

10. Section 33.2 is amended by striking out “maternity” wherever it appears.

11. The following is added after section 33.2:

“**33.3.** For the purposes of the third paragraph of section 12.2 of the Act, the benefit period may be extended if the person who so requests is in one of the situations referred to in subparagraphs 1 to 3 of the first paragraph of section 33.1.

The benefit period is extended by the number of full weeks that the situation lasts, subject to the third paragraph of section 12.2 of the Act.

If a person is again in the situation referred to in the first paragraph during the extension of the benefit period, the benefit period is extended by the number of weeks that the situation lasts, subject to the third paragraph of section 12.2 of the Act.”

12. Section 34 is amended

(1) by replacing the portion before subparagraph 1 of the first paragraph by the following:

“For the purposes of the second, third and fourth paragraphs of section 23 of the Act, the period during which the benefits provided for in sections 9 to 11.3, 12.1 and 12.3 to 12.8 of the Act may be extended if the person is in one of the following situations:”;

(2) by replacing “, father’s or mother’s spouse” in subparagraph 3 of the first paragraph by “or one of their parents, father’s or mother’s spouse or one of their parents”;

(3) by replacing “third” in the second paragraph by “fourth”;

(4) by replacing “third” in the third paragraph by “fourth”.

13. Section 35 is amended by inserting “, the first paragraph of section 33.3” after “section 33.2”.

14. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except sections 2 to 8 and 11 to 13, insofar as they concern benefits relating to a surrogacy project that apply only to a birth resulting from a surrogacy project occurring as of 6 March 2024, unless it is shown that the pregnancy began after 5 June 2023.

Draft Regulation

Civil Code of Québec
(Civil Code; 2023, chapter 13)

Parental projects involving surrogacy in which the parties to the agreement are domiciled in Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting parental projects involving surrogacy in which the parties to the agreement are domiciled in Québec, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The draft Regulation introduces general provisions concerning all parental projects involving surrogacy in which the parties to the agreement are domiciled in Québec. More particularly, the draft Regulation determines the expenses that must or may be reimbursed to the woman or the person who has agreed to give birth to the child in the context of a parental project involving surrogacy, or paid to the third person who has provided the service or product, by the person alone or the spouses who formed the parental project or, where applicable, through the intermediary of a professional who is a member of a professional order and who holds the amounts in a trust account. The draft Regulation sets out the conditions for obtaining the payment of compensation for the loss of work income that the woman or the person may have suffered by reason of their contribution. The draft Regulation also determines the terms and conditions for the payment or reimbursement of expenses and for the payment of compensation for loss of work income. In addition, the draft Regulation determines what must be included in the notarial act or private writing that states the consent of the woman or the person who has agreed to give birth to a child.

Lastly, the draft Regulation introduces special provisions concerning parental projects for the legal establishment of filiation. More particularly, the draft Regulation sets out certain elements that must be included in the surrogacy agreement, as well as the standards for the deposit, in a trust account of the notary who executes the agreement, of an amount to allow the performance of the obligations of the person alone or the spouses who formed the parental project.

Further information on the draft Regulation may be obtained by contacting Nancy Allaire, Direction du soutien aux orientations, des affaires législatives et

de la refonte, Ministère de la Justice, 1200, route de l'Église, 4^e étage, Québec (Québec) G1V 4M1; telephone: 418 643-0424, extension 21688; email: nancy.allaire@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 respecting parental projects involving surrogacy in which the parties to the agreement are domiciled in Québec

Civil Code of Québec
(Civil Code, ss. 541.3, 541.9 and 541.13;
2023, chapter 13, s. 20)

CHAPTER I GENERAL

DIVISION I REIMBURSEMENT OR PAYMENT OF CERTAIN EXPENSES AND PAYMENT OF COMPENSATION FOR LOSS OF WORK INCOME

1. The following expenses must be reimbursed to the woman or the person who has agreed to give birth to a child in consideration of their contribution to a parental project involving surrogacy, or paid to the third person who has provided the service or product:

(1) expenses incurred to obtain any product or service provided by a professional who is a member of a professional order and who, in the practice of their profession, is authorized by law to assess the physical condition of a person, provide or contribute to pregnancy care, conduct or contribute to conducting deliveries, and provide postnatal care and other health care;

(2) expenses incurred to obtain any drug or device within the meaning of section 2 of the Food and Drugs Act (R.S.C., 1985, c. F-27);

(3) expenses relating to the delivery, other than the expenses referred to in subparagraphs 1 and 2;

(4) fees and disbursements incurred for any legal service, including fees and disbursements incurred to administer amounts deposited in a trust account, where applicable.

