

Gouvernement du Québec

O.C. 704-2016, 6 July 2016

An Act to establish the Administrative Labour Tribunal (chapter T-15.1)

**Administrative Labour Tribunal
— Remuneration and other conditions of
employment of the members**

Regulation respecting the remuneration and other conditions of employment of the members of the Administrative Labour Tribunal

WHEREAS, under the first paragraph of section 61 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), the Government makes regulations determining the mode of remuneration of the members of the Administrative Labour Tribunal and the applicable standards and scales as well as the method for determining the annual percentage of salary advancement up to the maximum salary rate and the annual percentage of the adjustment of the remuneration of members whose salary has reached the maximum rate and the conditions under which and the extent to which a member may be reimbursed for expenses incurred in the exercise of the functions or office;

WHEREAS, under the second paragraph of section 61 of the Act, the Government may also make regulations determining other conditions of employment applicable to all or some members, including employee benefits other than a pension plan;

WHEREAS the third paragraph of section 61 of the Act provides that regulatory provisions may vary according to whether they apply to a member holding an administrative office within the Tribunal;

WHEREAS the fourth paragraph of section 61 of the Act provides that the regulations come into force on the 15th day following the date of their publication in the *Gazette officielle du Québec* or on a later date specified in the regulations;

WHEREAS it is expedient to make the Regulation respecting the remuneration and other conditions of employment of members of the Administrative Labour Tribunal;

IT IS ORDERED, therefore, on the recommendation of the Minister responsible for Labour:

THAT the Regulation respecting the remuneration and other conditions of employment of the members of the Administrative Labour Tribunal, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,
Clerk of the Conseil exécutif

**Regulation respecting the remuneration
and other conditions of employment of
the members of the Administrative
Labour Tribunal**

An Act to establish the Administrative Labour Tribunal (chapter T-15.1, s. 61)

**DIVISION I
SALARY**

1. The salary scales applicable to the president and vice-presidents and to members of the Administrative Labour Tribunal are those appearing in Schedule I.

The salary scales are revised pursuant to the policy determined by the Government for all the holders of a senior position appointed by the Government.

2. Members who perform their functions on a part-time basis are remunerated in fees according to an hourly rate appearing in Schedule I, for a maximum of 7 hours of work per day.

Despite the foregoing, the president of the Tribunal may allow that the maximum number of hours be exceeded where special circumstances so warrant.

For the purposes of this Regulation, the fees paid to members are considered as a salary.

3. When members of the Tribunal take office, their initial salary is determined by taking into account their experience, education, the level of the position to be filled and their income when they take office, determined by taking into account the standards prescribed in Schedule II.

Public servants who are appointed member of the Tribunal may not receive a salary lower than the regular salary to which they were entitled before being appointed in accordance with their classification in the public service.

4. A person retired from the public sector as defined in Schedule III and appointed member of the Tribunal receives a salary corresponding to the salary fixed in accordance with the standards established in this Regulation, from which an amount corresponding to half the retirement pension received from the public sector is deducted. Such deduction is made at the time of appointment or when the member's term is renewed. The salary thus fixed may be less than the normal minimum of the salary scale applicable to that position.

5. Any person who has received or is receiving a severance allowance or payment from the public sector as defined in Schedule III and who receives a salary as a member of the Tribunal during the period corresponding to that allowance or payment must refund the part of the allowance or payment covering the period for which the person receives a salary, or must cease to receive it during that period.

Despite the foregoing, where the salary received as a member of the Tribunal is lower than the salary received previously, the person must refund the allowance or payment only up to the amount of the new salary, or the person may continue to receive the part of the allowance or payment that exceeds the new salary.

The period covered by the severance allowance or payment corresponds to the period that would have been covered by the same amount if the person had received it as salary in the person's previous function, employment or position.

6. When a member's term is renewed, subject to section 4, the salary is the same as the salary that was paid before the renewal.

7. Where a member already holding office within the Tribunal is designated vice-president of the Tribunal, the salary is increased by 5%. However, the new salary may not be less than the normal minimum of the salary scale applicable to that position.

Where a vice-president already holding office within the Tribunal is designated president of the Tribunal, the salary is increased by 10%. However, the new salary may not be less than the normal minimum of the salary scale applicable to that position.

