

Where the total of the claims filed against an advocate and accepted by the executive committee or the compensation fund committee exceeds the maximum compensation provided for in the first paragraph, the maximum compensation is paid to the claimants in proportion to the amount of the claims accepted.

14. Where the executive committee believes that claims in excess of \$500,000 may be filed against an advocate, it must suspend the payment of compensations until it has reviewed all claims concerning the advocate. The executive committee must

(1) publish, in a newspaper of the region where the professional domicile of the advocate is or was located, a notice in which the Bar invites any persons to inform the Bar of claims for which a compensation is likely to be paid in accordance with this Regulation; or

(2) draw an inventory of the funds or property entrusted to the advocate and notify in writing the persons likely to file a claim.

15. The secretary of the compensation fund committee informs members of the compensation fund committee of any claim against the fund at the first meeting after a claim is filed. The secretary also informs the executive committee when the amount of the claim exceeds \$50,000.

16. The compensation fund committee decides, with regard to any claim against the fund not exceeding \$50,000, whether it is expedient to accept the claim, in whole or in part, and, where applicable, it determines the compensation.

Its substantiated decision is final.

17. The executive committee, upon the duly motivated recommendation of the compensation fund committee, decides, with regard to any claim against the fund exceeding \$50,000, whether it is expedient to accept the claim, in whole or in part, and, where applicable, it determines the compensation.

Its substantiated decision is final.

18. Where the compensation fund committee and the executive committee are each seized of one or more claims against the same advocate and that the claims are related, the compensation fund committee reserves its decision until the executive committee decides which claim or claims it is seized, unless the executive committee delegates the claim or claims to the compensation fund committee for decision.

19. Upon recommendation of the executive committee, the General Council may pay compensation in excess of the amount prescribed in section 13 under special circumstances justified by humanitarian considerations.

20. To receive the compensation determined by the executive committee or, where applicable, by the compensation fund committee, the claimant must sign an acquittance in favour of the Barreau du Québec with subrogation of all rights in respect of the claim against the offending member, the member's successors, or any person, partnership or company or legal person that is bound or may be bound to make the payment, up to the amount of the compensation.

DIVISION V TRANSITORY AND FINAL

21. This Regulation replaces the Regulation respecting the indemnity fund of the Barreau du Québec (chapter B-1, r. 11), which continues to apply to claims filed before 20 March 2014.

22. The compensation fund referred to in section 1 consists of the funds and property allocated to the fund on 20 March 2014.

23. 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. 146-2014, 19 February 2014

An Act to promote access to justice in family matters (2012, chapter 20)

Regulation

Regulation respecting the application of the Act to promote access to justice in family matters

WHEREAS the Act to promote access to justice in family matters (2012, chapter 20) was assented to on 15 June 2012;

WHEREAS sections 2, 4, 5, 8 to 11, 16 and 19 of the Act confer on the Government the power to 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 respecting the application of the Act to promote access to justice in family matters was published in Part 2 of the *Gazette officielle du Québec* of 13 November 2013 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

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 respecting the application of the Act to promote access to justice in family matters, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the application of the Act to promote access to justice in family matters

An Act to promote access to justice in family matters (2012, chapter 20, ss. 2, 4, 5, 8 to 11, 16 and 19)

CHAPTER I PRELIMINARY PROVISIONS

1. In this Regulation, “SARPA” refers to the Service administratif de rajustement des pensions alimentaires pour enfants established within the Commission des services juridiques pursuant to the Act to promote access to justice in family matters (2012, chapter 20).

2. For the purposes of this Regulation, “child care expenses”, “post-secondary education expenses”, “special expenses”, “annual income”, “disposable income” and “custody time” have the meaning given in the Regulation respecting the determination of child support payments (chapter C-25, r. 6).

In addition, the child support determination form referred to in this Regulation is the form in Schedule I to the Regulation respecting the determination of child support payments.

CHAPTER II APPLICATION FOR RECALCULATION

DIVISION I ELIGIBILITY

3. An application for the recalculation of child support may be made to SARPA provided that

- (1) the child support is payable for a minor child;
- (2) the child support was granted by way of a judgment;

(3) the child support was determined pursuant to the guidelines applicable in Québec under the Order Designating the Province of Quebec for the Purposes of the Definition “applicable guidelines” in Subsection 2(1) of the Divorce Act (SOR/97-237);

(4) the child support has not been increased or reduced by a court pursuant to article 587.2 of the Civil Code to take account of the value of either parent’s assets or the extent of the resources available to the child, or to take account of the hardship that the payment of support would entail for either parent;

(5) the child’s parents ordinarily reside in Québec;

(6) the disposable income of the child’s parents does not exceed \$200,000;

(7) the income of either of the child’s parents has not been established by the court pursuant to article 825.12 of the Code of Civil Procedure (chapter C-25);

(8) the annual income of either of the child’s parents is not below the annual income taken into account to determine the child support to be recalculated because of maternity or paternity leave, adoption leave, sabbatical leave, leave without pay, leave with deferred pay, an alternative work schedule, a resumption of studies, retirement, a change of career, or a voluntary relinquishment of employment occurring since the last judgment determining child support or, if more recent, since the last recalculation;

(9) an agreement has been reached or, when the application is made by only one of the child’s parents, will be reached between the parents in the cases and in accordance with the procedure set out in this Regulation;

(10) no pending case between the parties could have an impact on the child support; and

(11) no judgment has suspended the payment of child support.

