

## Draft Regulations

### Draft Regulation

An Act respecting the collection of certain debts  
(chapter R-2.2; 2017, chapter 24)

#### Regulation — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the application of the Act respecting the collection of certain debts, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The main purpose of the draft Regulation is to complete legislative provisions recently introduced by the Act mainly to modernize rules relating to consumer credit and to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs (2017, chapter 24), assented to on 15 November 2017. In particular, it determines terms and conditions for the issue, renewal, suspension or cancellation of a collection agent representative certificate, cases where a certificate ceases to have effect, the qualifications required and the conditions to be met by a person applying for a certificate and the duties to be paid.

Certain measures proposed in relation to the register of representatives to be kept by collection agents add an additional burden borne by enterprises holding a collection agent's permit. It is also proposed to withdraw certain other documentary requirements currently applicable to enterprises holding a collection agent's permit.

Further information may be obtained by contacting Vanessa O'Connell-Chrétien, Office de la protection du consommateur, Village olympique — 5199, rue Sherbrooke Est, bureau 3671, Montréal (Québec) H1T 3X2; telephone: 514 253-6556, extension 3424; fax: 514 864-2400; email: vanessa.oconnell.chretien@opc.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 responsible for Consumer Protection and for Housing, 900, place d'Youville, 9<sup>e</sup> étage, Québec (Québec) G1R 3P7.

LISE THÉRIAULT,  
*Minister responsible for Consumer  
Protection and for Housing*

### Regulation to amend the Regulation respecting the application of the Act respecting the collection of certain debts

An Act respecting the collection of certain debts  
(chapter R-2.2, s. 51; 2017, chapter 24, s. 80)

**1.** The Regulation respecting the application of the Act respecting the collection of certain debts (chapter R-2.2, r. 1) is amended in section 1 by replacing paragraphs a and b by the following:

“(a) “certificate” means a certificate required by section 44.1 of the Act;

(a.1) “application” means an application for a permit or certificate or renewal of a permit or certificate made by an applicant;

(b) “applicant” means a natural person, a partnership or a legal person that applies for a permit or the renewal of a permit or a natural person who applies for a certificate or the renewal of a certificate;”.

**2.** Section 4 is amended in the French text by inserting “d’un” after “loyer” in the portion before paragraph a.

**3.** Section 11 is amended by inserting “collection agent’s” after “applicant for a”.

**4.** Section 12 is amended by inserting “for a collection agent’s permit” after “applicant” in the portion before paragraph a.

**5.** Section 13 is amended by inserting “for a collection agent’s permit” after “applicant”.

**6.** Section 14 is amended

(1) by inserting “for a collection agent’s permit” after “applicant” in the first paragraph;

(2) by striking out the second, third and fourth paragraphs.

**7.** The first paragraph of section 14.1 is replaced by the following:

“Where an application for the issue or renewal of a permit is refused by the president or is withdrawn or abandoned, the president reimburses 50% of the duties indicated in section 14.”.

**8.** The following is inserted after section 33:

**“DIVISION III.1  
COLLECTION AGENT REPRESENTATIVES**

**33.1.** The president issues a collection agent representative certificate if the applicant

(a) acts for a collection agent;

(b) has passed an examination approved by the president on knowledge of the laws and regulations applying to debt collection in the 2 years preceding receipt of the application for the issue of a certificate;

(c) has not committed, during the 3 preceding years, an offence against the Act or this Regulation, unless the applicant has obtained a pardon with regard to the offence;

(d) has not been found guilty, during the 3 preceding years, of a criminal offence punishable on summary conviction, and having a connection with the activity of a collection agent, unless the applicant has obtained a pardon with regard to the offence;

(e) has not made a false or misleading statement or concealed an important fact to obtain the certificate;

(f) has paid the duties prescribed by this Regulation; and

(g) has sent the information prescribed by section 33.6.

The president may refuse to issue a certificate if the president has reasonable grounds to believe that such refusal is necessary to ensure, in the public interest, the honest and competent practice of the activity of collection agent.

