

Gouvernement du Québec

O.C. 653-2022, 6 April 2022

Notaries Act
(chapter N-3)

Act to improve justice accessibility and efficiency,
in particular to address consequences of
the COVID-19 pandemic
(2020, chapter 29)

Professional Code
(chapter C-26)

Notaries
— Professional activities that may be engaged
in by persons other than notaries

Regulation respecting the professional activities that
may be engaged in by persons other than notaries

Whereas the Act to improve justice accessibility and
efficiency, in particular to address consequences of the
COVID-19 pandemic (2020, chapter 29) was assented to
on 11 December 2020;

Whereas, under paragraph 4 of section 68 of the Act,
sections 61 and 62 of the Act come into force on the date
of coming into force of the first by-law made under sec-
tion 15.1 of the Notaries Act (chapter N-3), enacted by
section 62 of the Act;

Whereas, under the second paragraph of section 15.1
of the Notaries Act, enacted by section 62 of the Act to
improve justice accessibility and efficiency, in particu-
lar to address consequences of the COVID-19 pandemic,
the board of directors of the Ordre des notaires du Québec
must determine, by by-law, from among the regulatory
standards applicable to notaries, those standards applicable
to students who may give legal advice or opinions for
others as well as the terms and conditions that apply to
the notaries supervising them, and the by-law may also
prescribe additional terms and conditions according to
which students may perform such acts;

Whereas, under subparagraph *h* of the first paragraph
of section 94 of the Professional Code (chapter C-26), the
board of directors of a professional order may, by regu-
lation, determine, among the professional activities that
may be engaged in by members of the order, those that
may be engaged in by the persons or categories of persons
indicated in the regulation, and the terms and conditions
on which such persons may engage in such activities;

Whereas, in accordance with the third paragraph of
section 15.1 of the Notaries Act, enacted by section 62
of the Act to improve justice accessibility and efficiency,
in particular to address consequences of the COVID-19
pandemic, the board of directors of the Ordre des notaires
du Québec consulted the Barreau du Québec before
adopting, at its sittings of 28 and 29 May 2021 the
Regulation respecting the professional activities that may
be engaged in by persons other than notaries;

Whereas, pursuant to section 95 of the Professional
Code, subject to sections 95.0.1 and 95.2 of the Code,
every regulation made by the board of directors of a pro-
fessional order under the Code or an Act constituting a
professional order must be transmitted to the Office des
professions du Québec for examination and be submitted,
with the recommendation of the Office, to the Government
which may approve it with or without amendment;

Whereas, in accordance with sections 10 and 11 of
the Regulations Act (chapter R-18.1), a draft Regulation
respecting the professional activities that may be engaged
in by persons other than notaries was published in Part 2
of the *Gazette officielle du Québec* of 7 July 2021 with a
notice that it could be examined by the Office then sub-
mitted to the Government which may approve it, with or
without amendment, on the expiry of 45 days following
that publication;

Whereas, in accordance with section 95 of the
Professional Code, the Office examined the Regulation on
21 February 2022 and then submitted it to the Government
with its recommendation;

Whereas it is expedient to approve the Regulation
with amendments;

It is ordered, therefore, on the recommendation of the
Minister of Higher Education:

THAT the Regulation respecting the professional
activities that may be engaged in by persons other than
notaries, attached to this Order in Council, be approved.

YVES OUELLET
Clerk of the Conseil exécutif

Regulation respecting the professional activities that may be engaged in by persons other than notaries

Notaries Act
(chapter N-3, s. 15.1, 2nd par.)

Act to improve justice accessibility and efficiency, in particular to address consequences of the COVID-19 pandemic
(2020, chapter 29, s. 62)

Professional Code
(chapter C-26, s. 94, 1st par., subpar. *h*)

DIVISION I OBJECT

1. The object of this Regulation is to determine the terms and conditions according to which the following persons may engage in certain of the professional activities reserved to notaries:

(1) a person who is registered in an undergraduate study program leading to one of the diplomas, the combination of which meets the requirements for the permit issued by the Chambre des notaires du Québec, and who earned 45 credits in that program;

(2) a person who holds an undergraduate diploma, the combination of which meets the requirements for the permit issued by the Order or whose diploma or training equivalence has been recognized for the purpose of issuing such a permit pursuant to a regulation under paragraphs *c* and *c.1* of section 93 of the Professional Code (chapter C-26), and who is enrolled in a master's degree program in notarial law;

(3) a person who holds an undergraduate diploma, the combination of which meets the requirements for the permit issued by the Order or whose diploma or training equivalence was recognized for the purpose of issuing such a permit pursuant to a regulation made in accordance with paragraphs *c* and *c.1* of section 93 of the Professional Code, and who is enrolled in a graduate study program in legal studies, other than the master's degree program in notarial law, or in a doctoral program in legal studies;

(4) a person who holds a master's degree, the combination of which meets the requirements for the permit issued by the Order or whose diploma or training equivalence has been recognized for the purpose of issuing such a permit pursuant to a regulation under paragraphs *c* and *c.1* of section 93 of the Professional Code, and who is admitted to the professional training program of the Order provided for in the regulation under subparagraph *i* of the first paragraph of section 94 of the Professional Code.