4. An application for recalculation may be made by only one of the child’s parents, subject to the information and documents obtained from the other parent by SARPA.

DIVISION II PROCEDURE FOR MAKING AN APPLICATION

5. An application for recalculation is made to SARPA on the date or dates determined by the court. In the absence of such a date, the application may be made, each year, on the anniversary date of the last judgment determining child support or, if more recent, on the anniversary

date of the last recalculation. An application may also be made, within one year, in response to a recalculation notice containing a clerical error or calculation error, or in response to a change in the situation of the parents or of their child.

6. The application for recalculation must be made in writing and sent to SARPA via its website or filed with a legal aid office, by both of the child's parents or by the parent making the application.

The application is deemed to be made on the date on which SARPA receives the application and all the information and documents that must be provided in support of the application.

DIVISION III INFORMATION AND DOCUMENTS REQUIRED FOR RECALCULATION

7. The information that must be provided in support of an application for recalculation and the information that may be required from the other parent by SARPA, when the application is made by only one parent, is

- (1) the name and address of the child's parents;
- (2) the name and date of birth of the child; and

(3) the information needed to complete the child support determination form for the year during which the application for recalculation is made and for the preceding year if the income of either of the child's parents increased during that year.

The documents that must be provided and the documents that may be required, except if they are already in SARPA's possession, are

(1) the documents that must be provided with the child support determination form for the year during which the application for recalculation is made and for the preceding year if the income of either of the child's parents increased during that year;

(2) the statement in respect of applications relating to an obligation of support that each party is required to provide pursuant to article 827.5 of the Code of Civil Procedure;

(3) the last judgment determining child support and the child support determination form used by the court to determine child support, unless the judgment was made before 1 December 2012 and the form is not available; and

(4) the agreement between the parents, if such an agreement is required pursuant to this Regulation.

8. The information and documents needed for the recalculation is sent to SARPA using any means of communication.

9. SARPA may verify, with a parent's employer, the Ministère de l'Emploi et de la Solidarité sociale, the Agence du revenu du Québec, the Société de l'assurance automobile du Québec, the Régie de l'assurance maladie du Québec or the Commission de la santé et de la sécurité du travail, as the case may be, the accuracy of the information or documents provided by a parent for the recalculation.

DIVISION IV ANNUAL INCOME OF A PARENT WHO FAILS TO PROVIDE INFORMATION OR DOCUMENTS

10. For the purposes of the recalculation, the annual income of a parent who fails to provide SARPA with the information or documents needed to determine annual income is the higher of the amounts obtained

(1) by increasing by 15% the annual income of the parent taken into account to determine the child support for which the recalculation is requested or, if more recent, the annual income reported to the other parent during an exchange of information under article 596.1 of the Civil Code; or

(2) by indexing annually the most recent of the incomes referred to in paragraph 1 by twice the rate of increase in the Pension Index determined under the Act respecting the Québec Pension Plan (chapter R-9), from 1 January of the year following the year to which the income relates to 1 January of the year during which the application for recalculation is made.

DIVISION V RECALCULATION BY AGREEMENT

11. SARPA may not recalculate child support if the income of either of the child's parents is below the income taken into account to determine the child support for which the recalculation is requested by reason of a strike or lock-out occurring since the last judgment determining the child support or, if more recent, since the last recalculation, except if the parents agree on the income resulting from the decrease.

12. SARPA may not recalculate child support if the income of either of the child's parents includes benefits granted under a statutory pension plan that have decreased since the last judgment determining child support or, if more recent, since the last recalculation, except if the parents agree on the amount of the benefits.

13. SARPA may not recalculate child support if the income of either of the child's parents includes a salary from an enterprise, partnership, association or trust of which the parent is a director, senior officer, partner, trustee or majority shareholder, except if the parents agree on the amount of the salary.

The same applies if the parent's spouse, or a person who is a relative or allied of the parent or spouse, including a de facto union, up to the degree of cousin-german inclusively, is a director, senior officer, partner, trustee or the majority shareholder.

14. SARPA may not recalculate child support if the income of either of the child's parents includes income other than a salary, support paid by a third party and received for one's own needs, employment insurance benefits, parental insurance benefits or other benefits granted under a statutory pension or compensation plan, except if the parents agree on the amount of the income.