In addition, the following expenses must be paid:

(1) expenses relating to an assisted procreation activity within the meaning of paragraph 1 of section 2 of the Act respecting clinical and research activities relating to assisted procreation (chapter A-5.01), payable to the centre for assisted procreation;

(2) the fees and expenses relating to the information meeting on the psychosocial implications of the surrogacy project and of the ethical issues it involves, payable to the professional who is a member of a professional order designated by the Minister of Justice in accordance with section 541.11 of the Civil Code;

(3) the charges for the transportation of an in vitro embryo or gametes, including expenses associated with the transportation, payable to any person who incurred them, except the woman or the person who has agreed to give birth to the child.

2. If the parties to the surrogacy agreement so agree, the following expenses may be reimbursed to the woman or the person who has agreed to give birth to a child in consideration of their contribution to a parental project involving surrogacy, or paid to the third person who has provided the service or product:

(1) expenses incurred to obtain any product or service prescribed in writing by a professional who is a member of a professional order and who, in the practice of their profession, is authorized by law to assess the physical condition of a person, provide pregnancy care, conduct deliveries, and provide postnatal care and other health care, as well as expenses associated with obtaining a prescription, where applicable;

(2) fees and disbursements incurred for professional consultation services, except those referred to in paragraph 1 of this section and in subparagraph 4 of the first paragraph of section 1;

(3) expenses relating to the services of a doula;

(4) expenses relating to obtaining or confirming medical records or other documents;

(5) expenses relating to prenatal exercise classes;

(6) expenses relating to maternity clothes or clothes required by the pregnancy;

(7) grocery expenses relating to the pregnancy, excluding expenses incurred for non-food items;

(8) travel expenses, in particular transportation charges and parking, meal and lodging expenses;

(9) expenses incurred to care for a dependent or a companion animal;

(10) telecommunications expenses relating to communications between the woman or the person who has agreed to give birth to the child and the person alone or the spouses who formed the parental project, or relating to the pregnancy or the delivery;

(11) expenses relating to health insurance, life insurance, disability insurance or travel insurance.

3. The maximum amount of the transportation charges provided for in subparagraph 3 of the second paragraph of section 1 and in paragraph 8 of section 2 that must be paid or may be reimbursed or paid for the use of an automobile, except an automobile used by a transportation service that provides a receipt, corresponds, for the year during which transportation took place, to the aggregate of the amounts that would be determined for that year under section 133.2.1R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) if that section applied to such payment or reimbursement.

4. Unless they renounce that right in whole or in part, the woman or the person who has agreed to give birth to the child in the context of a parental project involving surrogacy is entitled to the payment of a financial contribution as compensation for loss of work income resulting from their contribution to the project due to a medical appointment in connection with the pregnancy or a period of work stoppage, where a physician attests that the woman or the person attended such a medical appointment or that, by reason of the pregnancy, the work of the woman or the person may involve a risk to their health or to that of the child to be born.

5. The expenses referred to in sections 1 and 2 are reimbursed or paid by the person alone or the spouses who formed the parental project or, where applicable, through the intermediary of a professional who is a member of a professional order and who holds the amounts in a trust account, except where those expenses are covered and reimbursed or paid by a public or private plan, in which case only the amount that has not been reimbursed or paid by the plan may be reimbursed or paid. The same applies to the compensation for loss of work income referred to in section 4.

6. A claim for the reimbursement of the expenses provided for in the first paragraph of section 1 and in section 2 is admissible only on receipt of the following documents by the person alone or the spouses who formed the parental project:

(1) a declaration by the woman or the person who has agreed to give birth to the child in the context of the parental project, dated and signed by the woman or the person, containing

(a) the name and address of the woman or the person;

(b) for each expense concerned

i. its nature;

ii. the amount incurred and, if less than the amount incurred, the amount requested for reimbursement;

iii. the date on which it was incurred; and

iv. a statement indicating that the amount requested has not been paid or reimbursed to them, in whole or in part, by any other source;

(c) in the case of transportation expenses incurred for the use of an automobile, except an automobile used by a transportation service that provides a receipt, the following additional information:

i. the addresses of the points of departure and destination; and

ii. the number of kilometres travelled between those two points;

(d) a statement indicating that all the expenses have been incurred by reason of their contribution to the parental project;

(e) a statement indicating that all the information contained in the declaration is accurate and complete to the best of their knowledge;

(2) where applicable, a copy of the written prescription referred to in paragraph 1 of section 2 relating to a product or service concerned by the claim for reimbursement;

(3) all receipts relating to the expenses requested for reimbursement, indicating the date on which the expenses were incurred.

