

Regulation to amend the Tariff of court costs in penal matters

Code of Penal Procedure
(chapter C-25.1, art. 367)

1. The Tariff of court costs in penal matters (chapter C-25.1, r. 6) is amended in section 13

(1) by inserting the following after paragraph 3:

“(3.1) for the notification of a notice of execution to the Société de l’assurance automobile du Québec under article 730 of the Code of Civil Procedure (chapter C-25.01): \$15;”;

(2) by replacing paragraph 4 by the following:

“(4) for the filing with the court office of a notice of execution prepared by the collector, regardless of the number of records concerned: \$48;

(4.1) for the filing with the court office of an amended notice of execution prepared by the collector, regardless of the number of records concerned: \$48;

(4.2) for the execution instructions prepared by the collector and given to the bailiff: \$36;

(4.3) for the filing by the collector of a statement of claims under article 685 of the Code of Civil Procedure: \$43;”;

(3) by inserting the following after paragraph 6:

“(6.1) for the subpoena and examination of the garnishee by the collector under article 712 of the Code of Civil Procedure: \$34;

(6.2) for an order, a decision, or an authorization by the court or the court clerk at the request of the collector under a provision of the Code of Civil Procedure: \$21;”;

(4) by inserting the following after paragraph 7:

“(7.1) for the service by bailiff of an application for the issue of an order of imprisonment for default of payment of the sums due, the tariff provided for in the Tariff of fees of court bailiffs, made by Order in Council (*insert the number and date of the Order in Council*);”;

(5) by replacing paragraph 8 by the following:

“(8) for the service by mail of a notice of execution of seizure in the hands of third persons or of an amended notice of execution of seizure in the hands of third persons: \$23;

(8.1) for the filing of the garnishee’s declaration with the court office and its notification by the collector, regardless of the number of records concerned: \$14;

(8.2) for the filing of the bailiff’s report prepared and notified by the collector: \$42;

(8.3) for the preparation by the collector of a collocation scheme after the seizure in the hands of third persons of sums of money: \$13;

(8.4) for the filing and notification of a claim under article 666 or 773 of the Code of Civil Procedure: \$62;”.

2. The costs of execution of the judgment provided for in section 13 of the Tariff of court costs in penal matters (chapter C-25.1, r. 6), applicable until the date of coming into force of this Regulation, continue to apply with regard to acts performed within the framework of execution proceedings already under way on that date.

3. This Regulation comes into force on the date of coming into force of the Act to establish the new Code of Civil Procedure (2014, chapter 1) or, if it is different, on the date of coming into force of Book VIII of the new Code of Civil Procedure established by the Act.

102286

Draft Regulation

Court Bailiffs Act
(chapter H-4.1)

Tariff of fees of court bailiffs

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

The draft Regulation makes the necessary amendments following the adoption of the Act to establish the new Code of Civil Procedure (2014, chapter 1). The draft Regulation reviews the tariffs of fees of court bailiffs to take into account, in particular, duties assigned to court bailiffs under the new Code of Civil Procedure.

The proposed amendments may have an impact on enterprises, including small and medium-sized businesses, when they use the services of court bailiffs.

Further information on the draft Regulation may be obtained by contacting Michel Paquette, Bureau de la sous-ministre, Ministère de la Justice, 1200, route de l’Église, 9^e étage, Québec (Québec) G1V 4M1; telephone: 418 643-4090; fax: 418 643-3877; email: michel.paquette@justice.gouv.qc.ca

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.

STÉPHANIE VALLÉE,
Minister of Justice

Tariff of fees of court bailiffs

Court Bailiffs Act
(chapter H-4.1, s. 13)

DIVISION I CLASSES OF PROCEEDINGS

1. In this Regulation, the classes of proceedings referred to correspond to

(a) Class 1

i. a proceeding that comes under the jurisdiction of the Court of Québec or of a municipal court, a proceeding founded on the Code of Penal Procedure (chapter C-25.1) or on the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) where no amount is involved or the amount involved does not exceed \$500;

ii. a proceeding issuing from a person or body having judicial or administrative powers;

(b) Class 2

i. a proceeding that comes under the jurisdiction of the Court of Québec or of a municipal court, a proceeding founded on the Code of Penal Procedure or on the Criminal Code, and not included in Class 1;

ii. a proceeding that comes under the jurisdiction of the Superior Court, the Court of Appeal, the Supreme Court or the Federal Court, or a court of another province or country.

