

chapter H-4.1, r. 7

Regulation respecting the terms and conditions for the issue of a permit by the Chambre des huissiers de justice du Québec

Court Bailiffs Act
(chapter H-4.1, s. 3).

Professional Code
(chapter C-26, s. 94, pars. *h* and *i*).

TABLE OF CONTENTS

DIVISION I	
ISSUE OF A PERMIT.....	1
DIVISION II	
TRAINING COURSE.....	2
DIVISION III	
PROFESSIONAL EXAMINATION.....	5
DIVISION IV	
TRAINING PERIOD.....	11
DIVISION IV.1	
STANDARDS OF EQUIVALENCE APPLICABLE TO THE CONDITIONS FOR THE ISSUE OF A PERMIT.....	19.1
DIVISION V	
TRANSITIONAL AND FINAL.....	20

DIVISION I

ISSUE OF A PERMIT

1. The board of directors of the Chambre des huissiers de justice du Québec shall issue a permit to practise the profession of court bailiff to a person who meets the following requirements:

(1) subject to section 20, he is the holder of a diploma that gives access to the permit issued by the Chambre and recognized by the Government under the first paragraph of section 184 of the Professional Code (chapter C-26) or an equivalent to that diploma recognized by the board of directors or has received an equivalent training recognized by the board of directors;

(2) he has taken the training course in accordance with Division II;

(3) he has passed the professional examination in accordance with Division III;

(4) he has successfully completed the professional training period in accordance with Division IV;

(5) he has completed an application for a permit and paid the fees fixed for the granting of a permit determined under paragraph 8 of section 86.0.1 of the Code;

(6) he has authorized the board of directors to inquire about his integrity and financial situation.

O.C. 449-99, s. 1.

DIVISION II

TRAINING COURSE

2. The Secretary of the Chambre shall administer the training course under the authority of the executive committee.

O.C. 449-99, s. 2.

3. The training course shall have a duration of at least 4 weeks and include the following:

(1) practical work relevant to the particular skills to meet the following objectives:

— serve proceedings, calculate time limits and establish proof of service;

— enforce judicial decisions that are executory, in particular, seize movables and immovables in execution, produce minutes, assess movable property, consult the appropriate registers, produce a statement of collocation and distribution of the amounts realized;

— execute eviction orders;

— execute warrants for witness, or for committal;

— carry out sales under judicial authority;

— make material ascertainment;

— perform any other duties assigned to a bailiff by law or by a court;

— serve proceedings on a party domiciled or residing in another province in Canada or another country, or issued by a foreign court or tribunal;

(2) the law and the regulations related to the practice of the profession, in particular the Professional Code (chapter C-26), the Court Bailiffs Act (chapter H-4.1), the regulations made under those statutes, as well as bookkeeping, registers and trust accounts;

(3) professional behaviour in the exercise of judicial constraint, in particular, in crisis situations, and the social behaviour of an officer of justice;

(4) knowledge related to the charters of rights and freedoms, the Act respecting the Administrative Housing Tribunal (chapter T-15.01), the Act respecting the collection of certain debts (chapter R-2.2) and the Consumer Protection Act (chapter P-40.1).

O.C. 449-99, s. 3; I.N. 2016-01-01 (NCCP).

4. Upon recommendation of the Secretary, the executive committee shall determine the dates of the training course each year, where it will be held and the number of sessions required. The Secretary shall advise each candidate of the beginning of a session at least 30 days in advance.

O.C. 449-99, s. 4.

DIVISION III

PROFESSIONAL EXAMINATION

5. The professional examination is in writing and shall be held once a year, on the date, at the time and at the place determined by the executive committee.

O.C. 449-99, s. 5.

6. The purpose of the professional examination relating to the knowledge and skills acquired by the candidate shall be to evaluate the candidate's behaviour and practical judgment in concrete situations.

The examination shall evaluate the candidate with respect to the service of proceedings, the enforcement of judicial decisions that are executory, the performance of any other duties assigned to a bailiff by law, the production of minutes and professional law.

O.C. 449-99, s. 6.

7. A candidate who has completed the professional training period shall be notified of the examination at least 45 days in advance.

O.C. 449-99, s. 7.

8. The minimum pass mark for the examination is 60%. Failing that, the candidate shall take the examination again at the following sitting.

The mark obtained at the examination, with the indication "Pass" or "Fail", shall be sent to the candidate by mail as soon as possible.

O.C. 449-99, s. 8.

9. The candidate may sit for the examination a maximum of 3 times, unless he demonstrates to the executive committee's satisfaction that he has successfully completed an additional training period to remedy his deficiencies.

O.C. 449-99, s. 9.

10. Registration for the examination under false pretences, plagiarizing, being an accomplice to it or attempting to plagiarize during the examination shall result in a “Fail” mark for that examination.

O.C. 449-99, s. 10.

DIVISION IV

TRAINING PERIOD

11. The purpose of the training period is threefold: to enable the candidate to acquire the appropriate maturity, autonomy and experience for the practice of the profession of bailiff in Québec, to incorporate his knowledge and skills into concrete work situations and to apply them to real decision-making contexts.

