

Draft Regulations

Draft Regulation

Civil Code of Québec
(Civil Code)

Solemnization of marriages and civil unions

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting the solemnization of marriages and civil unions, appearing below, may be made by the Minister of Justice on the expiry of 45 days following this publication.

The draft Regulation sets out the rules surrounding the solemnization of marriages and civil unions, regardless of the quality of the officiant. It also sets out which documents must be kept or sent to the registrar of civil status following the solemnization of a marriage or civil union. Lastly, it sets out measures that may be taken in the event of an officiant's non-compliance with the rules governing the solemnization of marriages.

To date, study of the matter has shown no significant impact on the public and on enterprises, including small and medium-sized businesses.

Further information on the draft Regulation may be obtained by contacting Annie Gauthier, Direction des orientations, des affaires législatives et de la refonte, Ministère de la Justice, 1200, route de l'Église, 9^e étage, Québec (Québec) G1V 4M1; telephone: 418 646-5580, extension 20172; fax: 418 646-4894; email: annie.gauthier@justice.gouv.qc.ca.

Any interested 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.

STÉPHANIE VALLÉE,
Minister of Justice

Regulation respecting the solemnization of marriages and civil unions

Civil Code of Québec
(Civil Code, arts. 376, 1st par., 376.1, 376.2 and 521.3, 2nd par.)

DIVISION I

SCOPE

1. This Regulation applies to the solemnization of all marriages and civil unions.

DIVISION II

DATE AND PLACE OF SOLEMNIZATION

2. Marriages and civil unions may be solemnized on any day in a place accessible to the public, in keeping with the solemn nature of the ceremony and laid out for that purpose.

However, marriages and civil unions solemnized in a courthouse or by a clerk or deputy clerk of the Superior Court must be solemnized between 9:00 a.m. and 4:30 p.m. They may not be solemnized on

- (1) Sundays;
- (2) 1 and 2 January;
- (3) Good Friday;
- (4) Easter Monday;
- (5) 24 June, the National Holiday;
- (6) 1 July, the anniversary of Confederation;
- (7) the first Monday of September, Labour Day;
- (8) the second Monday of October;
- (9) 24, 25, 26 and 31 December;
- (10) the day fixed by proclamation of the Governor General for the celebration of the birthday of the Sovereign; or
- (11) any other day fixed by order of the Government as a public holiday or as a day of thanksgiving.

3. The clerk or deputy clerk of the Superior Court may solemnize a marriage or civil union in a courthouse or at the places referred to in sections 4 and 5.

Any other officiant may solemnize a marriage or civil union in a courthouse, in a place referred to in sections 4 and 5 or in any other place agreed upon by the intended spouses.

4. If one of the intended spouses is physically unable to move about, and that inability is attested to in a medical certificate, the ceremony may take place at the place where that intended spouse is, provided that the officiant has been notified.

5. If one of the intended spouses is confined in a correctional facility or penitentiary, the ceremony may take place at the correctional facility or penitentiary, provided that the officiant has been notified.

DIVISION III MARRIAGE AND CIVIL UNION CEREMONIES

6. During the marriage or civil union ceremony, the officiant must see to the solemn nature of the ceremony and maintain good order.

7. During the marriage or civil union ceremony, the officiant, the intended spouses and the witnesses must be present in person.

8. At the agreed time, the officiant must address the intended spouses using the text in Schedule I or Schedule II, as the case may be. The text must be read in French or in English, as determined by the intended spouses.

If the officiant solemnizes more than one marriage or civil union at the same time, the appropriate text must be read only once.

The officiant must then receive from the intended spouses a statement of their consent in French or in English. The statement of consent must be confirmed by the witnesses.

9. If the officiant, an intended spouse or a witness does not understand or is unable to express himself or herself aloud in the language selected in section 8, the intended spouses must retain the services of an interpreter who may in no case be related to them in either the direct or the collateral line up to and including the third degree.

The interpreter must carry out his or her functions with impartiality and accuracy.

