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## Regulations and other Acts

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Gouvernement du Québec

### O.C. 485-2017, 16 May 2017

An Act respecting the Régie de l'énergie  
(chapter R-6.01)

Exclusion of draft regulations and regulations made under section 8 of the Act respecting the Régie de l'énergie from the application of the Regulations Act

WHEREAS, under section 8 of the Act respecting the Régie de l'énergie (chapter R-6.01), the Government may establish a selection procedure applicable to commissioners and, among other things, provide for the creation of a selection committee;

WHEREAS such a procedure is established by regulation;

WHEREAS paragraph 6 of section 3 of the Regulations Act (chapter R-18.1) allows the Government to determine by order that that Act does not apply to the proposed regulations or regulations determined by the Government;

WHEREAS it is expedient to exclude the draft regulations and regulations made under section 8 of the Act respecting the Régie de l'énergie so that they may come into force more quickly;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice and the Minister of Energy and Natural Resources:

THAT the draft regulations and regulations made under section 8 of the Act respecting the Régie de l'énergie (chapter R-6.01) be excluded from the application of the Regulations Act (chapter R-18.1).

JUAN ROBERTO IGLESIAS,  
*Clerk of the Conseil exécutif*

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Gouvernement du Québec

### O.C. 486-2017, 16 May 2017

An Act respecting the Régie de l'énergie  
(chapter R-6.01)

**Régie de l'énergie**  
**— Procedure for the recruitment and selection of persons declared or recognized as apt for appointment as commissioners and for the renewal of their term of office**

Regulation respecting the procedure for the recruitment and selection of persons declared or recognized as apt for appointment as commissioners to the Régie de l'énergie and for the renewal of their term of office

WHEREAS, under section 8 of the Act respecting the Régie de l'énergie (chapter R-6.01), the Government may establish a selection procedure applicable to commissioners and, among other things, provide for the creation of a selection committee;

WHEREAS, under Order in Council 485-2017 dated 16 May 2017, the draft regulations and the regulations made under section 8 of the Act respecting the Régie de l'énergie are excluded from the application of the Regulations Act (chapter R-18.1);

WHEREAS it is expedient to provide for a regulation establishing the procedure for the recruitment and selection of commissioners to the Régie and for the renewal of their term of office;

WHEREAS it is expedient to make the regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Energy and Natural Resources and of the Minister of Justice:

THAT the Regulation respecting the procedure for the recruitment and selection of persons declared or recognized as apt for appointment as commissioners to the Régie de l'énergie and for the renewal of their term of office, attached to this Order in Council, be made.

JUAN ROBERTO IGLESIAS,  
*Clerk of the Conseil exécutif*

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## Regulation respecting the procedure for the recruitment and selection of persons declared or recognized as apt for appointment as commissioners to the Régie de l'énergie and for the renewal of their term of office

An Act respecting the Régie de l'énergie  
(chapter R-6.01, s. 8)

### DIVISION I SCOPE AND DEFINITIONS

**1.** This Regulation establishes the terms and conditions for the recruitment and selection of candidates to the position of commissioner to the Régie de l'énergie. It also establishes the procedure for the renewal of their term of office.

**2.** For the purposes of this Regulation,

(1) “Minister” means the Minister responsible for the administration of the Act respecting the Régie de l'énergie (chapter R-6.01);

(2) “Associate Secretary General” means the Associate Secretary General for Senior Positions of the Ministère du Conseil exécutif.

### DIVISION II NOTICE OF RECRUITMENT

**3.** Where it is expedient to draw up a list of persons apt for appointment as commissioners to the Régie de l'énergie, the Associate Secretary General publishes a notice of recruitment in a publication circulating or broadcast throughout Québec, inviting interested persons to submit their candidacies for the position of commissioner to the Régie.

**4.** The notice gives

- (1) a brief description of the duties of a commissioner;
- (2) the place where the commissioner could be assigned to mainly perform those duties;
- (3) in substance, the selection conditions and criteria prescribed by this Regulation and any qualifications, training and professional experience required for the Régie;
- (4) in substance, the system of confidentiality applicable to the selection procedure and an indication that the selection committee may hold consultations about the candidacies; and
- (5) the deadline and address for submitting a candidacy.

**5.** A copy of the notice is sent to the Minister and to the chair of the Régie.

### DIVISION III CANDIDACIES

**6.** Persons who wish to submit their candidacy must, not later than on the date indicated in the notice of recruitment, forward their résumé and the following information:

- (1) name, home address and telephone number and, where applicable, office address and telephone number;
- (2) date of birth;
- (3) the nature of the activities that they have carried out and through which they have acquired the relevant experience;
- (4) the university diplomas and other relevant certificates held by the person;
- (5) where applicable, proof that the person has the qualifications mentioned in the notice, when they were acquired and for how many years they were required;
- (6) any condemnation for an indictable offence or an offence punishable on summary conviction or any disciplinary decision, as well as the nature of the offence or fault in question and the imposed sentence or disciplinary penalty;
- (7) any condemnation for a penal offence, the nature of the offence in question and the sentence imposed and whether one can reasonably believe that such offence is likely to question the integrity or impartiality of the Régie or of the candidate, to affect the candidate's ability to perform duties or to undermine the public trust in the office holder;
- (8) where applicable, the names of the person's employers, partners or immediate or first-line superiors over the past 10 years;
- (9) where applicable, the name of any legal person, partnership or professional association of which the candidate is or was a member;
- (10) where applicable, whether the person has filed a candidacy for a position of commissioner to the Régie in the past 3 years;
- (11) a summary of the reasons for the person's interest in performing the duties of commissioner to the Régie.