DIVISION II GENERAL RULES

§1. Hourly fees

2. Where this Regulation provides that a bailiff is entitled to hourly fees, the fees are established at \$68 per hour.

The bailiff is not entitled to hourly fees while travelling.

§2. Travelling fees

3. Where this Regulation provides that a bailiff is entitled to travelling fees, they include

(a) transportation fees set at \$0.63 per kilometer travelled;

(b) transportation expenses set at \$0.86 per kilometer travelled.

Transportation expenses are modified each time that the compensation provided for in subparagraph *b* of paragraph 1 of section 11 of the *Directive concernant les frais de déplacement des personnes engagées à honoraires par des organismes publics* (C.T. 212379 dated 26 March 2013) is modified. The expenses are then increased or reduced, as the case may be, by an amount equal to twice the difference between the new amount of compensation and the previous amount.

The Minister of Justice is to publish the amount of the modified expenses in Part 1 of the *Gazette officielle du Québec* and on the website of the Ministère de la Justice.

4. The travelling fees that a bailiff may claim must not exceed the amount calculated on the basis of the distance actually travelled, to a maximum of the one-way trip distance from the bailiff's closest office to the place where service or execution was made.

Where the one-way trip distance actually travelled by the bailiff exceeds 15 kilometers and where the bailiff has an office less than 15 kilometers from the place where service or execution was made, the travelling fees must be claimed for an amount equivalent to a 15-kilometer trip.

Despite the first paragraph, where the one-way trip distance actually travelled by the bailiff does not exceed 15 kilometers, the travelling fees must be claimed for the distance actually travelled.

5. Where, on the same trip, a bailiff serves or executes several proceedings or other documents concerning the same case, the bailiff is entitled to

(a) travelling fees for 1 proceeding or 1 document if the service is on the same addressee or the execution is on the same person;

(b) travelling fees based on the shortest route to each place where a service or execution is made if the service is made on different addressees or the execution is made on different persons.

6. Where the service or execution requires a bailiff to make several trips, the place, day and time of each trip must be recorded in the minutes of the bailiff.

§3. Fees for service

7. A bailiff is entitled to the fees for service provided for in this Regulation, which include the fees for drawing up the certificate of service and are added to the travelling fees.

If the prescription periods, the distance or circumstances so require, the bailiff is entitled to the hourly fees for any period after the second half-hour of waiting, up to a maximum of 1 hour and 30 minutes.

8. For serving a proceeding introductive of suit which opens the file, except for an application dealt with according to the procedure for non-contentious proceedings provided for in the Code of Civil Procedure (chapter C-25.01), a bailiff is entitled to the following fees for service:

Class 1: \$9;

Class 2: \$23.

For the service of an application dealt with according to the procedure for non-contentious proceedings, the bailiff is entitled to a fee for service of \$9.

9. Where, on the same trip, a bailiff serves on the same addressee several proceedings or other documents concerning different cases, the bailiff is entitled to the fee for service for each proceeding or each document, whether the cases have different applicants or the same applicant. In the latter case, the travelling fees to which the bailiff is entitled may be charged for only 1 proceeding or 1 document.

10. For the service of a judicial document from another State, in application of the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, which was concluded at the Hague on 15 November 1965, a bailiff is entitled only to a fee of \$100.

11. For the service of any document not specifically provided for in this Regulation, a bailiff is entitled to a fee for service of \$9.

§4. Minutes in certain special circumstances

12. For drawing up the minutes for steps taken or for absence in connection with a service, a bailiff is entitled to a fee of \$6.

The bailiff is entitled to that fee for each different case up to a maximum of 2 cases, having the same applicant, during the same trip, in respect of the same person.

The travelling fees to which the bailiff is entitled may be charged for only 1 case.

13. For drawing up the minutes for steps taken or for absence, when acting in execution matters, a bailiff is entitled to a fee of \$12.

14. For drawing up the copy of a certificate of service intended for the registrar, for registration in the land register, a bailiff is entitled to a fee of \$6.

15. For drawing up the minutes for the opening of a safety deposit box, provided for in article 478 of the Code of Civil Procedure, a bailiff is entitled to a fee of \$37.

The bailiff is also entitled to hourly fees for any period after the thirtieth minute the bailiff is present on the premises where the safety deposit box is situated, and to travelling fees.

16. For drawing up the minutes indicating the destruction of documents on a technological medium that is seized, a bailiff is entitled to a fee of \$56.

The bailiff is also entitled to hourly fees for any period after the forty-fifth minute the bailiff is present on the premises where the destruction is carried out, and to travelling fees.