10. After having solemnized the marriage or civil union, an officiant who is a clerk or deputy clerk of the Superior Court, a notary authorized by law to execute notarial acts, a mayor, a member of a municipal or borough council, a municipal officer, a minister of religion or a designated member of a Mohawk community must keep, in an appropriate place

(1) a copy of the judgment authorizing a minor's marriage;

(2) a copy of the notice of publication of the marriage or civil union, or of the dispensation from publication, where applicable;

(3) the officiant's original copy of the declaration of marriage or civil union;

(4) a copy of the certificate of marriage or civil union; and

(5) a copy of any other document that was used to certify the accuracy of the information provided by the spouses.

Any other officiant must enclose those documents with the declaration of marriage or civil union when sending it to the registrar of civil status.

11. An officiant who is a clerk or deputy clerk of the Superior Court, a notary authorized by law to execute notarial acts, a mayor, a member of a municipal or borough council, a municipal officer, a minister of religion or a designated member of a Mohawk community must enclose a copy of the judgment authorizing a minor's marriage with the declaration of marriage when sending it to the registrar of civil status.

DIVISION IV MEASURES THAT MAY BE TAKEN AGAINST AN OFFICIANT

12. The designation or authorization of an officiant who derogates from the rules governing the solemnization of marriages or civil unions is revoked if, following the summary investigation provided for in article 130 of the Civil Code, the registrar of civil status is unable to draw up the act of marriage or civil union in order to insert it in the register of civil status. In other cases, the designation or authorization is suspended.

13. An officiant whose designation or authorization is revoked may not submit a new application until the officiant undertakes in writing not to derogate from the rules governing the solemnization of marriages or civil unions and 2 years have elapsed since the revocation.

If the officiant again derogates from the rules, the designation or authorization is revoked and the officiant may not submit a new application.

14. An officiant whose designation or authorization is suspended must undertake in writing not to repeat the alleged breach before the suspension is lifted. The duration of the suspension is 6 months.

If the officiant fails to make an undertaking in accordance with the first paragraph or again derogates from the rules governing the solemnization of marriages or civil unions, the designation or authorization is revoked.

DIVISION V FINAL

15. This Regulation replaces the Rules respecting the solemnization of civil marriages and civil unions (chapter CCQ, r. 3).

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

SCHEDULE I (s. 8, 1st par.)

FORM USED FOR A MARRIAGE

The officiant declares:

(name of one intended spouse)

(name of other intended spouse)

before uniting you in the bonds of marriage, I am required to read to you certain articles of the Civil Code which set out the rights and duties of spouses.

Article 392. The spouses have the same rights and obligations in marriage.

They owe each other respect, fidelity, succour and assistance.

They are bound to share a community of life.

Article 393. In marriage, both spouses retain their respective names and exercise their civil rights under those names.

Article 394. The spouses together take in hand the moral and material direction of the family, exercise parental authority and assume the tasks resulting therefrom.

Article 395. The spouses choose the family residence together.

In the absence of an express choice, the family residence is presumed to be the residence where the members of the family live while carrying on their principal activities.

Article 396. The spouses contribute towards the expenses of the marriage in proportion to their respective means.

The spouses may make their respective contributions by their activities within the home.

SCHEDULE II (s. 8, 1st par.)

FORM USED FOR A CIVIL UNION

The officiant declares:

(name of one intended spouse)

(name of other intended spouse)

before uniting you in the bonds of civil union, I am required to read to you certain articles of the Civil Code which set out the rights and duties of spouses.

Article 521.6. The spouses in a civil union have the same rights and obligations.

They owe each other respect, fidelity, succour and assistance.

They are bound to share a community of life.

The effects of the civil union as regards the direction of the family, the exercise of parental authority, contribution towards expenses, the family residence, the family patrimony and the compensatory allowance are the same as the effects of marriage, with the necessary modifications.

Whatever their civil union regime, the spouses may not derogate from the provisions of this article.

Under article 393, in a civil union, both spouses retain their respective names and exercise their civil rights under those names.

Under article 394, the spouses together take in hand the moral and material direction of the family, exercise parental authority and assume the tasks resulting therefrom.

Under article 395, the spouses choose the family residence together.

In the absence of an express choice, the family residence is presumed to be the residence where the members of the family live while carrying on their principal activities.

Under article 396, the spouses contribute towards the expenses of the civil union in proportion to their respective means.

The spouses may make their respective contributions by their activities within the home.

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