15. SARPA may not recalculate child support if, at the time of the judgment determining support, the parents agreed on a level of child support that departs from the level which would be required to be provided under the rules provided for in the Regulation respecting the determination of child support payments, except if the parents agree to allow SARPA to recalculate the child support on the basis of those rules.

DIVISION VI APPLICATION FOR WITHDRAWAL

16. An application for withdrawal must be made in writing and sent to SARPA via its website or filed with a legal aid office, by both of a child's parents or by the parent making the application.

CHAPTER III RECALCULATION

DIVISION I RECALCULATION TERMS

17. SARPA recalculates child support taking into account the expenses granted by the court for the child or, if more recent, the expenses taken into account by SARPA at the last recalculation. However, if there is an agreement between the parents to change the amount of the expenses or if the amount of the expenses must be changed because of the withdrawal, addition or modification of an advantage, subsidy, deduction or tax credit having an impact on the expenses, SARPA adjusts the child support taking into account the amount of the expenses as agreed on by the parents or as changed.

SARPA also recalculates the child support for a child taking into account the custody time granted by the court to each parent or, if more recent, the custody time taken into account by SARPA at the last recalculation. However, if there is an agreement between the parents to change the custody time, SARPA recalculates the child support taking into account the custody time agreed on by the parents, provided that the agreement between the parents does not change the type of custody and that the determination or last change of custody time is based on an agreement between the parents that was the subject of a judgment or that was taken into account by SARPA at the last recalculation following such a judgment.

DIVISION II RECALCULATION NOTICE

18. The recalculation notice from SARPA contains the following information:

- (1) the name of the child's parents;
- (2) the number allocated by SARPA to the application for recalculation;
- (3) the number of the court record;
- (4) the date of the notice;
- (5) the amount of child support following the recalculation, including, where applicable, the expenses for the child taken into account by SARPA in making the recalculation; and
- (6) the date on which the recalculation takes effect.

The child support determination form used by SARPA to recalculate child support must be attached to the notice.

CHAPTER IV FEES PAYABLE, EXEMPTIONS AND REIMBURSEMENTS

19. Subject to the exemptions provided for in section 16 of the Act and section 20 of this Regulation, the fees payable for the recalculation of child support are \$275. The fees are charged by SARPA in equal shares to both parents of the child when both parents apply for recalculation.

The fees are payable as of the day on which the parents are notified by SARPA that it can proceed with the recalculation of child support, or, when the application is made by only one parent, as of the day the parent is notified by SARPA that it can proceed with the recalculation subject to the information and documents obtained from the other parent. The fees must be paid within 20 days of the notice, failing which a new application must be made to SARPA, according to the procedure prescribed by this Regulation.

20. No fee is payable under this Regulation when the application for recalculation is made in response to a recalculation notice containing a clerical error or calculation error that is not rectified within 30 days of the date of the notice, provided that the application is made within 90 days of the date of the notice.

21. The Commission des services juridiques reimburses half of the fees paid by a parent when the application is made by only one parent and SARPA notes, after examining the information and documents obtained from the other parent, that it cannot recalculate the child support because the recalculation applied for requires a judicial assessment.

The Commission also reimburses half of the fees paid by a parent when SARPA notes, following a change in the situation of the parents or of their child, that it cannot recalculate the child support because the recalculation applied for requires a judicial assessment.

CHAPTER V FINAL

22. This Regulation comes into force on 1 April 2014.

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Gouvernement du Québec

O.C. 147-2014, 19 February 2014

Courts of Justice Act
(chapter T-16)

Tariff of Court Costs in Civil Matters and Court Office Fees — Amendment

Regulation to amend the Tariff of Court Costs in Civil Matters and Court Office Fees

WHEREAS, under section 224 of the Courts of Justice Act (chapter T-16), the Government fixes the tariff of court costs and court office fees;

WHEREAS, under the provision, the Government made the Tariff of Court Costs in Civil Matters and Court Office Fees (chapter T-16, r. 9);

WHEREAS it is necessary to amend the tariff to provide that, where the registration or filing of a recalculation notice is required for the purposes of the Act to promote access to justice in family matters (2012, chapter 20), the tariff is exempt from the payment of office fees;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft of the Regulation to amend the Tariff of Court Costs in Civil Matters and Court Office Fees was published in Part 2 of the *Gazette officielle du Québec* of 13 November 2013 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

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 Tariff of Court Costs in Civil Matters and Court Office Fees, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Tariff of Court Costs in Civil Matters and Court Office Fees

Courts of Justice Act
(chapter T-16, s. 224)

1. The Tariff of Court Costs in Civil Matters and Court Office Fees (chapter T-16, r. 9) is amended in section 23 by adding “Subparagraph 1 of the first paragraph does not apply either where the registration or filing of a recalculation notice is required for the purposes of the Act to promote access to justice in family matters (2012, chapter 20).” at the end of the second paragraph.

2. This Regulation comes into force on 1 April 2014.

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