Where a member already holding office within the Tribunal is designated president of the Tribunal, the salary is increased by 15%. However, the new salary may not be less than the normal minimum of the salary scale applicable to that position.

8. A full-time member who, in accordance with section 80 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), ceases to hold an administrative office within the Tribunal receives, as of that date, a salary corresponding to the salary previously received without exceeding the maximum of the salary scale applicable to that member's position.

Despite the foregoing, in such a case, public servants may not receive a salary lower than the regular salary to which they would be entitled in accordance with their classification in the public service.

9. A member's salary increases, up to the normal maximum of the applicable salary scale, according to the annual percentage corresponding to the result of the following formula:

$(0.1 \times \% \text{ granted for the performance evaluation grade A}) + (0.3 \times \% \text{ granted for the performance evaluation grade B}) + (0.6 \times \% \text{ granted for the performance evaluation grade C}).$

Those percentages are those provided for each year for advancement in the salary scale pursuant to the policy determined by the Government to evaluate the performance of the members of a body who are appointed by the Government.

Where the salary of such a member reaches the maximum, his or her remuneration is adjusted with a lump sum whose annual percentage corresponds to the result of the formula set out above. However, the percentages are then those provided for each year for the performance premium pursuant to that policy. That lump sum must, if applicable, be reduced to take into account the percentage of advancement that the member received under the first paragraph or the amount by which the member's salary exceeds the normal maximum of the salary scale applicable to the member.

In the case of a member who is retired from the public sector as defined in Schedule III, the normal maximum of the applicable salary scale is established by taking into account the deduction made at the time of appointment or renewal of term in accordance with section 4.

Members who have performed their functions for less than 4 months during the reference period for salary progression and remuneration adjustment do not benefit from the provisions of this section.

10. The annual performance evaluation of a member of the Tribunal is made by the president of the Tribunal or the vice-president designated by the president. The criteria

and grades used to evaluate a member's performance, in accordance with the principle of independence in the performance of adjudicative functions, are those appearing in Schedule IV.

The annual performance evaluation of vice-presidents of the Tribunal is made by the president of the Tribunal and pertains, as regards the carrying out of their administrative office, to efficiency and effectiveness in the management of the resources put at their disposal to carry out the Tribunal's mission. If applicable, it also pertains to the exercise of their function as members and the criteria and grades used to evaluate their performance, in accordance with the principle of independence in the performance of adjudicative functions, are those appearing in Schedule IV.

The annual performance evaluation of the president of the Tribunal is made by the Minister responsible for the administration of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) and pertains exclusively to the efficiency and effectiveness of the management of the resources put at the president's disposal to carry out the Tribunal's mission. The grades used to evaluate the president's performance are those appearing in Schedule IV.

11. Members of the Tribunal whose term has expired and who finish the cases that they have already begun to hear and on which they have not yet ruled continue, for the period determined by the president, to receive remuneration from the Tribunal at the annual salary to which they were entitled. However, if the president considers that the members' new situation allows them to exercise their functions on a part-time basis, the members may be remunerated according to an hourly rate calculated on the basis of the annual salary that the members received when their term came to an end. For the purposes of this paragraph, a member is deemed to work 35 hours a week.

In the case of a part-time member, such member continues to be remunerated at the hourly rate to which he or she was entitled.

12. A vice-president of the Tribunal who is to replace the president under section 78 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) receives, while acting as replacement, an additional remuneration corresponding to 5% of the replacement's annual salary.

A vice-president of the Tribunal who is to replace a vice-president under the same section receives, while acting as replacement, an additional remuneration corresponding to 3% of the replacement's annual salary.

Despite the foregoing, the additional remuneration is paid only if the replacement acts for at least 45 consecutive days.

13. A member of the Tribunal who is designated by the president of the Tribunal to be responsible for the administration of a regional office under subparagraph 3 of the second paragraph of section 82 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) receives, for the time of that responsibility, an additional remuneration corresponding to 5% of his or her annual salary.

Despite the foregoing, the additional remuneration is paid only if the responsibility is exercised for at least 45 consecutive days

DIVISION II OTHER CONDITIONS OF EMPLOYMENT

§1. Insurance plans

14. Full-time members of the Tribunal participate in the group insurance plans of the management personnel of the public and parapublic sectors of Québec.

