

Draft Regulations

Draft Regulation

An Act respecting immigration to Québec
(chapter I-0.2)

Immigration consultants

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

The draft Regulation is to replace the Regulation respecting immigration consultants (chapter I-0.2, r. 0.1), which governs the activities of immigration consultants.

To that end, the draft Regulation provides a definition for the expression “immigration consultant” and determines the conditions required and the documents to be provided for obtaining recognition as an immigration consultant or for renewing that recognition. It sets the fees payable for an application for recognition or its renewal. It also provides the obligations and prohibitions related to the activities of a consultant.

Lastly, the draft Regulation includes transitional measures to ensure the transition between the former regulation and the new regulation.

The draft Regulation has an impact on persons who carry on activities as immigration consultants.

Further information may be obtained by contacting Fakhri Gharbi, coordinator, Direction de l'authentification, de l'évaluation professionnelle et de la révision administrative, Ministère de l'Immigration, de la Diversité et de l'Inclusion, 285, rue Notre-Dame Ouest, 5^e étage, Montréal (Québec) H2Y 1T8; telephone: 514 864-2022, extension 25068; fax: 514 873-7118.

Any person wishing to comment on the matter is asked to submit written comments within the 45-day period to the Minister of Immigration, Diversity and Inclusiveness, 360, rue McGill, 4^e étage, Montréal (Québec) H2Y 2E9.

KATHLEEN WEIL,
Minister of Immigration, Diversity and Inclusiveness

Regulation respecting immigration consultants

An Act respecting immigration to Québec
(chapter I-0.2, s. 3.3, 1st par., subpars. *k* to *n*, *p* and *q*)

DIVISION I GENERAL

- 1.** A person wishing to act as an immigration consultant must obtain recognition from the Minister.
- 2.** An immigration consultant is a natural person who, for remuneration, advises, assists or represents another person with respect to an application filed with the Minister under the Act respecting immigration to Québec (chapter I-0.2).
- 3.** A natural person in one of the following situation who advises, assists or represents another person with respect to an application filed with the Minister under the Act respecting immigration to Québec is presumed to act for remuneration:

(1) the person is a member of a body designated as an authorized representative under the Regulations Designating a Body for the Purposes of Paragraph 91(2) (c) of the Immigration and Refugee Protection Act (SOR/2011-142); or

(2) the person's recognition is suspended, revoked or expired.

In the case provided for in subparagraph 2 of the first paragraph, the presumption applies for 5 years following the revocation or expiry of recognition.

4. This Regulation does not apply to a member in good standing of the Chambre des notaires du Québec or the Barreau du Québec or to a person holding a special authorization issued under section 42.4 of the Professional Code (chapter C-26) by one of those orders and allowing the person to engage in the activities governed by this Regulation.

DIVISION II RECOGNITION OF IMMIGRATION CONSULTANTS

§1. Recognition and renewal

5. A person who wishes to obtain recognition as an immigration consultant or who wishes to renew recognition must file an application with the Minister.

The person must provide the Minister with all the information and documents required by the Minister.

6. The Minister grants recognition as an immigration consultant or renews the recognition if the applicant

(1) has passed one of the French examinations recognized by the Minister and obtained a result showing a knowledge of the language equal to or greater than level 7 according to the Échelle québécoise des niveaux de compétence en français des personnes immigrantes adultes;

(2) has passed the examination on Québec immigration rules following the filing of his or her application for recognition;

(3) is registered in the enterprise register under the Act respecting the legal publicity of enterprises (chapter P-44.1) or carries on activities for an enterprise registered under that Act or having an establishment in Québec; and

(4) is a member in good standing of a body designated as an authorized representative under the Regulations Designating a Body for the Purposes of Paragraph 91(2)(c) of the Immigration and Refugee Protection Act.

7. The Minister may not grant recognition as an immigration consultant or renew that recognition if the person filing the application has, in the 5 years prior to the processing of the application,

(1) communicated or contributed to the communication of false or misleading information or documents to the Minister;

(2) failed to provide the Minister with information or documents required under the Act respecting immigration to Québec;

(3) been found guilty of a criminal or penal offence committed in Canada or abroad in connection with the activities of an immigration consultant;

(4) been the subject of a disciplinary decision in connection with the activities of an immigration consultant, rendered by the disciplinary council of a professional order or by the Professions Tribunal, revoking the person's right to practice or striking the person off the roll of an order; or

(5) had his or her recognition revoked for one of the reasons provided for in paragraphs 1 to 4 of section 14.

In addition, the Minister is to deny an application for renewal if the immigration consultant fails to comply with the time limit prescribed in section 9 or if recognition is suspended in accordance with section 11.

