

## Regulations and other Acts

Gouvernement du Québec

### **O.C. 866-2013**, 22 August 2013

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

#### **Legal aid** — **Amendment**

Regulation to amend the Regulation respecting legal aid

WHEREAS, under subparagraphs *a.7*, *a.9*, *b.2*, *h*, *h.1*, *s* and *s.1* of the first paragraph, the second and third paragraphs of section 80 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14), as amended by section 41 of the Act to promote access to justice in family matters (2012, chapter 20), the Government may make regulations on the matters set forth therein;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Regulation respecting legal aid was published in Part 2 of the *Gazette officielle du Québec* of 3 April 2013 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation without amendment;

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

THAT the Regulation to amend the Regulation respecting legal aid, attached to this Order in Council, be made.

JEAN ST-GELAIS,  
*Clerk of the Conseil exécutif*

### **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, s. 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 the 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 18 September 2013.

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