eligible for contributory legal aid must pay the contribution;
- (3) the proportion of fees and court fees that must be paid by persons not financially eligible for legal aid;
- (4) the tenor of the undertakings to be made by applicants not financially eligible for legal aid;
- (5) the form of the declaration that must be made by a person not financially eligible for legal aid to be exempt from disclosing his or her financial situation and the manner in which that declaration may be made;
- (6) the beginning of the period of time for which a certificate of eligibility is issued;
- (7) the amount and the terms of the reimbursement in the case of a withdrawal of legal aid where the advocate notes that an agreement is no longer possible between the parties.

The draft Regulation has a positive impact on families since it allows for the provision of quicker and cheaper legal services available to persons financially eligible or ineligible for legal aid. Consequently, the draft Regulation could also have an impact on the practice of advocates because they could be called upon to provide more of the legal services covered.

Further information on the draft Regulation may be obtained by contacting Pierre Tanguay, Direction des orientations et politiques, Ministère de la Justice, 1200, route de l'Église, 9^e étage, Québec (Québec) G1V 4M1; telephone: 418 646-5580, extension 20197; fax: 418 646-4894.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to the Minister of Justice, 1200, route de l'Église, 9^e étage, Québec (Québec) G1V 4M1.

BERTRAND ST-ARNAUD,
Minister of Justice

Regulation to amend the Regulation respecting legal aid

An Act respecting legal aid and the provision of certain other legal services
(chapter A-14, s. 80, 1st par., subpars. a.7, b.2, h, h.1 and s, and 2nd and 3rd pars.; 2012, chapter 20, ss. 33, 35, 38, 39 and 41)

1. The Regulation respecting legal aid (chapter A-14, r. 2) is amended in section 1 by replacing the first paragraph by the following:

“**1.** In this Regulation, the costs of legal aid include all the fees and costs referred to in section 5 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14) or, where legal aid is granted for the legal services described in paragraph 1.1 of section 4.7 of the Act, the fees referred to in section 5.1 of the Act in the proportion set out in section 29.2; in all cases, the fees are fixed in accordance with the tariffs applicable under section 83.21 of the Act and, in the case of a recipient to whom section 61.1 of the Act applies, in accordance with any determination made by the Commission des services juridiques under the first paragraph of section 83.12 of the Act; the costs include court fees and the duties payable for services rendered by a registrar; the costs of legal aid

also include administrative expenses that are established at \$50 except where legal aid is granted for the legal services described in paragraph 1.1 of section 4.7 of the Act.”.

2. Section 26 is replaced by the following:

“**26.** An applicant who meets the conditions of eligibility for contributory legal aid must, to receive a certificate of eligibility, pay administrative expenses of \$50 to the local legal aid centre or bureau where legal aid was applied for, except if the certificate is issued for the legal services described in paragraph 1.1 of section 4.7 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14).”.

3. Section 27 is replaced by the following:

“**27.** The recipient is required to pay the contribution exigible to the local legal aid centre or bureau that issued the certificate of eligibility or, where the certificate is issued for the legal services described in paragraph 1.1 of section 4.7 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14), to the local legal aid centre or bureau where the certificate was applied for.”.

4. The following is added after section 29.1:

**“DIVISION IV.1
PAYMENT OF THE COSTS OF LEGAL AID
FOR LEGAL SERVICES DESCRIBED IN
PARAGRAPH 1.1 OF SECTION 4.7 OF THE ACT
RESPECTING LEGAL AID AND THE PROVISION
OF CERTAIN OTHER LEGAL SERVICES**

29.2. An applicant who, under the second paragraph of section 4 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14), meets the conditions of eligibility for legal aid must, to receive the certificate of eligibility, pay to the local legal aid centre or bureau where the certificate was applied for half the fees referred to in section 5.1 of the Act; where two applicants or more represent the creditor or debtor party in the agreement, half of those fees is to be paid in equal shares by those applicants.”.

5. The first paragraph of section 31 is replaced by the following:

“**31.** Unless the applicant is eligible under the second paragraph of section 4 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14) and declares that he or she is not financially eligible under

section 64 of the Act, an applicant must, in the manner prescribed in sections 34 to 34.2, disclose his or her financial situation and that of the other members of the family whose income, liquidities and other assets are considered under this Regulation.”.

