

15. Members must be politically neutral in the performance of their duties.

16. A member may exercise functions gratuitously within a professional order or a non-profit organization. The member must inform the president of his or her intention to do so.

The functions a member wants to exercise must not compromise the effective performance of the member's duties as a member, or the member's or the Tribunal's impartiality or independence.

DIVISION III INCOMPATIBLE SITUATIONS AND ACTIVITIES

17. Members must refrain from pursuing an activity or placing themselves in a situation that may undermine the honour, dignity, integrity or independence of their office or discredit the Tribunal.

18. The following is incompatible with the performance of their duties:

(1) soliciting or collecting donations, except in the case of community, school, religious or family activities that do not compromise the other duties imposed by this Code, or associating the status of member of the Tribunal to those activities;

(2) taking part in charities or organizations likely to be involved in matters before the Tribunal;

(3) giving advice related to matters that come within the jurisdiction of the Tribunal, except if such advice is not likely to compromise the member's or the Tribunal's impartiality or integrity;

(4) becoming involved in any cause or participating in any lobby whose objectives or activities are related to matters that come within the jurisdiction of the Tribunal.

19. Members must not engage in any activity or partisan political participation at the federal, provincial, municipal or school level.

DIVISION IV FINAL PROVISION

20. This code of ethics comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

102759

Draft Regulation

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

Tribunal administratif du travail — Rules of evidence and procedure

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Rules of evidence and procedure of the Tribunal administratif du travail, the text of which appears below, may be submitted for approval by the government upon the expiry of 45 days following this publication.

The Rules of evidence and procedure of the Tribunal administratif du travail specify the manner in which the rules established by the Act to establish the Administrative Labour Tribunal (chapter T-15.1) or by the Acts under which matters are heard by the Tribunal are to be applied and make exceptions in the application of the rules established by law concerning a recourse or a division of the Tribunal.

Further information may be obtained by contacting Claude Verge, Tribunal administratif du travail, 900, Place D'Youville, bureau 800, Québec (Québec), G1R 3P7, by telephone at (418) 644-7776 or by fax at (418) 528-6063.

Any person having comments to make on the matter is asked to send them in writing, before expiry of the 45-day period, to the minister responsible for Labour, 200, chemin Sainte-Foy, 6^e étage, Québec (Québec), G1R 5S1.

DOMINIQUE VIEN,
The minister responsible for Labour

Rules of evidence and procedure of the Tribunal administratif du travail

An Act to establish the Administrative Labour Tribunal (chapter T-15.1, s. 105)

CHAPTER I GENERAL PROVISIONS

DIVISION I PRELIMINARY PROVISIONS

1. These rules apply to all the matters brought before the Tribunal.

Their purpose is to ensure the simple, flexible and prompt processing of applications, particularly with the cooperation of the parties and their representatives and the use of available technological means by the parties and the Tribunal, in accordance with the rules of natural justice and the equality of parties.

2. At any stage, the proceedings and the presentation of evidence must be proportionate to the nature and complexity of the matter.

DIVISION II **RULES RELATING TO PROCEEDINGS**

3. The application instituting a proceeding must be made in writing and it must make it possible to identify the author by the author's signature or that which serves the purpose of a signature.

It must contain the following information:

(1) the applicant's name, address, electronic mail address, and telephone and fax numbers;

(2) if the applicant is represented, the representative's name, address, electronic mail address, and telephone and fax numbers;

(3) the other parties' names, addresses, electronic mail addresses, and telephone and fax numbers;

(4) the identification of the contested decision;

(5) any other information required by the present rules, by the Tribunal or pursuant to the legal provision on which the application is based.

Any changes to the information must be immediately confirmed to the Tribunal in writing.

The application instituting a proceeding must be accompanied by a summary of the facts and conclusions sought. The contested decision must also be provided when required by the Tribunal.

4. Any subsequent written communication must specify the record number assigned by the Tribunal to each matter to which it pertains.

5. An application instituting a proceeding or any other application or document may be filed by any means compatible with the Tribunal's technological environment.

The Tribunal's website contains the list of those means, as well as the technical conditions specific to their use.

