

Draft Regulation

Code of Civil Procedure
(chapter C-25.01)

Pilot project relating to digital transformation of the administration of justice

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to establish a pilot project relating to digital transformation of the administration of justice, appearing below, may be made by the Minister of Justice on the expiry of 45 days following this publication.

The draft Regulation establishes a pilot project aimed at assessing procedural rules, modified or new, relevant to various applications dealt with according to the procedure for non-contentious proceedings set out in the Code of Civil Procedure (chapter C-25.01), with a view to facilitating implementation of digital transformation to enhance the administration of justice.

It is expected the rules will have a favourable impact on the persons using the court system.

Further information concerning the draft Regulation may be obtained by contacting Antoine Fafard, Direction des affaires juridiques de la transformation, ministère de la Justice, 1200, route de l'Église, 4^e étage, Québec (Québec) G1V 4M1, e-mail: antoine.fafard@justice.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 of Justice, 1200, route de l'Église, 9^e étage, Québec (Québec) G1V 4M1.

SIMON JOLIN-BARRETTE
Minister of Justice

Regulation to establish a pilot project relating to digital transformation of the administration of justice

Code of Civil Procedure
(chapter C-25.01, art. 28)

CHAPTER 1 GENERAL

1. A three-year pilot project relating to digital transformation of the administration of justice is hereby authorized, in all judicial districts.

2. For the duration of the pilot project, the special procedural rules set out in this Regulation apply to applications dealt with according to the procedure for non-contentious proceedings relating to

(1) authorization to consent to care that is not required by the state of health of a person under 14 years of age or incapable of giving consent, or authorization to consent to the alienation of a part of the body of a minor or an incapable person of full age;

(2) a declaratory judgment of death, the probate of a will, letters of verification or, in succession matters, the liquidation or the partition of a succession;

(3) alteration of the register of civil status;

(4) tutorship to an absentee, to a minor or a person of full age, emancipation of a minor, the protection mandate and temporary representation of an incapable person of full age;

(5) appointment, designation or replacement of any person that is required by law to be appointed, designated or replaced by the court on its own initiative or in the absence of an agreement between the interested parties, and applications of a similar nature relating to tutorship to a minor, tutorship to a person of full age, the protection mandate, temporary representation of an incapable person of full age, a succession or the administration of the property of others;

(6) administration of undivided property, of a trust or of the property of others;

(7) the issue of a notarial act or the replacement or reconstitution of a writing; and

(8) disinterment.

CHAPTER 2 PROVISIONS APPLICABLE TO THE PILOT PROJECT

3. The filing with the office of the court by a lawyer, a notary or a bailiff of any pleadings, exhibits or any other document, including a photograph of real evidence, must be made using the technological means made available for that purpose, when such means is available.

Those documents may also be filed as provided by any other person.

Any person using the technological means referred to in the first paragraph must identify themselves in the manner determined in the terms of use of the technological means.

4. A hard copy source document of a holograph will, a will made in the presence of witnesses or a protection mandate given in the presence of witnesses filed with the office of the court using a technological means in connection with an application for probate or homologation must also be physically filed within 15 days.

5. Information in a hard copy pleading, exhibit or other document filed with the office of the court is to be transferred by the clerk to a technological medium.

The hard copy source document is to be given to the party, the party's representative or the bailiff after the information has been transferred, except for a document relating to a probate or homologation procedure, in particular

(1) a holograph will or a will made in the presence of witnesses; and

(2) a protection mandate given in the presence of witnesses.

6. The party, the party's representative or the bailiff is required until the end of the proceeding to keep and preserve the integrity, in its original medium, of any document that has been filed with the office of the court whether by a technological means or as a hard copy document.

The chief justice or chief judge, if of the opinion that the document may still be useful, may order the court to keep and preserve the integrity of any document referred to in the first paragraph for a longer period.

7. Any document kept pursuant to section 6 must, at the request of the court, be provided to the court in its original medium.

8. The standardized formats determined by the Minister for the receipt of pleadings in technological media, as provided in section 99 of the Code of Civil Procedure (chapter C-25.01), as well as the formats accepted for receipt of any other document in a technological medium are indicated in the terms of use of the technological means made available for that purpose.

CHAPTER 3 PROVISIONS AMENDED FOR THE DURATION OF THE PILOT PROJECT

9. For the duration and as part of the pilot project, the following provisions are to be read as indicated in this chapter.

The text of the pilot project that differs from the text otherwise in force is highlighted by the underlining of added text and a strikethrough line for deleted portions.

