

chapter G-1.01, r. 4

Regulation respecting the conciliation and arbitration procedure for the accounts of geologists

Geologists Act
(chapter G-1.01, s. 2).

Professional Code
(chapter C-26, s. 88).

TABLE OF CONTENTS

DIVISION I	
CONCILIATION.....	1
DIVISION II	
ARBITRATION	
§ 1. — <i>Application for arbitration</i>	11
§ 2. — <i>Council of arbitration</i>	15
§ 3. — <i>Hearing</i>	20
§ 4. — <i>Arbitration Award</i>	27

SCHEDULE I

DIVISION I

CONCILIATION

1. A client who has a dispute with a geologist concerning the amount of an account for professional services, whether such account was paid in whole or in part or not paid, may apply in writing for conciliation by the syndic of the Ordre des géologues du Québec within 45 days following receipt of that account.

For the purposes of this Regulation, a client is a person required to pay the account of a geologist.

O.C. 25-2004, s. 1.

2. Where sums for payment of the account were withdrawn or withheld by the geologist from moneys kept or received by the geologist for or on behalf of the client, the time period begins to run when the latter becomes aware of the withdrawal or withholding.

O.C. 25-2004, s. 2.

3. An application for conciliation of an account for which no payment, withdrawal or withholding was made may be sent to the syndic after the expiry of 45 days prescribed in section 1, provided that it is sent before the client is served with proceedings concerning the account.

O.C. 25-2004, s. 3.

4. A geologist may not institute proceedings in respect of an account for professional fees within 45 days of the date of receipt of that account by the client.

O.C. 25-2004, s. 4.

5. Upon receipt of an application for conciliation, the syndic shall notify the geologist involved or, if unable to do so personally, the geologist's firm. The syndic shall also send the client a copy of this Regulation.

O.C. 25-2004, s. 5.

6. Once the geologist has been notified that the syndic has received the application for conciliation, the geologist may not institute proceedings in respect of an account for professional fees so long as the dispute may be settled by conciliation or arbitration. A geologist may request provisional measures in accordance with article 623 of the Code of Civil Procedure (chapter C-25.01).

O.C. 25-2004, s. 6; I.N. 2016-01-01 (NCCP).

7. The syndic shall proceed with the conciliation in the manner the syndic considers most appropriate.

To that end, the syndic may request from the geologist or client any information or document considered appropriate.

O.C. 25-2004, s. 7.

8. Any agreement during conciliation shall be recorded in writing, signed by the client and the geologist and filed with the secretary of the Order.

O.C. 25-2004, s. 8.

9. If conciliation does not lead to an agreement within 30 days from the date of receipt of the application for conciliation, the syndic shall send a report on the dispute by registered mail to the client and the geologist.

The report must contain, where applicable, the following information:

- (1) the amount of the account for professional fees in dispute;
- (2) the amount that the client acknowledges owing;
- (3) the amount that the geologist acknowledges having to reimburse or is willing to accept in settlement of the dispute; and
- (4) the amount, if any, suggested by the syndic during conciliation as payment to the geologist or reimbursement to the client.

The syndic shall also send the client a form provided for in Schedule I and describe the procedure and deadline for submitting the dispute to arbitration.

O.C. 25-2004, s. 9; I.N. 2016-01-01 (NCCP).

10. The conciliation record shall be filed with the secretary of the Order. The record shall include the application for conciliation and the conciliator's report. The record shall be kept for at least 1 year, but no longer than 5 years.

O.C. 25-2004, s. 10.

DIVISION II

ARBITRATION

§ 1. — *Application for arbitration*

11. Within 30 days of receiving the conciliation report, a client may apply for arbitration of the account by sending the form provided for in Schedule I to the secretary of the Ordre des géologues du Québec by registered mail. The client shall enclose a copy of the conciliation report and a certified cheque in the amount the client acknowledges owing with the application for arbitration.

O.C. 25-2004, s. 11; I.N. 2016-01-01 (NCCP).

12. Upon receipt of an application for arbitration, the secretary of the Order shall notify the geologist involved or, if unable to do so personally, the geologist's firm.

O.C. 25-2004, s. 12.

13. An application for arbitration may only be withdrawn in writing and with the geologist's consent.

O.C. 25-2004, s. 13.

14. If an agreement is reached between the parties after the application for arbitration, the agreement shall be recorded in writing, signed by the parties and filed with the secretary of the Order.

Where the agreement is reached after the council of arbitration has been formed, the agreement shall be recorded in the arbitration award and the council shall decide the expenses in accordance with the manner provided for in section 31.

O.C. 25-2004, s. 14.

§ 2. — *Council of arbitration*

15. The council of arbitration shall be composed of 3 arbitrators when the amount in dispute is \$10,000 or more and of a single arbitrator when the amount in dispute is less than \$10,000.

O.C. 25-2004, s. 15.

16. The board of directors shall appoint the member or members of the council of arbitration from among the members of the Order. If the council consists of 3 arbitrators, the board of directors shall appoint the chair and secretary.

O.C. 25-2004, s. 16.

17. The secretary of the Order shall inform the arbitrators and the parties by mail that a council of arbitration has been formed.

O.C. 25-2004, s. 17.