7. A claim for the payment of a compensation for loss of work income provided for in section 4 is admissible only on receipt by the person alone or the spouses who formed the parental project of the following documents:

(1) a declaration by the woman or the person who has agreed to give birth to the child in the context of the parental project, dated and signed by the woman or the person, containing

- (a) the name and address of the woman or the person;
 - (b) the date of the medical appointment in connection with the pregnancy or the beginning and end dates of the period during which the woman or the person cannot work for the reason certified by a physician;
 - (c) the amount of the compensation requested;
 - (d) a statement indicating that the woman or the person has not received compensation for the loss of work income, in whole or in part, from any other source; and
 - (e) a statement indicating that all the information contained in the declaration is accurate and complete to the best of their knowledge;
- (2) the supporting documents corroborating the work income that the woman or the person would have earned had they not been absent due to a medical appointment in connection with the pregnancy or the period of work stoppage or, where applicable, the supporting documents corroborating the amount for which they have not been compensated, in whole or in part, by a public or private plan;
- (3) a copy of the attestation by a physician that the woman or the person attended a medical appointment in connection with the pregnancy or that, by reason of the pregnancy, the work of the woman or the person may involve a risk to their health or to that of the child to be born.

8. The person alone or the spouses who formed the parental project or, where applicable, the professional who is a member of a professional order and who holds the amounts in a trust account, who reimburse the expenses or pay the compensation referred to in the declaration made in accordance with paragraph 1 of section 6 or section 7 must indicate in the declaration, as applicable, the amount reimbursed for each listed expense or the amount of the compensation paid, as well as the date of the reimbursement or payment, and sign the declaration.

The woman or the person who has agreed to give birth to the child who receives the reimbursement or compensation must give acquittance for the amount by signing the declaration.

9. The person alone or the spouses who formed a parental project involving surrogacy must prepare, for each reimbursement or payment made or compensation paid, a file containing all documents received for the purpose of the reimbursement, payment or compensation, and they must keep that file for 6 years following the date of the reimbursement, payment or compensation.

DIVISION II

CONSENT OF THE WOMAN OR THE PERSON WHO GAVE BIRTH TO THE CHILD IN THE CONTEXT OF A PARENTAL PROJECT INVOLVING SURROGACY

10. A notarial act or a private writing stating the consent of the woman or the person who gave birth to the child in the context of a parental project involving surrogacy, referred to in section 541.9 of the Civil Code, must contain a declaration that the woman or the person

(1) understands that they are the child's parent;

(2) understands that the child's filiation may be established with regard to the person alone or the spouses who formed the parental project only if the woman or the person consents to it;

(3) understands that their consent makes it possible to deem that the child's filiation is established as of the child's birth with regard to the person alone or the spouses who formed the parental project;

(4) understands that their bond of filiation with the child is thereby dissolved and deemed never to have existed; and

(5) gave free and enlightened consent.

11. If the consent of the woman or the person who gave birth to the child is given by a private writing before two witnesses, the writing must contain the name, capacity and address of the woman or the person as well as those of the witnesses.

The writing must also contain a declaration by the witnesses that they have no interest in the surrogacy project.

CHAPTER II

SPECIAL PROVISIONS CONCERNING PARENTAL PROJECTS FOR THE LEGAL ESTABLISHMENT OF FILIATION

DIVISION I

CONTENT OF THE SURROGACY AGREEMENT

12. A surrogacy agreement must contain an attestation from the parties that they were informed of the following rules and acknowledge that they apply to them notwithstanding any stipulation to the contrary:

(1) that the woman or the person who has agreed to give birth to the child in the context of the parental project involving surrogacy

(a) may, at any time before the child's birth, unilaterally terminate the agreement in accordance with article 541.8 of the Civil Code;

(b) must, for the parental project to be carried to completion, consent to their bond of filiation with regard to the child being deemed never to have existed and to the establishment of a bond of filiation with regard to the person alone or both spouses who formed the parental project, not later than 30 days from the birth of the child, but not before 7 days have elapsed since the birth;