§5. Official report

17. A bailiff who writes an official report, except a report drawn up for the execution of judgments and orders, is entitled to a fee of \$79. The fee is added to the travelling fees.

The bailiff is also entitled to hourly fees for any period starting from the second hour.

§6. Disbursements

18. A bailiff may only claim as disbursements the sums that are warranted and that the bailiff actually paid to a third person while performing duties under the provisions of the Code of Civil Procedure or another law. The sums include the mailing cost to give notice of proceedings or other document, court costs and court office fees, fees for the register of personal and movable real rights and fees for the land register, the fees of an advocate or a notary who assists the bailiff where provided for by law, and fees claimed by a financial institution carrying on its activities in Québec, where the bailiff can accept a payment made by means of a certified cheque, a credit card or a transfer of funds.

§7. Increased fees

19. If, according to the law, a bailiff must execute a service on a holiday, or after 10:00 p.m. or before 7:00 a.m. on a day other than a holiday, the bailiff is entitled to one and a half times the amount of the fees. The same applies if the bailiff, according to the law, must perform an execution on a holiday, or after 8:00 p.m. or before 7:00 a.m. on a day other than a holiday.

Where an execution is begun before 8:00 p.m. and continues after that time, the bailiff is entitled to one and a half times the amount of the hourly fees for any period after the twentieth hour the bailiff is present on the premises of the execution.

DIVISION III SPECIAL FEES FOR THE EXECUTION OF JUDGMENTS AND ORDERS

§1. General rule

20. For the execution of judgments and orders, a bailiff is entitled to the fees provided for in this Division; the fees are established taking into account all the activities to be performed, regardless of the number of judicial cases concerned by a notice of execution and regardless of the numbers of parties involved.

The fees are added to the travelling fees, the fees for service and the disbursements provided for in Division II.

§2. Payment in instalments

21. For entering into an instalment payment agreement agreed to by the creditor, a bailiff is entitled to a fee of 25% of the amount of the agreement, up to a maximum amount of \$56.

22. When distributing sums of money under an instalment payment agreement, a bailiff is entitled to a fee of 5% calculated on the sums of money received and to be distributed.

§3. Notice of execution

23. For filing with the court office a notice of execution completed by the bailiff, the bailiff is entitled to a fee of \$93, regardless of the fact that the notice must be filed in a number of court records.

24. For filing with the court office, under article 682 of the Code of Civil Procedure, an amended notice of execution completed by the bailiff, the bailiff is entitled to a fee of \$62, regardless of the fact that the notice must be filed in a number of court records.

§4. Examination of debtor and garnishee

25. For a subpoena issued at a bailiff's request by a judge or a court clerk, the bailiff is entitled to a fee of \$25.

26. For having conducted, under a provision of the Code of Civil Procedure, the examination of a debtor after judgment or of a garnishee on the garnishee's declaration, a bailiff is entitled to a fee of \$50.

§5. Judicial authorizations

27. Where, to obtain from the court instructions required to act during the execution, in particular an order, a decision or an authorization, a bailiff must draw up and file an application and a notice of presentation, notify them to the parties and prepare the presentation to the court, the bailiff is entitled to a fee of \$37. The bailiff is also entitled to hourly fees for the time the bailiff is present at the courthouse, starting from the calling of the roll.

Where such instructions are obtained when those formalities are not required, the bailiff is entitled to a fee of \$37.

§6. Seizure of income

28. For filing with the court office the declaration of the garnishee where the seizure is on the income of the debtor, a bailiff is entitled to a fee of \$25.

29. When distributing sums of money in connection with a seizure of income, a bailiff is entitled to a fee of 6% calculated on the total amount of money received and to be distributed.

30. For each claim accepted by a bailiff, the bailiff is entitled to a fee of \$25.

31. For implementing an instalment payment agreement, entered into under article 699 of the Code of Civil Procedure, a bailiff is entitled to a fee of \$56.

§7. Seizure before judgment

32. In connection with a seizure before judgment, a bailiff is entitled to a fee of

(a) \$93 for drawing up the minutes of seizure before judgment pertaining to a movable property.

The bailiff is also entitled to hourly fees for any period after the first hour the bailiff is present on the premises of the seizure and to travelling fees to travel to the place where the property to be seized is kept, if the place is different from the place the notice of execution is served on the debtor;

(b) \$43 for drawing up the minutes of seizure before judgment pertaining to an immovable property;

(c) \$37 to decide, in accordance with article 523 of the Code of Civil Procedure, if the guarantee offered by a defendant is sufficient.

