

chapter S-8, r. 3

By-law respecting the conditions for the leasing of dwellings in low-rental housing

Act respecting the Société d'habitation du Québec
(chapter S-8, s. 86, 1st par., subpar. g and 2nd par.).



The amounts prescribed in the Regulation have been indexed pursuant to the notice published in Part 1 (French) of the Gazette officielle du Québec of 13 March 2021, page 209. (ss. 6, 10, 11, 12, Sch. 1). (Effect from 1 March 2021.)

TABLE OF CONTENTS

SCHEDULE 1

1. In this By-law, unless the context indicates otherwise,

“dwelling” means low-rental housing within the meaning of the Civil Code; (*logement*)

“household” means one or several persons occupying a dwelling; (*ménage*)

“independent person” means a person of full age or an emancipated minor living with occupant 1; (*personne indépendante*)

“occupant 1” means the person who is the regular provider for the needs of the household or, in the case of an existing lease, the person identified as occupant 1; (*occupant 1*)

“occupant 2” means the independent person with the highest annual income, established in accordance with sections 3 and 4. (*occupant 2*)

O.C. 523-2001, s. 1; O.C. 729-2020, s. 1.

2. For the purposes of this By-law, the following are not considered income:

(1) the amount received as solidarity credit paid under the Taxation Act (chapter I-3);

(2) amounts paid to a foster family or foster home within the meaning of section 312 of the Act respecting health services and social services (chapter S-4.2) to take charge of a child or an adult, and amounts paid to such foster family under the Regulation respecting financial assistance to facilitate the adoption of a child (chapter P-34.1, r. 4);

(3) the Canada child benefit paid under the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.));

(4) the payment of child support paid under the Taxation Act;

(5) amounts received as child support for the maintenance of a child, up to a maximum amount of \$350 per month per child;

(6) an orphan's pension and a pension for a disabled contributor's child paid under the Act respecting the Québec Pension Plan (chapter R-9);

(7) social assistance benefits paid under sections 74 to 78 and 204 of the Individual and Family Assistance Regulation (chapter A-13.1.1, r. 1) for every dependent child of full age attending an educational institution;

(8) amounts that a dependent child within the meaning of the Individual and Family Assistance Act (chapter A-13.1.1) earns incidentally while a student, and loans and scholarships paid to him as a student;

(9) amounts paid under a program of the Ministère de la Santé et des Services sociaux for home care and assistance services;

(10) special benefits paid pursuant to sections 81 to 110 of the Individual and Family Assistance Regulation;

(11) supplementary expenses paid by the Minister of Employment and Social Solidarity within the scope of terms and conditions for the application of the active measures of the Minister, financed by the labour market development fund;

(12) the work premium granted under the Taxation Act and the Canada Workers Benefit granted under the Income Tax Act;

(13) employment-assistance allowances paid during a calendar year to a person participating to Minister of Employment and Social Solidarity active employment measures, up to a maximum amount of \$1,560 per person.

O.C. 523-2001, s. 2; O.C. 729-2020, s. 2.

3. The income considered for the purposes of this By-law are the sums earned during the year preceding the date of the beginning of the lease by each person making up the household.

O.C. 523-2001, s. 3.

4. The following sums shall be deducted from the income taken into consideration for the purposes of section 3 for each person making up the household:

(1) the amount paid by that person as support under an order or judgment of a competent court;

(2) the cost of hospitalization or shelter in a child and youth protection centre, a residential and long-term care centre and rehabilitation centre referred to in section 79 of the Act respecting health services and social services (chapter S-4.2) paid by that person, except the fees related to the occupancy of a private or semi-private room;

(3) the operating expenses incurred by that person to earn income on property or income from self-employment or the operation of a business excluding any amount related to a deduction for depreciation or a capital cost allowance.

The amount referred to in subparagraph 3 may only be deducted from the person's operating income.

O.C. 523-2001, s. 4.

5. The rent for a dwelling is determined according to the number of persons making up the household, their respective incomes and the services and equipment provided.

That rent shall be equal to the amount of the basic rent determined in accordance with section 6 or 8, as the case may be, and, where applicable, to the contributions established in section 10 and the indexation provided for in sections 11, 12 and 13.

The rent to be paid shall be rounded off to the nearest dollar.

O.C. 523-2001, s. 5.

6. Basic rent shall correspond to 25% of the total monthly income of both occupants 1 and 2 less an amount corresponding to 2% of the amount of their annual work income established by taking into account the reduction provided for in paragraph 2 of section 7, without exceeding \$30.

However, a lower basic rent may be established where one of the occupants declares work income, employment-assistance allowances or both and does not receive benefits paid under the Old Age Security Act (R.S.C. 1985, c. O-9). The basic rent shall then be the lesser of the following amounts:

(1) the monthly basic rent stipulated in the lease for the preceding year, increased by \$50;

(2) as the case may be, \$559 for occupant 1 or \$623 for occupants 1 and 2.

Notwithstanding subparagraph 2 of the second paragraph, the amount of the basic monthly rent may not be less than the basic monthly rent stipulated in the lease for the preceding year. In addition, subparagraph 1 of the second paragraph shall only apply if occupant 1 was a party to the lease of the preceding year.