6. The Tribunal may require a party to explain or clarify the party's contentions in writing, file documents or present evidence within the time period it determines.

It may also require a party to provide a list of the witnesses the party intends to call at the hearing, as well as a summary of their testimony.

7. If the party does not meet one of the requirements provided for in section 6 within the set time period, the Tribunal may, depending on the circumstances:

(1) refuse the filing of the document or evidence;

(2) refuse to receive any evidence related to the required information, document or evidence;

(3) render its decision accordingly, without further delay or notice.

8. An application instituting a proceeding or any other proceeding may be discontinued by the filing with the Tribunal of a written notice from the discontinuing party or the party's representative. The notice must make it possible to identify the author by the author's signature or that which serves the purpose of a signature.

A party may also give notice of discontinuance orally at the hearing.

DIVISION III **REPRESENTATION**

9. A person who agrees to represent a party after the application instituting a proceeding has been filed must provide written confirmation to the Tribunal and specify the number of each matter for which the person is authorized to act. The authorization is valid for all the stages of the proceeding.

Any change of representative must be promptly confirmed to the Tribunal in writing.

DIVISION IV **COMMUNICATION OF THE PROCEEDINGS AND EVIDENCE**

10. For matters falling under the occupational health and safety division, the Tribunal must send the other parties in the matter the proceedings and the evidence filed by a party with the Tribunal more than 15 days before the date set for the hearing.

A party who files a proceeding or evidence with the Tribunal within a shorter time period must notify the other parties as soon as possible before the hearing.

11. For matters falling under the labour relations division, the essential services division or the construction industry and occupational qualification division, a party who files a proceeding or any other document with the Tribunal must notify the other parties and ensure that it indicates its notification and the method used for that purpose.

If, for certain matters contemplated in the first paragraph, the Tribunal's technological environment enables it to assume the responsibility of the parties, it will post the list of those matters on its website.

12. When a party is represented, communications must be sent to the party's representative.

However, in the occupational health and safety division, when a party is represented, the Tribunal must also send the party the proceedings that have an impact on the continuation or on the end of the matter, or on the hearing.

13. If the Tribunal encounters technical difficulties in reproducing a piece of evidence it must send the parties, the Tribunal may require the party who filed the evidence to reproduce it and to send it to the other parties within the time and on the conditions determined by the Tribunal.

14. If a piece of evidence filed in the record by a party cannot be communicated to the other parties by the Tribunal because of the nature or characteristics of the evidence, the Tribunal must inform the parties that the piece of evidence has been filed and that it may be examined at the office of the Tribunal where it was filed.

15. An expert report must be filed in the record of the Tribunal at least 30 days before the date set for the hearing.

The Tribunal may however authorize the filing of such a report within any other number of days and on the conditions determined by the Tribunal.

16. A party who files a written document at the hearing must provide copies for the other parties and the Tribunal.

17. A piece of evidence may not be withdrawn before the record is closed, except with the permission of the Tribunal and on the conditions it determines.

DIVISION V SUBPOENA

18. A party who wants a witness to be required to appear or file documents at a hearing must use the form provided by Tribunal.

The subpoena form is issued by the Tribunal or the attorney representing the party.

19. The subpoena must be notified at least 10 days prior to the date of appearance.

However, in the interest of justice, the Tribunal may reduce the 10-day notification period. That decision must be specified in the subpoena.

20. A witness who is required to provide documents concerning a person's state of health must take the necessary measures to protect the confidentiality of the information in the documents.

21. A party who plans to have a professional testify on a person's state of health or to produce an expert witness must inform the Tribunal as soon as possible.

The party must then indicate the name and occupation of the witness to the Tribunal.

DIVISION VI HEARING

22. The hearing of a matter falling under the occupational health and safety division must take place in the region, identified by the Tribunal, where the worker is domiciled.

The hearing of a matter falling under another division of the Tribunal must take place in the region, identified by the Tribunal, where the employer has an establishment and where the facts of the matter originated.

For any matter, the Tribunal may determine another place in the interest of justice.

23. A party who is of the opinion that the Tribunal must schedule more than one day of hearing applies for it as soon as possible. The party must then indicate to the Tribunal the expected duration of the hearing and the grounds justifying it.