O.C. 449-99, s. 11.

12. To be eligible for the training period, the candidate shall complete an application on the form prescribed by the board of directors, meet the condition prescribed in paragraph 1 of section 1, have completed the training course prescribed in paragraph 2 of section 1 and pay the costs fixed by the board of directors in accordance with paragraph 8 of section 86.0.1 of the Code.

However, the candidate may not act as a trainee before having obtained a trainee’s certificate from the board of directors at his training director’s request.

O.C. 449-99, s. 12.

13. A trainee is qualified, under the authority and responsibility of the training director, to serve written proceedings issued by any court if he states that he is a trainee, and to perform any duty prescribed in section 8 of the Court Bailiffs Act (chapter H-4.1).

However, he may not enforce judicial decisions that are executory and may not perform any other duty assigned to a bailiff by law or by a court unless he does so under the immediate supervision of his training director who shall co-sign the minutes.

O.C. 449-99, s. 13.

14. The training period shall last 6 months and shall be carried out as full time employment, performing duties the nature of which is compatible with the activities related to the practice of the profession.

O.C. 449-99, s. 14.

15. The training director shall meet the following criteria:

- (1) have been entered on the roll for at least 2 years; and
- (2) not have been the object of a disciplinary decision within the last 5 years.

The training director shall not supervise or be responsible for more than one trainee at a time.

O.C. 449-99, s. 15.

16. Upon the written request of a trainee, the board of directors may decide to:

- (1) authorize a change in training directors; or
- (2) authorize the interruption of a training period, to be resumed at a later time.

O.C. 449-99, s. 16.

17. At the end of the training period, an evaluation report shall be prepared by the candidate and the training director. The report shall contain the information required to determine whether the candidate has acquired the maturity, autonomy and experience necessary to practise the profession of bailiff in Québec. Also, the report shall list different situations in which the candidate practised and give the training director's evaluation.

O.C. 449-99, s. 17.

18. The executive committee shall examine the evaluation report and give its opinion to the board of directors concerning the validity of the training period in light of the objectives contemplated in section 11.

At the first meeting following the date of receipt of the notice prescribed in the first paragraph, the board of directors shall decide whether or not the candidate has met the objectives of the training period. Within 30 days, the Secretary shall send a written notice of the decision to the candidate by issuing an attestation of his passing or failing.

Where the candidate has failed the training period, the Secretary shall notify the candidate of the reasons supporting the board of director's decision. However, it may not issue an attestation of that decision without giving the training director and the trainee the chance to be heard.

O.C. 449-99, s. 18.

19. A trainee who has failed the training period shall complete another training period of 6 months in accordance with the conditions given in this Division.

A trainee's certificate may not be renewed for more than 2 periods not exceeding 6 months each.

O.C. 449-99, s. 19.

DIVISION IV.1

STANDARDS OF EQUIVALENCE APPLICABLE TO THE CONDITIONS FOR THE ISSUE OF A PERMIT

O.C. 505-2006, s. 1.

19.1. A candidate is granted an equivalence applicable to a requirement set out in paragraph 2, 3 or 4 of section 1 if the candidate demonstrates having the knowledge and skills equivalent to those of a candidate who meets the requirement.

In assessing the training equivalence of a candidate, the board of directors is to take into particular account the following factors:

- (1) the nature and duration of the candidate's work experience;
- (2) the fact that the candidate holds one or more diplomas awarded in Québec or elsewhere;
- (3) the nature and content of courses taken;
- (4) the nature and content of training periods and other training activities;
- (5) the total number of years of academic education.

O.C. 505-2006, s. 1.

19.2. A candidate who wishes to have an equivalence referred to in section 19.1 recognized must apply in accordance with the recognition procedure set out in Division IV of the Regulation respecting equivalence

standards for the issue of permits by the Chambre des huissiers de justice du Québec (chapter H-4.1, r. 11), which applies with the necessary modifications.

O.C. 505-2006, s. 1.

DIVISION V

TRANSITIONAL AND FINAL

20. Until the date of coming into force of a regulation made by the Government under the first paragraph of section 184 of the Code, a candidate is deemed to have met the condition prescribed in paragraph 1 of section 1, if he is the holder of a diploma of college studies in legal technology awarded by the Minister of Higher Education, Research, Science and Technology.

O.C. 449-99, s. 20; S.Q. 2013, c. 28, s. 204.

21. *(Repealed).*

O.C. 449-99, s. 21; O.C. 437-2002, s. 1.

22. *(Omitted).*

O.C. 449-99, s. 22; O.C. 437-2002, s. 2.

23. *(Omitted).*

O.C. 449-99, s. 23; O.C. 437-2002, s. 3; O.C. 521-2005, s. 1; O.C. 505-2006, s. 2.

UPDATES

O.C. 449-99, 1999 G.O. 2, 1101

O.C. 437-2002, 2002 G.O. 2, 2234

O.C. 521-2005, 2005 G.O. 2, 1871

O.C. 505-2006, 2006 G.O. 2, 1733

S.Q. 2008, c. 11, s. 212

S.Q. 2013, c. 28, s. 204

S.Q. 2019, c. 28, s. 158