

Draft Regulation

An Act to establish the new Code of Civil Procedure (2014, chapter 1)

Sales register

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

The draft Regulation sets up the register of sales under judicial authority, also called the sales register.

For that purpose, the draft Regulation sets out the rules pertaining to the register, in particular as regards its storage medium for and the manner of keeping the sales register, the presentation, form and content of notices published in the register, the consultation procedures and the storage medium and schedule for preserving the notices. It also provides for a notice of amendment to amend the notices of sale where prescribed.

The draft Regulation also specifies the tariff of fees payable for the publication in the sales register of sales under judicial authority, according to whether the property concerned is movable or immovable property, and for the issue of statistical reports. It indicates the absence of fees for the publication in the register of any notice concerning a notice of sale previously published and for the consultation of the register. Lastly, it sets out adjustment rules for the fees payable.

Study of the matter has shown the following impact on the public and on enterprises:

—the draft Regulation requires the publication in the sales register of notices of sales under judicial authority, whether the sales are conducted in execution of a judgment, following seizure or as the exercise of hypothecary rights, regardless of the method of sale chosen, and of related notices prescribed by law, thereby better informing the public on those proposed sales;

—by its keeping, the sales register offers a virtual window where sales under judicial authority will reach a larger number of buyers for the benefit of creditors and debtors.

Further information may be obtained by contacting Ghislaine Montpetit, Direction des registres et de la certification, Ministère de la Justice, 1, rue Notre-Dame Est, 7^e étage, Montréal (Québec) H2Y 1B6; telephone: 514 873-3000, extension 58013; email: ghislaine.montpetit@drc.gouv.qc.ca; fax: 514 864-9774.

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

Regulation respecting the sales register

An Act to establish the new Code of Civil Procedure (2014, chapter 1, s. 748)

CHAPTER I SALES REGISTER

1. The register of sales under judicial authority, also called the sales register, is a public register that is computerized and accessible only through the Internet.

It contains the notices whose publication is prescribed by law in those matters, as well as the notices of amendment provided for in this Regulation.

2. The register assigns to each notice a separate number and indicates the date on which the notice is published.

CHAPTER II NOTICES

3. Every notice sent for publication must be sent by means of the application software available on the website of the register.

4. Several items of property may be the subject of a single notice, provided that they are of the same movable or immovable nature and that the method, time and place of sale are the same.

5. Every notice must indicate the court record number and the name and contact information of the person charged with the sale.

A notice related to another notice indicates the number of that notice.

6. The notice of sale, in addition to the information provided for in section 5, describes the property to be sold, indicates the names of the parties, the method of sale used and the charges and terms and conditions of the sale.

In the following cases, the notice also indicates

(1) for a notice of sale by auction: the date, time and place of the sale;

(2) for a notice of sale through a call for tenders: whether the sale is by invitation or through a public call for tenders, the instructions, the deadline for submitting a tender and, unless the tender documents are attached to the notice, the instructions to obtain the tender documents.

7. The description of the property must include an indication of its category among the categories listed in the application software.

The description may be completed by a photograph, provided that no natural person may be identified on the photograph.

8. Only the tender documents and photographs of the property may be attached to a notice.

9. Any other relevant information may be added under the heading “autres mentions utiles” provided for that purpose in the application software.

10. A stay of sale, the lifting of a stay of sale and a non-sale may be total or partial.

11. Every notice sent to the register in the exercise of a hypothecary right contains a declaration to the effect that the person conducting the sale was designated by judgment for that purpose.

12. A notice of sale may be amended by a notice of amendment indicating the changes, if any, in the following items:

- (1) the charges and terms and conditions of the sale;
- (2) the court record number;
- (3) the name of the debtor or creditor;
- (4) the property category;
- (5) the reserve price;
- (6) the photographs of the property;
- (7) the name and contact information of the person conducting the sale or those of the person to contact to obtain information on the sale;
- (8) the content of the heading “autres mentions utiles”;
- (9) the information on the submission of a tender in a notice of sale through a call for tenders.