If a disability giving entitlement to salary insurance occurs during the term of a member of the Tribunal, the benefits provided by the short-term and long-term salary insurance plans are payable and the exemption from paying contributions to the insurance and pension plans applies as long as the disability lasts, even if the member's term expires during that time.

§2. Pension plans

15. In accordance with section 64 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1) and subject to the special provisions authorized by the Pension Plan of Management Personnel and provided for by order:

(1) the members of the Tribunal participate in the Pension Plan of Management Personnel;

(2) the vice-presidents of the Tribunal are members of the Pension Plan of Management Personnel and benefit from the special retirement provisions provided for in the Special provisions in respect of classes of employees designated under section 23 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 2) and the Provisions respecting the determination of supplementary benefits in respect of certain classes of employees under section 208 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 3), as employees not covered by Schedule I to the latter provisions;

(3) the president of the Tribunal is a member of the Pension Plan of Management Personnel and benefits from the special retirement provisions provided for in the Special provisions in respect of classes of employees designated under section 23 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 2) and the Provisions respecting the determination of supplementary benefits in respect of certain classes of employees under section 208 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 3), with the necessary modifications.

§3. Annual vacation

16. Full-time members and vice-presidents of the Tribunal are entitled to paid annual vacation of 20 to 25 business days, allocated in accordance with the Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein (D. 450-2007, 2007-06-20, in French only).

Where it is impossible for a member or a vice-president to take all or part of their annual vacation during the fiscal year for which the vacation days were granted, the member or vice-president must apply to the president of the Tribunal for a carry-over, before the end of that fiscal year.

The number of vacation days that may be carried over may not exceed the annual number of vacation days to which the member or vice-president is entitled.

17. The president of the Tribunal is entitled to paid annual vacation of 25 business days, that number of days being calculated in proportion to the time spent in office during the fiscal year.

Where it is impossible for the president to take all or part of his or her annual vacation during the fiscal year for which the vacation days were granted, the president of the Tribunal must apply for a carry-over to the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif.

The number of vacation days that may be carried over may not exceed the annual number of vacation days to which the president is entitled.

§4. Statutory holidays

18. Full-time members of the Tribunal benefit each year from the same statutory holidays as those applicable in the public service.

§5. Official expenses

19. The president and vice-presidents of the Tribunal are entitled, upon presentation of vouchers but without prior authorizations, to the reimbursement of the expenses incurred in the performance of their functions, for each fiscal year, up to \$4,140 yearly in the case of the president and \$2,415 in the case of vice-presidents.

The expenses are reimbursed in accordance with the Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein (D. 450-2007, 2007-06-20, in French only).

§6. Travel and accommodation expenses

20. Members of the Tribunal are entitled to the reimbursement of travel and accommodation expenses incurred in the performance of their functions in accordance with the Règles sur les frais de déplacement des présidents, vice-présidents et membres d'organismes gouvernementaux (D. 2500-83, 83-11-30, in French only).

21. For the reimbursement of such expenses, the main place where a member of the Tribunal performs his or her functions is the place designated by the president of the Tribunal.

§7. Notice of resignation

22. For the purposes of section 73 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), the notice of resignation given to the Minister responsible for the administration of that Act is sent to the president of the Tribunal, who sends a copy thereof to the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif.

§8. Full leave without pay from the public service

23. For the purposes of section 65 of the Act to establish the Administrative Labour Tribunal (chapter T-15.1), public servants appointed as members of the Tribunal are, for the duration of the term of office and for the purpose of discharging the duties of office, on full leave without pay from the Ministère du Travail, de l'Emploi et de la Solidarité sociale.

24. Members on full leave without pay from the public service, who resign from their office as members of the Tribunal or whose term is not renewed, are reinstated in the personnel of the Ministère du Travail, de l'Emploi et de la Solidarité sociale with the salary they received as members of the Tribunal if that salary is lower than or

equal to the maximum of the salary scale applicable to them in the public service. Should the salary as member of the Tribunal be higher, the members are reinstated at a salary corresponding to the maximum of the applicable salary scale according to their classification in the public service.

§9. Transition allowance and other similar measures

25. Full-time members of the Tribunal, other than a member on full leave without pay from the public service, whose term is not renewed or who do not wish their term to be renewed, receive a transition allowance.