18. A request that an arbitrator be recused may be filed only for a reason provided for in article 202 of the Code of Civil Procedure (chapter C-25.01), except paragraph 5 of that article. It must be sent in writing to the secretary of the Order, to the council of arbitration and to the parties or their advocates within 10 days of receiving the notice provided for in section 17 or of the day on which the reason for the request becomes known.

The board of directors shall rule on such request and, where required, shall see that the recused arbitrator is replaced.

O.C. 25-2004, s. 18; I.N. 2016-01-01 (NCCP).

19. Before acting, the members of the council of arbitration shall take the oath in Schedule II to the Professional Code (chapter C-26).

O.C. 25-2004, s. 19.

§ 3. — *Hearing*

20. The secretary of the Order shall give the council of arbitration and the parties or their advocates at least 10 days' written notice of the date, time and place of the hearing.

O.C. 25-2004, s. 20.

21. The parties are entitled to be represented by an advocate or to be assisted.

O.C. 25-2004, s. 21.

22. The council of arbitration may require the parties to submit to it, within a specified time limit, a statement of their claims together with supporting documents.

O.C. 25-2004, s. 22.

23. The council of arbitration shall, with diligence, hear the parties, receive their evidence or record their failure to appear. To that end, it shall follow the rules of procedure it considers most appropriate.

O.C. 25-2004, s. 23.

24. The chair shall draw up the minutes of the hearing and shall have them signed by the other members of the council, if applicable.

O.C. 25-2004, s. 24.

25. A party requesting that the testimony be recorded shall assume the cost thereof.

O.C. 25-2004, s. 25.

26. In the event of an arbitrator's death or inability to act, the other arbitrators shall see the matter to its completion. If that arbitrator is the chair of the council of arbitration, the board of directors shall designate one of the other 2 members to act as chair.

If the council of arbitration consists of a single arbitrator, that arbitrator shall be replaced by a new arbitrator appointed by the board of directors and the dispute shall be reheard.

O.C. 25-2004, s. 26.

§ 4. — *Arbitration Award*

27. The council of arbitration shall issue its award within 60 days of the end of the hearing.

O.C. 25-2004, s. 27.

28. The award shall be issued by a majority of the members of the council. Failing a majority, the award shall be issued by the chair.

The award shall give reasons and shall be signed by all the members. If an arbitrator refuses or is unable to sign, the others shall indicate that fact and the award shall have the same effect as though it had been signed by all the arbitrators.

O.C. 25-2004, s. 28.

29. In its award, the council of arbitration may uphold, reduce or cancel the amount of the account in dispute, determine the reimbursement or payment to which a party is entitled and, where applicable, rule on the amount that the client acknowledged owing and that the client sent with the application for arbitration.

O.C. 25-2004, s. 29.

30. The expenses incurred by the parties for the holding of the arbitration shall be paid by each of them.

O.C. 25-2004, s. 30.

31. In its award, the council of arbitration may rule on the arbitration expenses, namely the expenses incurred by the Order for the arbitration. However, the total amount of the expenses must not exceed 15% of the amount in dispute.

O.C. 25-2004, s. 31.

32. Where the account in dispute is upheld in whole or in part or where a reimbursement is granted, the council of arbitration may also add interest and an indemnity in accordance with articles 1618 and 1619 of the Civil Code, calculated from the date of the application for conciliation.

O.C. 25-2004, s. 32.

33. The arbitration award is binding on the parties and is subject to forced execution in accordance with articles 645 and 646 of the Code of Civil Procedure (chapter C-25.01).

O.C. 25-2004, s. 33; I.N. 2016-01-01 (NCCP).

34. An arbitration award shall be filed with the secretary of the Order by the council of arbitration. A copy of the arbitration award shall be sent to the parties or to their advocates within 10 days after its filing.

O.C. 25-2004, s. 34.

35. The arbitration record shall be filed with the secretary of the Order. The record shall include the applications for conciliation and arbitration of accounts, the documents tabled by the parties and the award; the arbitration record shall be kept for at least 1 year, but no longer than 5 years.

Upon request, the secretary shall return to a party the documents it filed with the record.

O.C. 25-2004, s. 35.

36. *(Omitted).*

O.C. 25-2004, s. 36.

SCHEDULE I

(s. 9)

APPLICATION FOR ARBITRATION OF ACCOUNT

I, the undersigned, _____ (*name of client*) _____ (*domicile*) _____

Declare that:

- (1) _____ (*name of geologist*) _____ is claiming from me (or refuses to reimburse me) a sum of money for professional services.
- (2) I have enclosed a copy of the conciliation report.
- (3) I am applying for arbitration of the account under the Regulation respecting the conciliation and arbitration procedure for the accounts of geologists (chapter G-1.01, r. 4).
- (4) I declare that I have received and have taken cognizance of the above-mentioned Regulation.
- (5) I agree to abide by the procedure provided for in the Regulation and, where required, to pay to _____ (*name of geologist*) _____ the amount of the arbitration award.

Signature

O.C. 25-2004, Sch. I.

UPDATES
O.C. 25-2004, 2004 G.O. 2, 812
S.Q. 2008, c. 11, s. 212