10. Article 101 of the Code of Civil Procedure:

“101. An application in the course of a proceeding may be in writing or presented orally and without formality at the hearing. If in writing, it must state the date, time and place it will be presented before the court, and must be notified to the other parties at least three days in advance. If presented orally, it must be submitted to the court in the presence of the other parties.

An application in the course of a proceeding may also be set out in a note, a letter or a notice if it concerns a case management measure, if the judge so requires or if the judge and the parties so agree. The note, letter or notice must clearly state the nature of the application and its subject matter, the number of the record to which it relates and any conclusions sought.

An application in the course of a proceeding that is grounded on facts not supported by evidence filed in the record must be supported by an affidavit a declaration of the person alleging the facts, deemed to be an affidavit, attesting to the truth of the facts alleged.

An application in the course of a proceeding can only be contested orally, unless written contestation is authorized by the court, in particular if the court is permitted to rule on the face of the record. During the hearing, any party may submit relevant evidence.”.

11. Article 108 of the Code:

“108. The parties and the lawyers, or in non-contentious proceedings, the notaries representing the parties, must see to it that exhibits and other documents that contain identifying particulars generally held to be confidential are filed in a form that protects the confidentiality of the information.

Any document or real evidence that is filed in the record as an exhibit must remain in the record until the end of the proceeding, unless all the parties consent to its being removed. If the parties consent to an exhibit in technological media being removed, the exhibit is destroyed by the court clerk. Once the proceeding has ended, the parties must retrieve the hard copy exhibits they have filed or, if the exhibits are in technological media, request that the court clerk destroy them; otherwise, the court clerk may destroy them one year after the date on which the judgment becomes final or the date of the pleading terminating the proceeding. ~~In either case, all cases,~~ the chief justice or chief judge, if of the opinion that the exhibits can still be useful, may stay their destruction.

However, in reviewable or reassessable matters and, in non-contentious cases, notices, certificates, minutes, inventories, medical and psychosocial evidence, affidavits, statements, declarations and documents made enforceable by a judgment, including any child support determination form attached to a judgment, cannot be removed from the record or destroyed.”.

12. Article 134 of the Code:

“**134.** Notification by a technological means is proved by the transmission slip or, failing that, by ~~an affidavit~~ a declaration of the sender, deemed to be an affidavit.”

The transmission slip must set out the nature of the document, the court record number, the names and contact information of the sender and the addressee, and the place, date, hour and minute of sending; unless the document was sent by a bailiff, the transmission slip must also contain the information needed to enable the addressee to make sure that the entire document was sent. The transmission slip is filed with the court office only if a party so requests.”.

13. Article 309 of the Code:

“**309.** The court ascertains that the application presented before it has been served on the person concerned and notified to the interested persons, and that the necessary opinions, reports and expert reports have been filed in the record.

The court may order that the application be notified to any person whom it considers to have an interest, call a meeting of relatives, persons connected by marriage or civil union, or friends, or request the opinion of a tutorship council; it may also require the complementary opinions, reports or expert reports it considers necessary and, if applicable, order an appraisal by an independent expert designated by the court if it has reason to believe the appraisal attached to the application does not reflect the value of the property. The court may also authorize an interested person to produce evidence in support of the view that person intends to assert. The court may take any other appropriate case management measure.

The applicant, the person concerned or another interested person may make their proof by affidavit, by a declaration, deemed to be an affidavit, attesting to the truth of the facts alleged, by testimony or by means of documents or real evidence. The evidence so submitted may pertain to any relevant fact, even one that has arisen since the application was instituted.”.

CHAPTER 4
TRANSITIONAL AND FINAL

14. Only an application filed on or after the date on which this Regulation comes into force is subject to the pilot project in the judicial district concerned.

15. Despite section 2, an application referred to the court under section 304 or 317 of the Code of Civil Procedure remains subject to the pilot project.

16. The provisions of this Regulation come into force on the date or dates set by the Minister having regard to each judicial district, except the second paragraph of section 3, which comes into force on the date set by ‘the Minister.

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Draft Regulation

Courts of Justice Act
(chapter T-16)

Tariff of judicial fees in civil matters
—**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 Tariff of judicial fees in civil matters, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation makes terminological amendments and specifies the judicial fees payable for the presentation of an application referred to in the Code of Civil Procedure (chapter C-25.01) concerning the temporary representation of an incapable person of full age, the whole as a result of the amendments made to this code by 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).

Further information on the draft Regulation may be obtained by contacting Lorie Pépin, Direction du soutien juridique aux services de justice, Ministère de la Justice, 1200, route de l’Église, 7^e étage, Québec (Québec) G1V 4M1; email: lorie.pepin@justice.gouv.qc.ca.

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