8. An immigration consultant's recognition is valid for 2 years.

9. An application for renewal is filed not later than 60 days before the date on which recognition expires.

10. The fees payable for the examination of an application are

(1) \$1,600 for recognition as an immigration consultant;

(2) \$1,300 for the renewal of that recognition.

Those fees are payable at the time the application is filed.

§2. Recognition suspension and revocation

11. The Minister suspends the recognition of an immigration consultant for any of the following reasons:

(1) the consultant no longer meets the condition in paragraph 3 of section 6;

(2) the consultant's membership with a body referred to in paragraph 4 of section 6 is suspended.

The Minister lifts the suspension when the reason provided for in subparagraph 1 or 2 of the first paragraph no longer exists.

12. The Minister may, for the duration and on the conditions determined by the Minister, suspend the recognition of an immigration consultant who does not comply with any of the provisions in Divisions III and IV.

13. The Minister revokes the recognition of an immigration consultant who is no longer a member of a body referred to in paragraph 4 of section 6.

14. The Minister may revoke the recognition of an immigration consultant for any of the following reasons:

(1) the immigration consultant communicates or contributes to the communication of false or misleading information or documents to the Minister;

(2) the immigration consultant fails to provide information or documents required under the Act respecting immigration to Québec to the Minister;

(3) the immigration consultant is found guilty of a criminal or penal offence committed in Canada or abroad in connection with the activities of an immigration consultant;

(4) the immigration consultant is the subject of a disciplinary decision in connection with the activities of an immigration consultant, rendered by the disciplinary council of a professional order or by the Professions Tribunal, revoking the consultant's right to practice or striking him or her off the roll of an order;

(5) the immigration consultant does not comply with any provision of Divisions III and IV.

§3. Register

15. The Minister keeps an up-to-date register of recognized immigration consultants, indicating those whose recognition has been suspended or revoked for less than 5 years. The register is to be published on any medium deemed appropriate by the Minister.

Such information is public information.

DIVISION III OBLIGATIONS

16. Immigration consultants must exercise their activities with honesty, integrity and objectivity.

17. Immigration consultants must enter into a professional services contract in writing with a person who resorts to their services and give the person a copy of the contract at the time of signing.

The contract must clearly indicate the object and scope of the services to be provided, the remuneration paid by the person to the consultant, the terms and conditions of payment and the costs or other expenses required for the contract to be carried out.

18. Immigration consultants must take all reasonable means to ensure the authenticity of the documents and the truthfulness of the information communicated to the Minister in support of an application.

Immigration consultants must so certify in writing.

19. Immigration consultants must write the residential address of the person who resorts to their services on the application they file with the Minister.

20. Immigration consultants must inform the Minister in writing of any change likely to have an impact on the maintenance of their recognition within 30 days of the change.

Immigration consultants must also inform the Minister, within the same time, of a change in the address of their establishment in Québec or in the residential address of a person who resorts to their services.

21. Immigration consultants must keep all documents relating to their application for recognition, the renewal thereof, the professional services contracts entered into with persons who resort to their services and the applications filed with the Minister as the representatives of those persons.

Immigration consultants must keep those documents in their establishment in Québec for a period of 5 years following the expiry of their recognition, the end of any professional services contract and any decision of the Minister.

22. Immigration consultants must provide the Minister with any information or document deemed relevant by the Minister, within the time and in the manner indicated by the Minister.

DIVISION IV PROHIBITIONS

23. Immigration consultants must refrain from behaving in a way that could discredit the administration of immigration in Québec.

24. Immigration consultants may not, by any means whatsoever, make false, misleading or incomplete representations as regards their level of competence or the extent or effectiveness of their services.

25. Immigration consultants may not communicate or contribute to the communication of false or misleading information or documents to the Minister.

DIVISION V PENAL AND TRANSITIONAL

26. Any violation of sections 16 to 25 constitutes an offence.

27. An immigration consultant's recognition granted by the Minister before (*insert the date occurring 15 days after the date of publication of this Regulation in the Gazette officielle du Québec*) is maintained until its expiry, subject to sections 13 and 14.

Despite the foregoing, the Minister may revoke recognition for any of the reasons provided for in paragraphs 2 to 4 of section 14 only if the event justifying revocation occurred after (*insert the date occurring 15 days after the date of publication of this Regulation in the Gazette officielle du Québec*).

28. This Regulation replaces the Regulation respecting immigration consultants (chapter I-0.2, r. 0.1).

29. This Regulation comes into force on (*insert the date occurring 15 days after the date of its publication in the Gazette officielle du Québec*).