Such allowance corresponds to one month of salary at the time of leaving, per year of continuous service since taking office as the full-time holder of a senior position appointed by the Government, without exceeding 12 months.

For any period of service shorter than 1 year, the allowance is calculated in proportion to the days of service completed.

26. A member of the Tribunal may not receive a transition allowance in case of dismissal or removal from office.

27. A full-time member of the Tribunal who has left office, who has received or who receives the transition allowance provided for in section 25 and who holds an office, employment or any other remunerated position in the public sector as defined in Schedule III during the period corresponding to that allowance must reimburse the part of the allowance covering the period for which the member receives a salary, or cease to receive the allowance during that period.

Despite the foregoing, if the salary received is less than the salary previously received, the member is required to reimburse the allowance only up to the new salary, or the member may continue to receive the part of the allowance in excess of the new salary.

The period covered by the transition allowance corresponds to the period that would have been covered by the same amount had the person received it as salary in his or her previous office, employment or position.

28. A full-time member of the Tribunal who has left office, who has benefited from assisted departure measures or the equivalent and who, within 2 years of that departure, accepts an office, employment or any other remunerated position in the public sector as defined in Schedule III must reimburse the amount corresponding to the value of the measures received by the member,

up to the amount of the remuneration received, by the fact of his or her return to the public sector, during that 2-year period.

29. Engaging in part-time teaching activities is not covered by sections 27 and 28.

30. This Regulation comes into force on the fifteenth day following the date of its publication in the Gazette officielle du Québec.

SCHEDULE I
(ss. 1 and 2)

**SALARY SCALES APPLICABLE TO THE
PRESIDENT, VICE-PRESIDENTS AND MEMBERS
OF THE ADMINISTRATIVE LABOUR TRIBUNAL**

1. The salary scale applicable to the president of the Tribunal is that established for chief executive officers of level-7 bodies (Règles concernant la rémunération et les autres conditions de travail des titulaires d'un emploi supérieur à temps plein (D. 450-2007, 2007-06-20, in French only)).

2. The salary scale applicable to vice-presidents of the Tribunal is that established for vice-presidents of level-5 bodies under the Décret referred to in section 1 of this Schedule.

3. The salary scale applicable to members of the Tribunal is that established for full-time members of level-4 bodies under the Décret referred to in section 1 of this Schedule.

4. The hourly rate paid to members performing their duties on a part-time basis is determined as follows:

(Maximum of the scale applicable to full-time members of level-4 bodies + 20%*) ÷ 261 days ÷ 7 hours per business day.

* To compensate for the absence of employee benefits.

SCHEDULE II
(s. 3)

**DETERMINATION OF INITIAL SALARY WHEN
A MEMBER OF THE ADMINISTRATIVE LABOUR
TRIBUNAL TAKES OFFICE**

To establish the salary that must be used to determine the initial salary of a member of the Tribunal taking office, the following rules apply:

1. Taking into account the regular salary received from the previous employer by requiring an attestation of salary from that employer.

2. Establishing the income from self-employment taking into consideration

—a financial statement prepared by an accounting firm;

—a copy of the T4 or RL-1 slip stating the gains of the last required reference year or years required;

—an affidavit whereby the candidate attests to the amount of his or her gains; or

—any other proof deemed acceptable and representative of the candidate's income.

3. Excluding from the salaries, gains or income provided, any amount that is not regular, such as premiums, overtime pay or other similar gratuities.

4. Taking into account, to determine salary, only the income from the main employment, excluding income from casual employment or employment occupied outside regular working hours.

5. Deducting, for candidates in the employ of the Gouvernement du Québec as a contractual or casual worker, the percentage of their salary intended to compensate for the absence of employee benefits, when such a percentage is provided.

6. Calculating, over an average of a few years, the income that varies notably from one year to the next because that income is in the form of profit sharing or another form.

SCHEDULE III

(ss. 4, 5, 9, 27, 28)

PUBLIC SECTOR

1. The Government and its departments, the Conseil exécutif and the Conseil du trésor.

2. The staff of the Lieutenant-Governor, the National Assembly, the Public Protector, any person designated by the National Assembly to perform duties that come under the National Assembly where its personnel is, by law, appointed in accordance with the Public Service Act (chapter F-3.1.1), and any body to which the National Assembly or a committee thereof appoints the majority of the members.

