

Draft Regulations

Draft Regulation

Public Curator Act
(chapter C-81)

An Act to amend the Civil Code, the Code of Civil Procedure, the Public Curator Act and various provisions as regards the protection of persons (2020, chapter 11)

Certification of an advocate or a notary for the purpose of recognizing an assistant to a person of full age

Notice is hereby given, pursuant to sections 10 and 11 of the Regulations Act (chapter R-18.1), that the draft regulation respecting the certification of an advocate or notary for the purpose of recognizing an assistant to a person of full age, the text of which appears below, may be enacted by the government on the expiry of a period of 45 days from the date of this publication.

The main purpose of this draft regulation is to determine the conditions that an advocate or notary must meet to be certified to perform operations preliminary to the recognition of an assistant to a person of full age.

This draft regulation will facilitate the recognition of an assistant to a person of full age by allowing persons who so wish to have recourse to trained and qualified professionals throughout Québec to perform operations preliminary to such recognition by the Public Curator. It should be noted that, pursuant to the first paragraph of article 297.10 of the Civil Code, as enacted by section 58 of the Act to amend the Civil Code, the Code of Civil Procedure, the Public Curator Act and various provisions as regards the protection of persons (2020, chapter 11), persons of full age who, because of a difficulty, wish to be assisted in taking care of themselves, administering their patrimony and, in general, exercising their civil rights, may ask the Public Curator to recognize a person who agrees to assist them, particularly in their decision-making.

Additional information concerning this draft regulation may be obtained from Stéphanie Beaulieu, advocate, Direction générale des affaires juridiques, Curateur public du Québec, 600, boulevard René-Lévesque Ouest, Montréal (Québec) H3B 4W9; telephone: 514 873-5535; email: stephanie.beaulieu@curateur.gouv.qc.ca.

Any person who wishes to comment on this draft regulation is asked to send their comments in writing, before the expiry of the 45-day period, to Denis Marsolais, Public Curator, 600, boulevard René-Lévesque Ouest, Montréal (Québec) H3B 4W9; e-mail: denis.marsolais@curateur.gouv.qc.ca. The Public Curator will communicate these comments to the Minister of Families.

MATHIEU LACOMBE,
Minister of Families

Regulation respecting the certification of an advocate or a notary for the purpose of recognizing an assistant to a person of full age

Public Curator Act
(chapter C-81, s. 68, par. 3.4)

An Act to amend the Civil Code, the Code of Civil Procedure, the Public Curator Act and various provisions as regards the protection of persons (2020, chapter 11, s. 153, par. 2)

1. To be certified by their professional order to perform operations preliminary to the recognition of an assistant to a person of full age, advocates and notaries must apply to their order and meet the following conditions:

(1) they subscribe to the professional liability insurance fund established by their professional order in accordance with section 86.1 of the Professional Code (chapter C-26);

(2) they are not subject to any suspension of their right to engage in professional activities, nor to any limitation of their right to engage in professional activities concerning a field of law or an activity related to the recognition of an assistant to a person of full age;

(3) they meet one of the following requirements:

a) in the two years preceding their application, they have taken a training course recognized by their professional order, of at least six hours duration, of which:

i. at least one hour covers legal aspects of the recognition of an assistant to a person of full age;

ii. at least five hours cover the following aspects related to operations preliminary to the recognition of an assistant to a person of full age: ethical issues, psychological and social aspects, communication issues and procedure;

b) they demonstrate to their professional order that they have acquired competencies equivalent to those of an advocate or notary who has taken the training provided for in subparagraph a;

(4) they undertake to take at least one and a half hours of continuing education activities related to the recognition of an assistant to a person of full age among the hours of continuing education activities to which they are bound, per reference period of at least two years, pursuant to the regulation adopted by their professional order in accordance with paragraph o of the first paragraph of section 94 of the Professional Code;

(5) they agree to the following information being sent to the Public Curator through their professional order:

- a) their name;
- b) the address and telephone number of their place of work;
- c) a professional e-mail address established in their name;
- d) the date on which they were certified, and, where applicable, the date on which their certification was terminated;

(6) they include with their application all useful information and documents, including the document showing the undertaking provided for in paragraph 4 and the document showing the acceptance provided for in paragraph 5;

(7) they pay the fees prescribed in accordance with paragraph 8 of section 86.0.1 of the Professional Code.

To be certified, advocates must also be registered on the roll of their professional order under the category of practising advocate.

For the purposes of subparagraph 4 of the first paragraph, continuing education activities relating to the recognition of assistants to persons of full age may not be self-learning activities. In addition, their undertaking takes effect at the start of the two-year reference period following the reference period during which the advocate or notary obtains their certification.

2. Advocates cease to be certified if they are no longer registered on the roll of their professional order under the category of practising lawyer.

The same applies to notaries who are no longer registered on the roll of their professional order.

3. Advocates and notaries also cease to be certified if they no longer satisfy one of the conditions set out in subparagraph 1 or 2 of the first paragraph of article 1.

The same applies if they do not comply with the undertaking provided for in subparagraph 4 of the first paragraph of article 1. However, their professional order may grant them a period of time in which to remedy their breach.

4. To be re-certified, advocates or notaries who cease to be certified pursuant to the second paragraph of article 3 must, in addition to satisfying the conditions laid down in article 1, remedy their failure to comply and provide proof thereof to their professional order.

5. This regulation comes into force on *(insert here the date of coming into force of paragraph 3.4 of section 68 of the Public Curator Act (chapter C-81), as enacted by paragraph 2 of section 153 of the Act to amend the Civil Code, the Code of Civil Procedure, the Act respecting the Public Curator and various provisions as regards to the protection of persons (2020, chapter 11))*.

104943

Draft Regulation

An Act respecting municipal courts
(chapter C-72.01)

Courts of Justice Act
(chapter T-16)

Criminal Code
(R.S.C. 1985, c. C-46)

Municipal Courts

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Municipal Courts Regulation, appearing below, may be submitted to the Government for approval, except the provisions that only apply in criminal and penal matters, on the expiry of 45 days following this publication.