The person must also provide a written statement in which the person agrees to a verification with, in particular, a disciplinary body, any professional order of which the person is or was a member, employers in the last 10 years, police authorities and, where applicable, in which the person agrees that the persons or bodies mentioned in section 16 be consulted.

#### **DIVISION IV** FORMATION OF A SELECTION COMMITTEE

**7.** Following publication of the notice of recruitment, the Associate Secretary General forms a selection committee and appoints to it

(1) the chair of the Régie or, after consulting the chair, another commissioner to the Régie;

(2) a president or vice-president of an administrative tribunal;

(3) a representative of the public able to assess the qualities required to exercise the function of commissioner to the Régie. The representative of the public chairs the selection committee.

**8.** A member of the committee whose impartiality could be questioned must withdraw in respect of a candidate, particularly in the following situations:

(1) the member is or was the candidate's spouse;

(2) the member is related to the applicant by birth, marriage or civil union, to the degree of first cousin inclusively;

(3) the member is or was a partner, employer, employee of the candidate in the last 10 years; despite the foregoing, a member who is in the public service must withdraw in respect of a candidate only if the member is or was the employee or immediate superior of the candidate.

A member must immediately bring to the attention of the other members of the committee any fact to justify reasonable apprehension of bias.

Where a member of the committee has withdrawn, is absent or unable to act, the decision is made by the other members.

**9.** Before taking office, the members of the committee take an oath by solemnly affirming the following: "I, (full name), swear that I will neither reveal nor disclose, without due authorization to do so, anything whatsoever of which I may gain knowledge in the exercise of my office."

The oath is taken before a person empowered to administer oaths.

The writing evidencing the oath is sent to the Associate Secretary General.

**10.** A person may be appointed to more than one committee at the same time.

**11.** Travel and accommodation expenses of the committee members are reimbursed 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), as amended.

In addition to the reimbursement of their expenses, the chair and committee members who are neither commissioners of the Régie nor employees of a government department or body are entitled respectively to fees of \$250 or \$200 per half-day of sitting which they attend. If they are retired from the public sector as defined in Schedule I to Order in Council 450-2007 (2007, *G.O.* 2, 2723, French only) as amended, an amount corresponding to half the retirement pension they receive from that sector is deducted from the fees for attending, as chair or member, the committee's sittings.

#### **DIVISION V** FUNCTIONING OF THE SELECTION COMMITTEE

**12.** The list of candidates and their records are sent to the members of the selection committee.

**13.** The committee analyzes the candidates' records and retains those who, in its opinion, meet the eligibility requirements and any additional evaluative measures applied in consideration of the positions to be filled or the large number of candidates.

**14.** The chair of the committee informs the short-listed candidates of the date and place of their meeting with the committee and informs the other candidates that they were turned down and, as a result, will not be called to a meeting.

**15.** The committee's report lists the candidacies that were turned down, giving the reasons therefor.

#### **DIVISION VI** CONSULTATIONS AND SELECTION CRITERIA

**16.** The committee may, on any matter in a candidate's record or any aspect of a candidacy or of the candidacies as a whole, consult with

(1) any person who has been, in the last 10 years, an employer, partner, immediate superior or first-line superior of the candidate;

(2) any legal person, partnership or professional association of which the candidate is or was a member.

**17.** The selection criteria that the committee takes into account in determining a candidate's aptitude are

(1) the possession of a university diploma in a field relevant to the duties of a commissioner;

(2) a work experience of 10 years or more relevant to the duties of commissioner;

(3) the extent of the candidate's knowledge or skills in view of the required qualifications, training and professional experience stated in the notice of recruitment;

(4) the candidate's ability to carry out the duties of a commissioner, in particular the candidate's judgment, open-mindedness, perceptiveness, level-headedness, analysis and synthesis capability, decision-making abilities, teamwork capabilities, the quality of oral and written expression and the ability to adopt an ethical behavior; and

(5) the candidate's conception of the duties of a commissioner to the Régie.

**18.** The committee may apply evaluative measures that it determines to candidates who meet the eligibility requirements.

#### **DIVISION VII** REPORT OF THE SELECTION COMMITTEE

**19.** Committee decisions are made by a majority vote of its members. In the case of a tie-vote, the chair of the committee has a casting vote.

**20.** Not later than 30 days after an application therefor by the Associate Secretary General, the committee promptly submits a report including

(1) the names of the candidates with whom the committee met and who have not been selected;

(2) the names of the candidates with whom the committee met and whom it declared apt to be appointed as commissioners to the Régie, their profession and the particulars concerning their work place; and

(3) any comments that the committee considers expedient, especially with respect to the particular characteristics or qualifications of the candidates considered apt.

