

chapter C-12, r. 2

Updated to 1 May 2017

Regulation respecting the procedure for the recruitment and selection of persons apt for designation to the function of arbitrator or appointment to the function of assessor with the Human Rights Tribunal

Charter of human rights and freedoms

(chapter C-12, s. 97, 1st par., subpar. 3)

DIVISION I

GENERAL

1. The purpose of this Regulation is to establish the procedure for the recruitment and selection of persons apt for designation to the function of arbitrator or appointment to the function of assessor with the Human Rights Tribunal.

O.C. 916-90, s. 1.

2. At least half the persons included in the panel provided for in section 62 of the Charter of human rights and freedoms (chapter C-12) must be entered on the Roll of the Ordre des avocats du Québec.

O.C. 916-90, s. 2.

DIVISION II

NOTICE OF VACANT POSITIONS

3. The Minister of Justice shall publish a notice in a newspaper circulating throughout Québec and in the journal of the Barreau du Québec inviting interested persons to submit their candidacies for the function of arbitrator or assessor.

O.C. 916-90, s. 3.

4. The notice shall give:

- (1) a description of the functions of arbitrator or assessor;
- (2) in substance, the criteria for the selection of applicants, including notable experience, expertise in, sensitivity to and interest in matters of human rights and freedoms;
- (3) an indication that any person may submit his candidacy and that any person or group of persons, more particularly any group of persons or any organization devoted to the defence and promotion of human rights and freedoms or to the welfare of a group of persons, may propose a candidacy;
- (4) in substance, the system of confidentiality applicable within the framework of the selection procedure and an indication that the selection committee may carry out consultations relative to the candidacies;
- (5) the date before which a candidacy must be submitted and the address to which it must be sent.

O.C. 916-90, s. 4.

5. A copy of the notice shall be sent to the president of the Human Rights Tribunal, to the president of the Commission des droits de la personne et des droits de la jeunesse and to the Bâtonnier of the Province of Québec.

O.C. 916-90, s. 5.

DIVISION III

CANDIDACIES

6. A person who wishes to submit his candidacy shall forward a recent photograph, his resumé and the following information:

- (1) his name, address, home telephone number and office telephone number;
- (2) his date of birth;
- (3) if he is a member of a professional order, the year of his admission to that order, proof that he is a member thereof and the number of years of practice that he has completed, with mention of the main sectors of activity in which he has worked;
- (4) the nature of the activities that he has exercised and that he considers have enabled him to acquire relevant experience in the area of human rights and freedoms and, as the case may be, as an arbitrator or an assessor;
- (5) any penalty imposed on him by the disciplinary council of the professional order of which he is or was a member or by the Professions Tribunal, as well as the object of and the reasons for that penalty;
- (6) the names of his employers over the past 10 years;
- (7) a summary of the reasons for his interest in exercising the function of arbitrator or assessor and a description of his notable experience, expertise in, sensitivity to, and interest in matters of human rights and freedoms.

That person must also forward a written statement in which he agrees to submit to a verification by any professional order of which he is or was a member and by police authorities and, where applicable, in which he agrees that the organizations mentioned in section 16 may be consulted.

O.C. 916-90, s. 6.

7. Any person, group of persons or organization devoted to the defence and promotion of human rights and freedoms or to the welfare of a group of persons may propose in writing the candidacy of a person he or it considers apt to exercise the function of arbitrator or assessor.

When a nomination is received, the person in question shall be advised immediately.

The name of the person making the nomination may not be revealed without that person's written consent.

O.C. 916-90, s. 7.

8. A nomination shall be retained only if the person in question gives his consent and sends the documents and information mentioned in section 6 within 15 days following the notice provided for in section 7.

O.C. 916-90, s. 8.

DIVISION IV

FORMATION OF A SELECTION COMMITTEE

9. Following publication of the notice of vacant positions, the Minister shall form a selection committee consisting of 3 members, including a chair, by appointing:

- (1) the president of the Human Rights Tribunal or, after consulting the president, another member of that Tribunal who is a judge;

- (2) an advocate, after consulting with the Barreau du Québec;
- (3) a person who is neither a judge nor an advocate and who the Minister considers to be representative of persons working within various groups or organizations that he considers to be devoted to the defence and promotion of human rights and freedoms.

Where a member is absent or has withdrawn, the Minister shall replace him with another person whom he shall appoint in the same manner.

O.C. 916-90, s. 9.

10. A member of the committee must withdraw in regard to an applicant:

- (1) whose candidacy he proposed;
- (2) of whom he is or was the spouse;
- (3) to whom he is related by birth or marriage, to the degree of first cousin inclusively;
- (4) of whom he is or was a partner, an employer or an employee.

O.C. 916-90, s. 10.

11. The members of the committee are required to take the oath of discretion provided for in Schedule A.

O.C. 916-90, s. 11.

12. A person may be appointed to more than one committee at the same time.

O.C. 916-90, s. 12.