**33.2.** A certificate is valid for a 2-year period.

**33.3.** In order for a certificate to be valid, not more than 2 years may have elapsed since the last employment or service contract binding the holder of a collection agent representative certificate to a holder of a collection agent's permit declared in accordance with section 33.6 or 33.9. Otherwise, the certificate ceases to have effect.

A collection agent representative certificate that has ceased to have effect under the first paragraph may not be renewed. A new certificate may however be issued if the conditions provided for in section 33.1 are met.

**33.4.** The president renews a collection agent representative certificate if the following conditions are met:

(a) not more than 2 years have elapsed since the last employment or service contract binding the applicant to a collection agent declared in accordance with section 33.6 or 33.9;

(b) the applicant has not committed, during the 3 preceding years, an offence against the Act or this Regulation, unless the applicant has obtained a pardon with regard to the offence;

(c) the applicant has not been found guilty, during the 3 preceding years, of a criminal offence punishable on summary conviction, and having a connection with the activity of a collection agent, unless the applicant has obtained a pardon with regard to the offence;

(d) the applicant has not made a false or misleading statement or concealed an important fact to obtain the certificate;

(e) the applicant has paid the duties prescribed by this Regulation;

(f) the applicant has sent the information prescribed by section 33.6.

The president may refuse to renew a certificate if the president has reasonable grounds to believe that such refusal is necessary to ensure, in the public interest, the honest and competent practice of the activity of collection agent.

**33.5.** A collection agent representative must send, on the form provided by the president, an application for the issue or renewal of a certificate accompanied by the duties payable.

**33.6.** A collection agent representative must, upon applying for the issue or renewal of a certificate, send the following to the president, on the form provided by the latter:

(a) the representative's name, domicile address and professional address, date of birth, personal and professional telephone numbers and, if applicable, the representative's personal and professional electronic addresses and fax number;

(b) the name, address and permit number of each collection agent to whom the representative is bound by an employment contract or a service contract; and

(c) a statement whereby the applicant, at the time of the application, certifies that

i. he has not committed, during the 3 preceding years, an offence against the Act or this Regulation;

ii. he has not been found guilty, during the 3 preceding years, of an offence against a statute or regulation under the administration of the Office de la protection du consommateur, of an indictable offence or an offence punishable on summary conviction, unless a pardon has been granted;

iii. he is not an undischarged bankrupt; and

iv. the information provided in the application is true.

**33.7.** The duties for the issue and renewal of the certificate are set at \$180 and \$160, respectively.

**33.8.** If the duties payable under this Division are paid by cheque, postal money order, bank money order or payment order drawn on a financial services cooperative, payment must be made out to the order of the Minister of Finance.

**33.9.** A collection agent representative must inform the president of any change in any of the information referred to in section 33.6 within 15 days of the event,

**33.10.** The president may suspend or cancel a collection agent representative certificate where its holder

(a) has committed, during the 3 preceding years, an offence against the Act or this Regulation, unless the holder has obtained a pardon with regard to the offence;

(b) has been found guilty, during the 3 preceding years, of a criminal offence punishable on summary conviction, and having a connection with the activity of a collection agent, unless the holder has obtained a pardon with regard to the offence;

(c) has made a false or misleading statement or concealed an important fact to obtain or renew the certificate;

(d) has failed to comply with any of the conditions or obligations prescribed by the Act and this Regulation; or

(e) is unable to ensure, in the public interest, the honest and competent practice of debt collection activities.

**33.11.** The president must, before refusing to issue or renew a certificate or before suspending or cancelling it, give the advance notice provided for in section 5 of the Act respecting administrative justice (chapter J-3) in writing to the certificate applicant or holder and grant that person at least 10 days to present observations. The president must also notify that person of the substantiated decision in writing.”

**9.** The following is inserted after section 50:

“**50.1.** A permit holder must keep up to date a register of the representatives employed by the permit holder or with whom the permit holder is bound by a service contract. Upon request, the permit holder must send a copy of the register to the president.

When the employment relationship with one of the representatives is broken or if the service contract binding them has ended, the permit holder must inform the president thereof within 15 days of the event.”