That report is submitted to the Minister, to the Associate Secretary General, and to the chair of the Régie if he or she is not a member of the committee.

**21.** Wherever possible, the committee declares apt a number of candidates corresponding to at least twice the number of vacant positions.

**22.** A committee member may register dissent with respect to all or part of the report.

#### **DIVISION VIII** REGISTER OF DECLARATIONS OF APTITUDE

**23.** The Associate Secretary General writes to the candidates to inform them that they have been declared apt or inapt to be appointed as commissioners to the Régie.

**24.** The Associate Secretary General keeps the register of declarations of aptitude up-to-date and enters therein the list of the persons declared apt to be appointed as commissioners to the Régie.

A declaration of aptitude is valid for a period of 3 years from the date it is entered in the register.

The Associate Secretary General strikes out an entry upon the expiry of the validity period of the declaration of aptitude, or where the person is appointed as commissioner to the Régie, dies or asks to be withdrawn from the register.

#### **DIVISION IX** RECOMMENDATION

**25.** Upon being notified of a vacant position, the Associate Secretary General forwards a copy of the updated list of persons declared apt to the Minister.

**26.** If the Minister is of the opinion that he or she cannot, considering the list of persons declared apt to be appointed as commissioners and in the interests of, and to best carry out the duties of the Régie, recommend an appointment, the Minister then asks the Associate Secretary General to have a notice of recruitment published, in accordance with Division II.

The committee in charge of evaluating the aptitude of the candidates who submitted their candidacy after another notice of recruitment and of reporting to the Associate Secretary General, to the Minister and to the chair of the Régie may be composed of persons previously designated to sit on a preceding committee.

**27.** The Minister recommends to the Government the name of a person who has been declared apt to be appointed as commissioner to the Régie.

In the case of the duties of chair or vice-chair of the Régie, the Minister recommends to the Government the name of a commissioner in office or the name of a person declared apt for appointment as commissioner to the Régie.

**28.** If the Minister is of the opinion that because of exceptional circumstances he or she cannot, in the best interest of the proper operation of the Régie, recommend the appointment of a chair or vice-chair from among the commissioners in office or the persons declared apt for appointment as commissioners, the Minister then recommends to the Government the name of a person recognized as apt for appointment as commissioner and chair or vice-chair following an assessment by the Associate Secretary General that takes into account the criteria set out in section 17 and the skills required for those duties.

#### DIVISION X RENEWAL OF TERMS OF OFFICE

**29.** In the 12 months before the expiry of a commissioner's term of office, the Associate Secretary General asks that commissioner to provide him or her with the information mentioned in subparagraphs 6 and 7 of the first paragraph of section 6 and with a written statement in which the commissioner agrees to a verification with, in particular, a disciplinary body, any professional order of which the commissioner is or was a member and police authorities and, where applicable, in which the commissioner agrees that the persons or bodies mentioned in section 16 be consulted.

**30.** The Associate Secretary General forms a committee to examine the renewal of the commissioner's term of office and designates the chair thereof.

The committee is composed of a representative of the public able to assess the qualities required to exercise the function of commissioner to the Régie, a retiree from a body of the administrative branch who exercised adjudicative functions and a member of a professional order in a relevant field. The committee members may neither belong to nor represent the Administration within the meaning of the Public Administration Act (chapter A-6.01).

Sections 8 to 11 then apply.

**31.** The committee determines whether the commissioner still fulfils the criteria set out in section 17, considers the commissioner's annual performance evaluations and takes into account the needs of the board. The committee may hold the consultations provided for in section 16 on any matter in the record.

**32.** Committee decisions are made by a majority vote of its members. In the case of a tie-vote, the chair of the committee has a casting vote. A member may register dissent.

The committee forwards its recommendation to the Associate Secretary General and to the Minister.

**33.** The Associate Secretary General is the agent empowered to notify commissioners of the non-renewal of their term of office.

#### DIVISION XI CONFIDENTIALITY

**34.** The names of candidates, the reports of selection or renewal committees, the register, the list of candidates declared apt to be appointed as commissioners to the Régie, as well as any information or document related to a consultation or decision by a committee, are confidential.

Notwithstanding the foregoing, a commissioner whose term of office is not renewed may consult the recommendation of the renewal committee concerning him.

**35.** This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

#### O.C. 488-2017, 16 May 2017

An Act respecting deposits with the Bureau général de dépôts pour le Québec (chapter D-5.1)

#### Various regulatory provisions — Amendment to ensure consistency with the Act

CONCERNING the Regulation to amend various regulatory provisions to ensure consistency with the Act respecting deposits with the Bureau général de dépôts pour le Québec

WHEREAS section 46 of the Act respecting deposits with the Bureau général de dépôts pour le Québec (chapter D-5.1) provides that the Government may, by a regulation made before 18 May 2017, amend any regulation in order to make it consistent with this Act and to modernize the form and the administration of the securities required by departments and public bodies.