13. The notice of completed sale indicates, in addition to the information provided for in section 5, the property concerned, the date on which the sale took place, the price and the terms and conditions of the sale.

14. A notice of completed sale may be amended by a notice of amendment indicating the changes, if any, in the following items:

- (1) whether property has been sold or not;
- (2) the sale price;
- (3) the content of the heading “autres mentions utiles”.

CHAPTER III CONSULTATION OF REGISTER

15. The register may be consulted by using the following search criteria:

- (1) a notice number;
- (2) a court record number;
- (3) a property category;
- (4) a place;
- (5) a date or period of time.

A search may also be made by using a keyword in the property descriptions.

16. Notices regarding a sale that is no longer in progress may be consulted for 6 months after the first of the following dates:

- (1) the scheduled sale date;
- (2) the date of publication of the notice of completed sale;
- (3) the date of publication of the notice of total non-sale.

17. A statistical report may be provided on request, insofar as the data is available and the computer system allows such a report to be made.

18. The register may not be used to provide to any person a list derived from a name-based search.

CHAPTER IV PRESERVATION OF REGISTER AND NOTICES

19. For archival purposes, the Minister preserves the notices of sale and other related notices for 3 years from the date of publication of the notice of completed sale or the notice of total non-sale.

20. The Minister keeps at least 1 computerized copy of the register in another safe place.

CHAPTER V MISCELLANEOUS AND FINAL

21. A notice approved by means of the application software has the same value as if it was signed by the person sending it.

22. The Minister may remove from the register any information he or she deems inappropriate, useless or irrelevant.

23. The tariff of fees relating to the register is provided in the Schedule to this Regulation.

The fees payable must be paid before the required service is rendered.

24. This Regulation comes into force on (*insert the date of coming into force of article 748 of the Code of Civil Procedure (chapter C-25.01)*).

SCHEDULE (s. 23)

1. Fees of \$90 are payable for the publication of a notice of sale of movable property.

2. Fees of \$750 are payable for the publication of a notice of sale of immovable property.

3. No fees are payable for the following services:

(a) the publication of a notice related to a notice of sale or a notice of completed sale previously published;

(b) consultation of the register.

However, fees of \$200 per application are payable for the issue of a statistical report.

4. The fees prescribed by this tariff are adjusted in accordance with section 83.3 of the Financial Administration Act (chapter A-6.001). However, the fees are not adjusted when they have been set or increased in the previous year otherwise than under that section.

The result of the adjustment is reduced to the nearest dollar where it contains a fraction of a dollar less than \$0.50; it is increased to the nearest dollar where it contains a fraction of a dollar equal to or greater than \$0.50. The application of this rounding rule may not operate to decrease the fees below their pre-adjustment level.

If an adjusted amount cannot be rounded up to the nearest dollar, the annual adjustments are deferred and accumulated until the fees payable include a dollar fraction that is equal to or greater than \$0.50.

The Minister publishes the results of the adjustment in the *Gazette officielle du Québec*.

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Draft Regulation

An Act to establish the new Code of Civil Procedure (2014, chapter 1)

Statement by parties required for an application relating to a support obligation

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the statement by parties required for an application relating to a support obligation, appearing below, may be made by the Minister of Justice on the expiry of 45 days following this publication.

The draft Regulation reflects the amendments made in matters of civil procedure by the Act to establish the new Code of Civil Procedure (2014, chapter 1) assented to on 21 February 2014. It prescribes the information that must be contained in the statement required under article 444 of the Act, which must be filed with the court office by each party so that a ruling may be made on support obligation.

The draft Regulation essentially repeats the information contained in the current statement provided for in the Regulation respecting the statement by parties in respect of applications relating to an obligation of support (chapter C-25, r. 5), which it replaces. The changes made by the draft Regulation clarify the information that the statement must contain and remove the obligation for parties to be sworn in respect of the information given.

Study of the file has shown no significant impact on the citizens or on enterprises, including small and medium-sized businesses.