§8. Seizure of movable property

33. In connection with a seizure pertaining to movable property, a bailiff is entitled to a fee of

(a) \$75 for drawing up the minutes of seizure of movable property that the bailiff executed.

The bailiff is also entitled to hourly fees for any period after the first hour the bailiff is present on the premises of the seizure and to travelling fees to travel to the place where the property to be seized is kept, if the place is different from the place the notice of execution is served on the debtor;

(b) \$37 for drawing up the minutes of a *nulla bona*;

(c) \$25 if the bailiff receives from the debtor full payment of the sums owed, including fees for execution, in a single payment after the filing with the court office of the notice of execution of a seizure but before its execution;

(d) \$37 for the publication in the sales register of a notice of sale pertaining to movable property.

Where the published notice pertains to more than 10 properties or lots of movable property, the bailiff is entitled to an additional fee of \$1.25 for each excess property or lot of movable property published in the register;

(e) \$12 for the publication in the sales register of a subsequent notice of sale, required under a provision of the Code of Civil Procedure, pertaining to movable property;

(f) \$75 for the sale of movable property, whether it is by agreement, through a call for tenders or by auction.

Where the sale is through a call for tenders, the bailiff is entitled to hourly fees to allow all tenderers to ascertain the condition of the property to be sold, for a maximum of 3 hours.

The bailiff is also entitled to travelling fees to travel to the location of the property to be sold;

(g) \$25 if, although at the location, the bailiff was not able to sell the movable property;

(h) \$19 for drawing up a contract of sale of the movable property;

(i) \$37 for filing the bailiff's report with the court office following the seizure of movable property;

(j) \$25 for preparing a collocation scheme and distributing the proceeds of the sale of movable property.

Where the number of persons entitled to the proceeds of the sale exceeds 2 persons, the bailiff is entitled to an additional fee of \$19 for each additional person;

(k) \$12 for search in the register of personal and movable real rights;

(l) \$25 for a decision made at the request of a debtor to replace property seized.

The bailiff who must travel to the location to verify the replacement property is also entitled to travelling fees;

(m) \$25 for a decision made on the replacement of the custodian of seized property;

(n) \$62 for the examination of the property before entrusting it to a new custodian and for drawing up a report ascertaining the state or condition of the property.

The bailiff is also entitled to travelling fees;

(o) \$93 for the sale of movable property that is perishable, likely to depreciate rapidly or expensive to preserve;

(p) \$19 to dispose of property that cannot be sold and whose owner refuses to take possession of the property.

§9. Seizure of an immovable

34. In connection with the seizure of immovables, a bailiff is entitled to a fee of

(a) \$43 for drawing up the minutes of the seizure of an immovable the bailiff executed;

(b) \$43 for a decision rendered by the bailiff on the sale of an immovable by agreement proposed by the debtor;

(c) \$50 for the publication of a notice of sale of immovable property in the sales register;

(d) \$12 for the publication in the sales register of a subsequent notice of sale, required under a provision of the Code of Civil Procedure, pertaining to immovable property;

(e) \$75 for the sale of an immovable, whether the sale is by agreement, through a call for tenders or by auction.

Where the sale is through a call for tenders, the bailiff is entitled to hourly fees to allow all tenderers to ascertain the condition of the immovable to be sold, for a maximum of 3 hours.

The bailiff is also entitled to travelling fees to travel to the location of the immovable to be sold;

(f) \$75 for signing a contract for the sale of an immovable before a notary.

The bailiff is also entitled to travelling fees to travel to the notary's office;

(g) \$37 for filing the bailiff's report with the court office following the seizure of an immovable;

(h) \$298 for preparing a collocation scheme and distributing the proceeds of the sale of an immovable;

(i) \$12 for search in the land register.

§10. Forced execution in real actions

35. For a forced execution in real actions, a bailiff is entitled to a fee of \$93.

The bailiff is also entitled to hourly fees for any period after the first hour the bailiff is present on the premises of the execution.

§11. Seizure in the hands of a third person other than seizure of the debtor's income

36. For filing the declaration of a garnishee, other than the debtor's employer, with the court office, a bailiff is entitled to a fee of \$25.

37. For filing the bailiff's report with the court office, following seizure in the hands of a third person, other than seizure of the debtor's income, a bailiff is entitled to a fee of \$37.

38. For preparing a collocation scheme following the seizure of sums of money and their distribution, a bailiff is entitled to a fee of \$25.