(c) may not be remunerated for their involvement in the project and may only obtain the reimbursement or payment of the expenses and the payment of a compensation for loss of work income, in accordance with the rules set out in Division I of Chapter I;

(2) that the person alone or the spouses who formed the parental project

(a) may not unilaterally terminate the agreement;

(b) may not claim from the woman or the person who has agreed to give birth to the child reimbursement of the amounts they paid under the first paragraph of section 541.3 of the Civil Code for the sole reason that the project was not carried to completion;

(c) may not, in the event that the woman or the person who gave birth to the child gives their consent after the child's birth, refuse the filiation of the child being established with regard to them in accordance with the rules of the Civil Code, regardless of the circumstances;

(3) that, subject to the consent of the woman or the person who gave birth to the child, the filiation is established with regard to the person alone or both spouses who formed the parental project despite their death, their inability to act or their disappearance;

(4) that the parental project comprises all children born of it and it must not entail their being dissociated;

(5) that the information contained in the agreement is confidential, except where the communication of that information is permitted by law.

The surrogacy agreement also contains an attestation from the parties that they have been domiciled in Québec for at least one year prior to entering into the surrogacy agreement.

13. A surrogacy agreement must contain a declaration by the woman or the person who has agreed to give birth to the child in the context of a parental project involving surrogacy attesting that the woman or the person

(1) understands the risks associated with pregnancy;

(2) knows that the person alone or the spouses who formed the parental project are not liable for those risks;

(3) is 21 years of age or over;

(4) undertakes, in the event that the person alone or the spouses who formed the parental project are deceased or unable to act, to ensure that the director of youth protection is informed so that the child can be entrusted to the director, in accordance with article 541.14 of the Civil Code;

(5) where applicable, renounces the reimbursement or payment of the expenses or the payment of a compensation for loss of work income and, where applicable, the grounds for the renunciation.

DIVISION II DISBURSEMENT AND REMITTANCE OF THE AMOUNT HELD IN A TRUST ACCOUNT BY THE NOTARY

14. On receipt of an application for reimbursement made in accordance with section 6 or an application for payment made in accordance with section 7 by the woman or the person who has agreed to give birth to a child, the person alone or the spouses who formed the parental project involving surrogacy must indicate, in the declaration made in accordance with paragraph 1 of section 6 or section 7, as applicable, the amount to be reimbursed for each expense requested or the amount of the compensation to be paid by the notary. The person alone or the spouses must then sign the declaration and transmit the completed application to the notary.

If the amounts requested by the woman or the person are accepted in whole by the person alone or the spouses, the application complies with the agreement and the evidence in support of the application is satisfactory, the notary disburses the amounts requested from the notary's trust account, remits them to the woman or the person, and completes the declaration in accordance with section 8.

If the amounts requested by the woman or the person are refused, in whole or in part, by the person alone or the spouses, but the application nonetheless complies with the agreement and the evidence in support of the application is satisfactory, the notary disburses the amounts requested from the notary's trust account, remits them to the woman or the person, informs the person alone or the spouses, and completes the declaration in accordance with section 8. Despite the foregoing, if the application does not comply with the agreement or the evidence in support of the application is unsatisfactory, the notary informs the

parties and retains the amount in dispute until the notary is informed of an agreement between the parties or a final decision by the court.

15. On receipt of an application for payment transmitted by the person alone or the spouses who formed the parental project involving surrogacy, and on receipt of the supporting documents, the notary disburses the amounts requested from the notary's trust account in order to remit them to either the person or the spouses so they can pay the third person who has provided the service or product, or directly to the third person who has provided the service or product.

If the person alone or the spouses fail to make such an application to the notary, the woman or the person who has agreed to give birth to the child may make the application to the notary who, if the application complies with the agreement and the evidence in support of the application is satisfactory, disburses the amounts from the notary's trust account, remits them directly to the person who has provided the service or product, and informs the person alone or the spouses. Despite the foregoing, if the application does not comply with the agreement or the evidence in support of the application is unsatisfactory, the notary informs the parties and retains the amount in dispute until the notary is informed of an agreement or a final decision by the court.

16. On receipt of a declaration by the parties that all the expenses have been paid or reimbursed and, where applicable, that all financial contributions have been paid, the notary, where applicable, disburses the residue of the amount held by the notary in order to remit it to the person alone or the spouses who formed the parental project.

CHAPTER III FINAL

17. 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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