DIVISION V

FUNCTIONING OF THE SELECTION COMMITTEE

13. The list of applicants and their applications shall be sent to the chair of the committee.

O.C. 916-90, s. 13.

14. The committee shall analyze the applications and meet with those applicants who, in its opinion, meet the eligibility requirements.

Where no meeting is held with an applicant, the committee shall so indicate in its report to the Minister and shall give the reasons therefore.

O.C. 916-90, s. 14.

15. The chair shall inform the applicants of the date and place of their meeting with the committee.

He shall inform any other applicant who is not called to a meeting with the committee or with whom the committee will not meet.

O.C. 916-90, s. 15.

DIVISION VI

CONSULTATIONS AND SELECTION CRITERIA

16. The committee may, on the subject of anything in an applicant's application or any aspect of a candidacy or of the candidacies as a whole, consult in particular:

- (1) the Commission des droits de la personne et des droits de la jeunesse;
- (2) a professional order of which a candidate is or was a member;
- (3) the Comité consultatif du travail et de la main-d'oeuvre established under section 12.1 of the Act respecting the Ministère du Travail (chapter M-32.2);
- (4) the Health and Welfare Commissioner;
- (5) *(paragraph revoked)*;
- (6) the Conseil du statut de la femme;
- (7) *(paragraph revoked)*;
- (8) another agency on which the law confers the function of advisor to the Government or to a minister, as well as the various groups that are devoted to the defence and promotion of human rights and freedoms and that the committee considers the most representative.

O.C. 916-90, s. 16; S.Q. 2011, c. 16, ss. 111 and 117; S.Q. 2011, c. 16, s. 89.

17. The selection criteria that the committee shall take into account in determining an applicant's aptitude are, in particular:

- (1) the applicant's personal and intellectual qualities, as well as his notable experience and expertise in, sensitivity to and interest in matters of human rights and freedoms;
- (2) the extent of the applicant's relevant knowledge in the areas of human rights and freedoms and of arbitration in which the arbitrator or the assessor will exercise his functions, as well as the applicant's judgment, perceptiveness, level-headedness and decision-making abilities;
- (3) the applicant's conception of the functions of an arbitrator or an assessor.

O.C. 916-90, s. 17.

DIVISION VII

REPORT OF THE SELECTION COMMITTEE

18. The committee shall promptly submit to the Minister a report:

- (1) indicating the names of the applicants with whom the committee met and whom it considers apt to exercise the function of arbitrator or assessor;
- (2) containing any comments that the committee considers appropriate, especially with respect to the particular characteristics or qualifications of the persons considered apt.

O.C. 916-90, s. 18.

19. A member may register his dissent with respect to all or part of the report.

O.C. 916-90, s. 19.

DIVISION VIII

PANEL OF ARBITRATORS OR ASSESSORS

20. The panel, which is established by the Government, shall indicate the names of the persons who may be selected as arbitrators or assessors, their professions or occupations and information concerning the location of their work; the panel shall be recorded in the register drawn up and kept for that purpose at the Ministère de la Justice.

O.C. 916-90, s. 20.

21. The panel shall be public.

O.C. 916-90, s. 21.

22. A person shall cease to be included in the panel:

(1) 36 months after his inclusion therein, if he does not resubmit his candidacy within the prescribed period, or upon his appointment to the function of assessor with the Human Rights Tribunal;

(2) in the case of a person struck off the Roll of the Ordre des avocats du Québec, as soon as he is struck off;

(3) in case of death;

(4) upon his request to be removed therefrom.

O.C. 916-90, s. 22.

23. When the panel is established and whenever it is updated, a copy thereof shall be sent to the president of the Human Rights Tribunal, to the president of the Commission des droits de la personne et des droits de la jeunesse, to the Bâtonnier of the Province of Québec and to any other person who is or ceases to be included in the panel.

O.C. 916-90, s. 23.

DIVISION IX

FINAL

24. The names of the persons whose candidacies are proposed, the names of the applicants, the reports of the selection committees as well as any information or document relating to a consultation or to a decision of the committee shall be confidential.

O.C. 916-90, s. 24.

25. *(Omitted).*

O.C. 916-90, s. 25.

SCHEDULE A

(s. 11)

OATH OF DISCRETION

I, _____(name)_____ swear that I will neither reveal nor make known, without due authorization to do so, anything whatsoever of which I may gain knowledge in the exercise of my office.

(signature)

Sworn before me at _____ this

Commissioner for oaths

O.C. 916-90, Sch. A.

REFERENCES

O.C. 916-90, 1990 G.O. 2, 1758
S.Q. 1992, c. 8, s. 31
S.Q. 1995, c. 27, s. 41
S.Q. 1996, c. 21, s. 41
S.Q. 2005, c. 18, s. 41
S.Q. 2008, c. 11, s. 41
S.Q. 2011, c. 16, ss. 111 and 117
S.Q. 2011, c. 16, s. 89