6. The following paragraph is added at the end of section 33:

“Despite the foregoing, where an applicant is eligible under the second paragraph of section 4 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14) and declares that he or she is not financially eligible under section 64 of the Act, the application must contain only the applicant’s undertaking referred to in subparagraph 2.1 of the first paragraph.”.

7. The following is added after section 36:

“**36.1.** An applicant eligible under the second paragraph of section 4 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14) must, to be exempt from the obligation to disclose his or her financial situation and that of his or her family upon making his application, file a duly signed declaration to that effect whereby the applicant waives the assessment of his or her financial eligibility.”.

8. Section 37.1 is amended

(1) by replacing “For the purposes of this section, an application for legal aid” in the second paragraph by “For the purposes of the first paragraph, an application for legal aid”;

(2) by adding the following paragraph at the end:

“Despite the foregoing, where the certificate is issued for the legal services described in paragraph 1.1 of section 4.7 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14), the period for which the certificate is issued begins on the date on which the applications for legal aid of all the parties to the agreement are received by a local legal aid centre or bureau and on which the amounts they are required to pay under section 29.2 or the contributions exigible from them are paid in full, subject to, in the latter case, an agreement concluded under the second paragraph of section 29 between the director general and the applicant who meets the conditions of eligibility for contributory legal aid.”.

9. The following is added after section 37.3:

**“DIVISION V.2
REIMBURSEMENT OF THE COSTS OF LEGAL
AID**

37.3.1. Where the withdrawal of legal aid is notified to the parties in accordance with section 4.11.1 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14), each of the parties is entitled to the reimbursement of either the contribution exigible from the party, or the amount that the party is required to pay under section 29.2, less half the advocate’s fees set pursuant to section 83.21 of the Act and, if legal aid is withdrawn after the agreement between the parties is filed with the court office, less half the court fees payable under the tariff applicable in civil matters.”.

10. Section 38 is amended

- (1) by striking out “all” in the first paragraph;
- (2) by striking out “all” in the third paragraph.

11. This Regulation comes into force on the date of coming into force of sections 29 to 41 of the Act to promote access to justice in family matters (2012, chapter 20) or, if those sections come into force on different dates, on the later of those dates.

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Draft Regulation

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

Regulation — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the application of the Act respecting legal aid and the provision of certain other legal services, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation falls within the scope of the amendments made to the legal aid system by the Act to promote access to justice in family matters (2012, chapter 20), assented to on 15 June 2012.

The draft Regulation makes amendments in relation to

- (1) the place where a person wishing to obtain legal aid must send his or her application and the rules prescribed in that regard;
- (2) the form and content of certificates of eligibility.

The Act to promote access to justice in family matters provides that the draft Regulation must be made by the Government rather than the Commission des services juridiques.

Study of the matter has shown no financial impact on enterprises.

Further information may be obtained by contacting Pierre Tanguay, Direction des orientations et politiques, Ministère de la Justice, 1200, route de l’Église, 9^e étage, Québec (Québec) G1V 4M1; telephone: 418 646-5580, extension 20197; fax: 418 646-4894.

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BERTRAND ST-ARNAUD,
Minister of Justice

Regulation to amend the Regulation respecting the application of the Act respecting legal aid and the provision of certain other legal services

An Act respecting legal aid and the provision of certain other legal services (chapter A-14, s. 80, 1st par., subpars. *e* and *n*; 2012, chapter 20, s. 55)

1. The Regulation respecting the application of the Act respecting legal aid and the provision of certain other legal services (chapter A-14, r. 4) is amended by replacing section 69 by the following:

“**69.** An application for legal aid must be made to the local centre certified under the Act or at the legal aid bureau nearest the applicant’s place of residence. It may also be made with any centre or legal aid bureau if the applicant gives reasons for not applying to the local centre or bureau nearest his or her place of residence. The certificate may then be given by the bureau or local centre to which application was made or by another bureau or local centre if the director general decides that it would be in the applicant’s best interest to do so.”.