**10.** Section 54 is revoked.

**11.** Section 55 is revoked.

**12.** Section 56 is revoked.

**13.** Section 57 is revoked.

**14.** Section 58 is amended by replacing “attach to the financial statements” in the portion before paragraph *a* by “provide the president with”.

**15.** Section 59 is replaced by the following:

“**59.** The information required under section 58 must be provided within 6 months of the end of the permit holder’s fiscal year and be accompanied by a review engagement report.”

**16.** The following is inserted after section 59:

#### “DIVISION VII.1 INDEXATION OF DUTIES AND FEES

**59.1.** The duties and fees payable to the president of the Office de la protection du consommateur are indexed on 1 July of each year in accordance with the rate of variation in the general Consumer Price Index in the preceding year for Canada, as established by Statistics Canada; the duties and fees thus indexed take effect on that date.

The duties and fees indexed in the prescribed manner are reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50; they are increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50.

Each year, the president of the Office de la protection du consommateur publishes the result of the annual indexation in Part 1 of the *Gazette officielle du Québec*.”

## TRANSITIONAL AND FINAL

**17.** Any person acting as the representative of a collection agent before (*insert the first day of the 15th month following the date of its publication in the Gazette Officielle du Québec*) must obtain a temporary certificate on the conditions provided for in subparagraphs a, c, d, e and g of the first paragraph of section 33.1, introduced by section 8 of this Regulation. The certificate ceases to have effect on the earlier of

(a) 31 December 2020; and

(b) the date on which a certificate is issued to the holder of a temporary certificate, in accordance with section 33.1.

**18.** This Regulation comes into force on (*insert the first day of the 12th month following the date of its publication in the Gazette officielle du Québec*) except sections 6 and 16, which come into force on 1 January 2019.

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## Draft Regulation

Consumer Protection Act  
(chapter P-40.1; 2017, chapter 24)

### Regulation — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting the application of the Consumer Protection Act, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The main purpose of the draft Regulation is to complete legislative provisions recently introduced by the Act mainly to modernize rules relating to consumer credit and to regulate debt settlement service contracts, high-cost credit contracts and loyalty programs (2017, chapter 24), assented to on 15 November 2017.

The draft Regulation determines the information a merchant must take into account, and the method for collecting such information to be complied with, to benefit from the absolute presumption according to which the merchant has fulfilled the obligation of assessing the consumer's capacity to repay the credit requested or performing the obligations arising from a long-term contract of lease of goods.

The draft Regulation states the characteristics of a credit contract considered to be a high-cost credit contract. It establishes the duties that an applicant for a merchant's permit that enter into such contracts must pay and exempts certain merchants from the requirement to hold such a permit. The draft Regulation indicates the debt ratio above which the consumer who has entered into a high-cost credit contract is presumed to have contracted an excessive, harsh or unconscionable obligation within the meaning of the Consumer Protection Act (chapter P-40.1). It determines the method for calculating that ratio, and the method for sending documents before entering into a high-cost credit contract. The draft Regulation also includes the text of compulsory clauses to be included in such a contract.

The draft Regulation adds to the Regulation standard contracts that were in the Schedules of the Act and provides the text of the summary box to be added to certain contracts and forms related to consumer credit and long-term lease of goods.

The draft Regulation specifies the period during which the consumer's statement of account must be available on the merchant's website so that the merchant may benefit from the absolute presumption of transmission to the consumer's technological address.

The draft Regulation amends exemptions related to credit contracts secured by an immovable hypothec. It also amends the exemption related to the right of resolution applicable to contracts involving credit and contracts of lease with guaranteed residual value. It revokes the exemption for financial services cooperatives governed by the Act respecting financial services cooperatives (chapter C-67.3) respecting the application of rules applicable where the subscribing to or participating in an insurance is a condition for entering into a credit contract. It exempts from certain conditions certain contracts for the loan of money, including those entered into with pawnbrokers from the application of certain sections of the Act.

The draft Regulation establishes terms for the issue of debt settlement service merchant's permits offering debt negotiation or sum distribution services to a consumer's creditors and limits charges and fees that such merchants may collect from the consumer. It establishes the standard contract to be used by those merchants and the compulsory clauses to be included in contracts. It also requires that the merchants provide a security.