24. Applications for postponement of a hearing must be filed in writing as soon as possible.

The application, in writing, must include supporting documents, be notified to the other parties and contain the following information:

- (1) the grounds invoked;
- (2) the consent of the other parties, where applicable;
- (3) the probable duration of the hearing;
- (4) the need for expert evidence and the presence of an expert at the hearing;
- (5) the early dates when all the parties, their representatives and witnesses, including the experts, are available.

25. A hearing is postponed only if the grounds invoked are serious and if required for the ends of justice.

The parties' consent is not in itself sufficient ground to grant a postponement.

26. The Tribunal may refuse an application for postponement because of the nature of the matter, the impossibility to set a new hearing at an early enough date, the obligation to comply with a time period prescribed by law, or the conduct of the party submitting the application.

27. When the application for postponement is substantiated by the need for the services of an expert or by the expert's unavailability for the hearing, the Tribunal may ask the party submitting the application to confirm, as the case may be, that the expert accepts the mandate or that the expert will be available to testify at the next date to be set.

28. All persons attending a hearing must behave with dignity and respect. They must refrain from disrupting the hearing.

29. The Tribunal may make an audio recording of the hearing. It may also receive testimonies and arguments by videoconference, telephone conference or any other means the Tribunal deems appropriate.

An authorization by the Tribunal is necessary for any other audio recording.

30. In no case may images be recorded or all or part of an audio recording be broadcasted.

31. The Tribunal may order the exclusion of witnesses.

32. A person called to testify must swear to tell the truth. The person must then state his or her name, address and occupation, unless the Tribunal decides otherwise.

33. An expert witness must also swear that his or her testimony will respect the primary duty to enlighten the Tribunal and that the opinion provided will be objective, impartial, thorough and based on the most current knowledge on the questions on which the expert's opinion is required.

34. Where the services of an interpreter are needed for a hearing, the interpreter must swear that the translation will be faithful.

35. The Tribunal may prohibit or restrict the disclosure, publication or broadcasting of testimonies, information or documents identified by the Tribunal where required to preserve public order or if required for confidentiality purposes to ensure the proper administration of justice.

36. The Tribunal must take judicial notice of generally recognized facts, opinions and information within its field of specialization.

37. Evidence provided in relation to a matter may also be presented in another matter of the Tribunal with the authorization of the Tribunal and on the conditions it determines.

38. When a visit of the premises is ordered, the Tribunal must determine the rules applicable to the visit.

39. The minutes of the hearing must contain:

- (1) the name of the member and of the assessor;
- (2) the date and place of the hearing, and the time at which it began and ended;
- (3) the name and address of each party and those of each party's representative;
- (4) the name of each witness;
- (5) the name of the interpreter;
- (6) the identification and number of each exhibit;
- (7) an indication that the hearing was recorded;
- (8) all admissions of importance for the conduct of hearing and the decision to be rendered;
- (9) the orders of the Tribunal and the decisions rendered during the hearing, except those concerning the evidence;
- (10) the date on which the matter was taken under advisement; and
- (11) any other information useful for the purposes of the matter.

DIVISION VII RECUSATION

40. If a member of the Tribunal recuses himself or herself, the hearing must be suspended until another member is appointed or until a new bench is formed.

41. An application for the recusation of a member of the Tribunal addressed to the president must give a written account of the facts and grounds on which it is based.

The proceedings are suspended as soon as the application is filed in the record. The suspension is in effect until the president or the member designated by the president rules on the application.

42. The member named in an application for recusation may file in the record a statement indicating the member's position as to the truthfulness of the facts alleged in support of the application.

The statement of the member whose recusation is sought can only be contradicted by written proof.

43. The application may be heard during the hearing. Otherwise, it is decided on the record, unless the president or the member designated by the president considers it necessary to summon the parties to a hearing.

The hearing must be held in the absence of the member whose recusation is sought.

DIVISION VIII COMPUTING A TIME PERIOD PRESCRIBED BY THESE RULES

44. The day marking the start of the period is not counted, but the last day is counted.

A time period expires on the last day at midnight; a time period that would normally expire on a holiday must be extended until the next working day.