DIVISION II APPLICABLE TERMS AND CONDITIONS

§1. *Practice within a legal clinic established or recognized by a university-level educational institution*

2. A person referred to in paragraph 1, 2 or 3 of section 1 may give legal advice or consultations on legal matters on behalf of others within a legal clinic established or recognized by a university-level educational institution that grants one of the diplomas, the combination of which meets the requirements for the permit issued by the Order, provided

(1) the person has completed a course in ethics and professional conduct of a minimum duration of 3 hours that is recognized by the Order;

(2) the person engages in those activities under the close supervision and responsibility of a notary referred to in section 3;

(3) except in the case of communications that are administrative in nature, the person communicates alone with a client only after obtaining the approval of the supervising notary, who determines whether his or her presence is required given the complexity of the case or the nature of the legal matters involved;

(4) the person gives verbal advice on legal matters to a client only in the presence of the supervising notary or, in the case of written advice on legal matters, only after obtaining the supervising notary's approval; and

(5) the person engages in those activities in conformity with the regulatory standards applicable to notaries relating to ethics and the keeping of records and offices, with the necessary modifications.

3. A notary may act as a supervisor under the following terms and conditions:

(1) the notary has been entered on the roll for at least 5 years;

(2) the notary is covered under the professional liability insurance fund of the Chambre des notaires du Québec or works exclusively for a university-level educational institution referred to in subparagraph *b* of paragraph 2 of section 3 of the Règlement sur l'assurance de la responsabilité professionnelle des notaires (chapter N-3, r. 1.1) which undertakes to stand surety for, defend, and accept financial responsibility for any fault committed by the notary in the practice of his or her profession;

(3) the notary keeps the records he or she opens within a legal clinic or ensures that they are kept by another notary or by a practising advocate who complies with, as applicable, the terms and conditions provided for in this section or in section 3 of the Regulation respecting the professional activities that may be engaged in by persons other than advocates, approved by Order in Council 652-2022 dated 6 April 2022, and who is designated for that purpose by the university-level educational institution;

(4) the notary is not the subject of a disciplinary complaint or a request in accordance with section 116 or 122.0.1 of the Professional Code (chapter C-26) or a proceeding for an offence punishable by a term of imprisonment of 5 years or more;

(5) the notary is not the subject, nor was the subject, in the 5 years preceding the date on which the supervision began, of

(a) a decision or order rendered under the Professional Code, the Notaries Act (chapter N-3) or a regulation made for their application imposing a penalty, a striking off the roll, a restriction or suspension of the right to engage in professional activities or conditions the notary must meet in order to be allowed to continue to practise the profession, refresher courses, periods of refresher training, or any other requirement provided for in a regulation made under section 90 of the Professional Code;

(b) a decision finding the notary guilty of an offence under the Professional Code, the Notaries Act or a regulation made for their application;

(c) a judicial decision described in subparagraph 1, 2, 5 or 6 of the first paragraph of section 45 of the Professional Code.

§2. *Practice within a location other than a legal clinic*

4. A person referred to in paragraph 2 of section 1 who is serving a professional training period may, among the professional activities that may be engaged in by a notary, engage in professional activities that do not fall within the competence of a public officer, provided

(1) the person engages in those activities under the close supervision and responsibility of a notary authorized to act as a tutor by the university-level educational institution concerned; and

(2) the person engages in those activities in accordance with the Notaries Act (chapter N-3), the Professional Code (chapter C-26) and the regulations made for their application.

5. A person referred to in paragraph 4 of section 1 may, among the professional activities that may be engaged in by a notary, engage in professional activities that do not fall within the competence of a public officer, provided

(1) the person engages in those activities under the close supervision and responsibility of a notary who complies with the terms and conditions provided for in section 3, with the necessary modifications, and who is authorized for that purpose by the Order; and

(2) the person engages in those activities in accordance with the Notaries Act (chapter N-3), the Professional Code (chapter C-26) and the regulations made for their application.

The person may engage in those activities until the earlier of the following dates:

(1) the date of issue of the person's permit to practise;

(2) the date on which the person abandons the professional training program or the date on which the person is precluded from completing it;

(3) the date that is 45 days after the date on which the person successfully completed the professional training program.

Where a person is granted an extension of the period to complete the professional training program pursuant to a regulation made in accordance with subparagraph *i* of the first paragraph of section 94 of the Professional Code for a reason other than university studies, the person may not engage in those activities for as long as the reason for the extension prevents the person from completing the program.

DIVISION III FINAL

6. This Regulation replaces the Regulation respecting the professional activities that may be engaged in by persons other than notaries (chapter N-3, r. 0.1).

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

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