§12. Sequestration

39. To give the sequestrator possession of property, a bailiff is entitled to a fee of \$37.

The bailiff is also entitled to hourly fees for any period in addition to the first half-hour the bailiff is present on the premises of the surrender of property and the bailiff is entitled to travelling fees to travel to the location of the property.

40. To receive accounting from the sequestrator at the end of management, a bailiff is entitled to a fee of \$50. To receive any interim accounting from the sequestrator, by court order, a bailiff is entitled to a fee of \$25.

§13. Release

41. For having given an acquittance under article 776 of the Code of Civil Procedure, release, release of seizure or suspension of the execution of a seizure, a bailiff is entitled to a fee of \$19.

§14. Execution of a judgment to move a specific person

42. For the execution of a judgment or an order providing for the performance of any physical act to move a specific person, a bailiff is entitled to the following fees:

Class 1: \$46;

Class 2: \$72.

The bailiff is also entitled to hourly fees starting from the second hour and to the travelling fees and fees for service provided for in Division II.

43. The execution of a judgment or an order providing for the performance of any physical act to move a specific person pertains in particular to

(a) a warrant for a person's arrest;

(b) a warrant for a person's imprisonment;

(c) an order or a judgment in matters concerning confinement in an establishment for psychiatric evaluation;

(d) an order of *habeas corpus* ordering the bailiff to bring a person before the court;

(e) a judgment ordering the eviction of a person from a given domicile, particularly in the case of a separation or divorce

44. For the acquisition of a warrant for entry in a dwelling, a bailiff is entitled to a fee of \$12.

The bailiff is also entitled to hourly fees starting from the second hour.

§15. Immobilization of a vehicle

45. For the execution of the seizure of movable property after judgment, where the property seized is a motor vehicle registered in the defendant's name, the bailiff is entitled

(a) where a motor vehicle has been immobilized, a fee of \$146 including the installation and removal of the device, the execution, service, travelling fees and hourly fees of the bailiff;

(b) where, not less than 24 hours following the immobilization of the vehicle, the vehicle is towed away, a fee of \$212 including the installation and removal of the device, the execution, services including those of the police force closest to the place where the immobilization took place, travelling fees, hourly fees of the bailiff and the official report;

(c) where the vehicle has been towed away immediately, a fee of \$173 including the installation and removal of the device, the execution, services including those of the police service closest to the place where the immobilization took place, travelling fees, hourly fees of the bailiff and the official report.

DIVISION IV OTHER FEES

46. To certify the authenticity of a document, where the bailiff is acting as correspondent for the purposes of article 113 of the Code of Civil Procedure, a bailiff is entitled to a fee of \$10.

47. To receive tenders and serve them, a bailiff is entitled to the following fees:

Class 1: \$33;

Class 2: \$60.

48. For a sale by auction provided for by a law other than the Code of Civil Procedure, a bailiff is entitled to a fee of \$79.

The bailiff is also entitled to hourly fees starting from the second hour.

DIVISION V FINAL

49. This Regulation replaces the Tariff of fees and transportation expenses of bailiffs (chapter H-4.1, r. 14) and the Tariff of fees claimable from the debtor for the execution by bailiffs and advocates of a small claims judgment (chapter C-25, r. 17).

Despite the foregoing, former regulations continue to apply with respect to acts performed in connection with execution proceedings already under way.

50. This Regulation comes into force on the date of coming into force of the Act to establish the new Code of Civil Procedure (2014, chapter 1) or, if the date is different, on the date of coming into force of Book VIII of the new Code of Civil Procedure established by that Act.

102284

Draft Regulation

Highway Safety Code
(chapter C-24.2)

Hours of driving and rest of heavy vehicle drivers — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the hours of driving and rest of heavy vehicle drivers, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation changes the definition of farm tractor to take into account the adjustments made to that definition by the Regulation respecting safety standards for road vehicles with respect to the vehicle's ownership.

The amendments proposed in the draft Regulation have no particular impact on the public.

No impact is foreseen on enterprises, including small and medium-sized businesses, since the adjustment is for harmonization purposes only.

Further information may be obtained by contacting Alexandre Guay, Société de l'assurance automobile du Québec, 333, boulevard Jean-Lesage, C-4-21, case postale 19600, Québec (Québec) G1K 8J6; telephone: 418 528-3080.

Any person having comments to make on the matter is requested to submit written comments within the 45-day period to the Minister of Transport, 700, boulevard René-Lévesque Est, 29^e étage, Québec (Québec) G1R 5H1.

ROBERT POËTI,
Minister of Transport