The following are holidays:

- (1) Saturdays and Sundays;
- (2) January 1 and 2;
- (3) Good Friday;
- (4) Easter Monday;
- (5) June 24, the Québec National Holiday;
- (6) July 1, Canada Day, or July 2 if July 1 falls on a Sunday;
- (7) the first Monday of September, Labour Day;
- (8) the second Monday of October;
- (9) December 25 and 26;

(10) the day set by proclamation of the Governor General for the celebration of the birthday of the Sovereign;

(11) any other day set by proclamation or order of the Government as a public holiday or as a day of thanksgiving.

45. A document sent by mail is presumed to be filed with the Tribunal on the date postmarked.

A document sent by fax is presumed to be filed with the Tribunal on the date and at the time appearing in the report produced by the Tribunal's fax machine that received the document.

A message sent by electronic mail is presumed to be filed with the Tribunal on the date of receipt, as recorded by the Tribunal's server.

CHAPTER II SPECIAL PROVISIONS APPLICABLE TO THE LABOUR RELATIONS DIVISION, THE ESSENTIAL SERVICES DIVISION AND THE CONSTRUCTION INDUSTRY AND OCCUPATIONAL QUALIFICATION DIVISION

46. A party who wants a matter brought before the Tribunal, including an application for a provisional order, to be heard and decided by preference must file a written document setting out the grounds in support of the main application and the conclusions sought, as well as the grounds in support of the application for proceeding by preference.

Unless the Tribunal itself summons the parties, the application must also contain a notice indicating the date, time and place where the application will be heard. That information must have been validated by the Tribunal beforehand.

A sworn statement attesting to the truthfulness of the facts alleged in the application must be submitted along with an application for a provisional order, as well as the documents invoked in support of the application.

47. A person who claims to have an interest in a matter may submit an application for intervention with the Tribunal by means of a written document containing the information provided for in section 3 of these rules, and a summary of the reasons for the person's interest.

48. Objections to an application for intervention must be substantiated and filed in writing with the Tribunal immediately following notification of the request.

CHAPTER III SPECIAL PROVISIONS APPLICABLE TO THE LABOUR RELATIONS DIVISION

49. The notice provided by the employer under the first paragraph of the section 20.0.1 of the Labour Code (chapter C-27) must accompany an application for the conversion of the status of an employee provided for under that section.

50. A petition for certification must be submitted by means of a form provided by the Tribunal. The form contains, among other things, the following information:

- (1) the name of the petitioning association, its address, electronic mail address, and telephone and fax numbers;
- (2) the name of the employer, its address, electronic mail address, and telephone and fax numbers;
- (3) the address of the establishment concerned, and its telephone and fax numbers;
- (4) if a certification already exists, the name of any certified association, its address, electronic mail address, and telephone and fax numbers.

The petition must be accompanied by the resolution authorizing the petition and by any other document required under the Labour Code (chapter C-27).

The Tribunal sends the petition to the employer, to the associations already certified to represent the employees concerned by the petition (where applicable), and to the other parties.

51. An application for recognition of a home childcare providers association must be filed by means of a form provided by the Tribunal. The form contains, among other things, the following information:

- (1) the name of the applicant association, its address, electronic mail address, and telephone and fax numbers;
- (2) the name of the affiliated association, its address, electronic mail address, and telephone and fax numbers;
- (3) the address of the institution concerned, and its telephone and fax numbers;
- (4) if recognition already exists, the name of any recognized association, its address, electronic mail address, and telephone and fax numbers.

The application must be accompanied by the resolution authorizing the application and by any other document required under the Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1).

The Tribunal sends the application to the Minister, to the associations already recognized to represent the home childcare providers concerned by the application (where applicable), and to the other parties.

52. An application for recognition of an association representing family-type resources and certain intermediate resources must be filed by means of a form provided by the Tribunal. The form contains, among other things, the following information:

- (1) the name of the applicant association, its address, electronic mail address, and telephone and fax numbers;
- (2) the name of the affiliated association, its address, electronic mail address, and telephone and fax numbers;
- (3) the address of the institution concerned, and its telephone and fax numbers;
- (4) if recognition already exists, the name of any recognized association, its address, electronic mail address, and telephone and fax numbers.