3. Any body which is established by or under an act or by a decision of the Government, the Conseil du trésor or a minister and which meets one of the following conditions:

(1) all or part of its appropriations for operating purposes appear under that heading in the budgetary estimates tabled in the National Assembly;

(2) its employees are required by law to be appointed in accordance with the Public Service Act (chapter F-3.1.1);

(3) the Government or a minister appoints at least half of its members or directors, and at least half of its operating expenses are borne directly or indirectly by the Consolidated Revenue Fund or by other funds administered by a body referred to in section 1 or 2 of this Schedule, or both situations hold true at the same time.

4. The Public Curator.

5. Any body, other than those mentioned in sections 1, 2 and 3 of this Schedule, which is established by or under an Act or by a decision of the Government, the Conseil du trésor or a minister and at least half of whose members or directors are appointed by the Government or a minister.

6. Any joint-stock company, other than a body mentioned in section 3 of this Schedule, more than 50% of whose voting shares are part of the domain of the State or are owned by a body referred to in sections 1 to 3 and 5 of this Schedule or by an enterprise referred to in this section.

7. Any educational institution at the university level referred to in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1).

8. Any general and vocational college established under the General and Vocational Colleges Act (chapter C-29).

9. Any school board subject to the Education Act (chapter I-13.3) or the Education Act for Cree, Inuit and Naskapi Native Persons (chapter I-14) and the Comité de gestion de la taxe scolaire de l'Île de Montréal.

10. Any private institution accredited for the purposes of subsidies under the Act respecting private education (chapter E-9.1).

11. Any other educational institution more than half of whose operating expenses are paid out of appropriations appearing in the budgetary estimates tabled in the National Assembly.

12. Any public or private institution under agreement and any agency referred to in the Act respecting health services and social services (chapter S-4.2).

13. The regional council established by the Act respecting health services and social services for Cree Native persons (chapter S-5).

14. Any municipality, any body declared by law to be the mandatary or agent of a municipality, any body more than half of whose board of directors are members of a municipal council and any body otherwise under a municipal authority.

15. Any metropolitan community, intermunicipal board, intermunicipal transit authority, any intermunicipal board of transport, the Kativik Regional Government and any other body, except a private body, more than half of whose board of directors are elected municipal officers.

SCHEDULE IV (s. 10)

PERFORMANCE EVALUATION CRITERIA AND GRADES

The annual performance evaluation is carried out according to the following criteria:

(1) Qualitative evaluation criteria: they comprise factors and standards intended to assess the knowledge, skills, attitudes and behaviours of the member in the performance of duties, particularly with regard to

(a) the knowledge and use of statutes, regulations, evidence and procedure rules and jurisprudence using the means put at his or her disposal to master them;

(b) the quality of the drafting of decisions, particularly with regard to clarity, precision and concision;

(c) behaviour with the parties and their witnesses and representatives, particularly at the hearing;

(d) compliance with the code of ethics applicable to the members of the Tribunal;

(e) availability and dedication to work;

(f) communications and relations with the Tribunal's management and staff;

(g) participation in the committees and activities related to the office of Tribunal member;

(2) Quantitative evaluation criteria: they are intended to assess the quantitative contribution of the member in the processing of records, particularly with regard to

(a) the number of records closed following conciliation, discontinuance or an amicable settlement;

(b) the number of records processed following investigations and hearings of parties, cases taken under advisement to assess testimonies, arguments and all the documents related to a record;

(c) the number of decisions rendered.

The annual performance evaluation is carried out using the following evaluation grades:

A: performance that considerably exceeds the required standards;

B: performance that exceeds the required standards;

C: performance that meets the required standards;

D: performance that falls below the required standards;

E: performance that falls considerably below the required standards.

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Gouvernement du Québec

O.C. 705-2016, 6 July 2016

An Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20)

Construction industry — Vocational training of the workforce — Amendment

Regulation to amend the Regulation respecting the vocational training of the workforce in the construction industry

WHEREAS, under subparagraphs 2 and 14 of the first paragraph of section 123.1 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20), the Commission de la construction du Québec may, by regulation, determine the activities included in a trade and adopt any other related or suppletive provision considered necessary to give effect to the provisions of the section and of the Act with respect to vocational training;