The application must be accompanied by the resolution authorizing the application and by any other document required under the Act respecting the representation of family-type resources and certain intermediate resources and the negotiation process for their group agreements (chapter R-24.0.2).

The Tribunal sends the application to the Minister, to the institution concerned and, where applicable, to the associations already recognized to represent the resources concerned by the application, and to the other parties.

53. An application for an order regarding the holding of a secret ballot provided for in section 58.2 of the Labour Code (chapter C-27) must be accompanied by the employer's last offers.

54. An application for the setting of an indemnity further to a decision by the Tribunal must be accompanied by a detailed statement of the claim.

55. The party concerned by the application must indicate, within 30 days after notification, the elements of the claim the party is contesting, the grounds for the contestation and, where applicable, the amounts that should be granted by the Tribunal.

CHAPTER IV SPECIAL PROVISIONS APPLICABLE TO THE OCCUPATIONAL HEALTH AND SAFETY DIVISION

56. The contestation of a decision that does not recognize the existence of an occupational disease must be accompanied by the names of the employers for whom the worker carried on work conducive to the occupational disease.

57. The Tribunal must forward an income and expenditures statement to a party who, for financial reasons, applies for a suspension order provided for in section 359 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).

The application for a suspension order must be processed upon the filing of the duly completed statement.

58. A party to a decision rendered under section 193 of the Act respecting occupational health and safety (chapter S-2.1), other than the party contesting it before the Tribunal, who wishes to take part in the matter before the Tribunal must file a written document within 10 days of the date on which the application instituting a proceeding was sent to him or her by the Tribunal. The document must contain, in particular, the information required from an applicant in subparagraphs (1) and (2) of the second paragraph of section 3.

The applications, documents and notices that are subsequently filed in the record must be sent by the Tribunal or notified by a party, as provided for in section 10, only to the persons who filed the written document mentioned in the preceding paragraph.

CHAPTER V SPECIAL PROVISION APPLICABLE TO THE ESSENTIAL SERVICES DIVISION

59. The strike notice provided for in sections 111.0.23 and 111.11 of the Labour Code (chapter C-27) must indicate the time at which the strike begins and, where applicable, the time at which the strike ends, the name and address of the establishment in question and the file number of the bargaining unit contemplated in the notice.

CHAPTER VI SPECIAL PROVISIONS APPLICABLE TO THE CONSTRUCTION INDUSTRY AND OCCUPATIONAL QUALIFICATION DIVISION

60. An application provided for in section 21 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) must be notified to the owner of the job

site or to the contractor concerned by the conflict or the interpretation or application issue, to each contractors' association listed in subparagraph (c.1) of section 1 of the Act, as well as to each employees' association with a certificate of representativeness under section 34 of the Act.

Any party identified in the application who wants to take part in the debate must file with the Tribunal a written document containing the information required from an applicant in subparagraphs (1) and (2) of the second paragraph of section 3 within 10 days of receiving notification of the application.

The applications, documents and notices that are subsequently filed in the record must be notified only to the persons who filed the written document provided for in the preceding paragraph.

61. For the applications contesting the decision of an administrative authority, each party must file a summary of their claims and indicate the conclusions sought.

Such a summary is also required for the applications provided for in section 21 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) and in section 11.1 of the Building Act (chapter B-1.1), as well as for the applications concerning the exercise of freedom of association.

The summary must be filed with the Tribunal within 30 days of notification of the application.

62. Unless the Act that provides for contestation of a decision determines a different time period, the administrative authority that rendered the decision must send the Tribunal, within 30 days of notification of the application contemplated in section 61, a copy of its record in relation to the decision.

63. For the applications provided for in section 7.7 of the Act respecting labour relations, vocational training and workforce management in the construction industry (chapter R-20) and in section 57 of the Regulation respecting the labour-referral service licence in the construction industry (chapter R-20, r. 8.1), the time period provided for in sections 61 and 62 is 48 hours.

CHAPTER VII FINAL PROVISION

64. These rules come into force on the 15th day following the date of their publication in the *Gazette officielle du Québec*.