The rules related to the calculation of a lower basic rent provided for in the second and third paragraphs shall apply only upon the request of occupant 1 and only if they allow for a reduction in the basic rent that would otherwise have to be paid. Such request, if accepted, may only be made once by the same person in which case, the rent of the dwelling occupied by that person shall be calculated by taking those rules into consideration but only for 3 consecutive lease periods calculated from the date on which the request took effect. Notwithstanding the foregoing, in the case of a new lessee whose first lease is less than 12 months, the rules related to the calculation of a lower basic rent shall then apply for 4 consecutive lease periods calculated from the date on which the application took effect.

If occupant 2 is a child of occupant 1 or of his spouse, the monthly income of that occupant considered to determine the rent may not exceed \$369 if that child is aged 18 to 20 years, or \$734 if aged 21 to 24 years.

The amounts referred to in subparagraph 2 of the second paragraph and in the fifth paragraph shall be indexed annually on 1 March in accordance with the Consumer Price Index for rental dwellings as determined for the preceding month of December by Statistics Canada for Ville de Montréal. The indexed amounts shall be rounded off to the nearest dollar. The Société d'habitation du Québec shall inform the public of the annual indexation by a notice published in the *Gazette officielle du Québec* or by such other means as it may consider appropriate.

O.C. 523-2001, s. 6; O.C. 729-2020, s. 3.

7. The monthly income of occupants 1 and 2 shall be determined by

- (1) adding their annual income in accordance with sections 3 and 4;
- (2) where applicable, subtracting an amount corresponding to 10% of their annual work income;
- (3) dividing the result by 12.

O.C. 523-2001, s. 7.

8. Notwithstanding section 6, basic rent may not be less than the minimum basic rent appearing in Schedule 1, which is established according to the household situation. That minimum rent is determined, at the time the lease is entered into or renewed, according to the composition of the household, according to whether or not the persons making up that household receive social assistance or social solidarity benefits under the Individual and Family Assistance Act (chapter A-13.1.1) and, in the case where occupant 1 or, as the case may be, both occupants 1 and 2 receive such benefits, according to whether or not they have a limited capacity for employment within the meaning of that Act.

For the purposes of Schedule I, a child of full age who is a student and is a dependent child within the meaning of the Individual and Family Assistance Act is considered a child for the purposes of the composition of the household.

The minimum basic rents provided for in Schedule 1 shall be indexed annually on 1 March by an amount corresponding to 25% of the total amount of increase, for the preceding calendar year, in the social assistance or social solidarity benefits paid under the Individual and Family Assistance Act according to the household situation. The same applies to minimum rents applicable where at least one occupant does not receive benefits under that Act; in such a case, the indexation shall correspond to 25% of the total increase in the basic social assistance or social solidarity benefit provided for, according to the household situation, by the Individual and Family Assistance Act. The indexed rents shall be rounded off to the nearest quarter of a dollar. The Société d'habitation du Québec shall inform the public of the annual indexation by a notice published in the *Gazette officielle du Québec* or by such other means as it may consider appropriate.

O.C. 523-2001, s. 8.

9. Basic rent determined in accordance with section 6 or 8, as the case may be, shall include the costs for heating and hot water as well as municipal and school taxes.

It shall also include the provision of a stove or refrigerator in the case of a lease in effect on 31 December 1984, or in the case of a lease in effect after that date if the space in the dwelling is too small to install a stove and refrigerator 765-mm in width each.

In addition to the costs provided for in the first paragraph, the basic rent for a room in a rooming house where at least four rooms are rented or for rent shall also include the cost of electricity.

O.C. 523-2001, s. 9.

10. The contribution provided for in section 5 shall correspond, for each independent person other than the person identified as occupant 2, to 25% of the monthly income of each of those persons, up to a maximum amount of \$92.75 per person.

That amount shall be indexed annually on 1 March in accordance with the Consumer Price Index for rental dwellings as determined for the preceding month of December by Statistics Canada for Ville de Montréal. The indexed amount shall be rounded off to the nearest quarter of a dollar. The Société shall inform the public of the annual indexation by a notice published in the *Gazette officielle du Québec* or by such other means as it may consider appropriate.

The monthly income of each independent person referred to in the first paragraph shall be determined by dividing by 12 the annual income established in accordance with sections 3 and 4.

O.C. 523-2001, s. 10.

11. The indexation referred to in section 5 that is added to the basic rent is, as the case may be:

(1) for electricity, excluding heating and hot water, \$34.40 for a bachelor apartment, \$39 for a one-bedroom dwelling and \$4.60 for each additional bedroom;

(2) \$5 for each air conditioner installed in the dwelling;

(3) \$5 if the lessee has the use of an outdoor parking space without an electrical outlet;

(4) \$10 if the lessee has the use of an outdoor parking space with an electrical outlet;

(5) \$20 if the lessee has the use of a garage or an indoor parking space; and

(6) for any additional parking space provided to the lessee, \$20 for an outdoor parking space, \$30 for a parking space with an electrical outlet and \$50 for a garage or indoor parking space.

The amounts provided for in subparagraph 1 of the first paragraph shall be indexed annually on 1 March, according to the Hydro-Québec indexation rate applied in the preceding year for the supply of electricity to residences. Those indexed amounts shall be rounded off to the nearest twentieth of a dollar. The Société shall inform the public of the annual indexation by a notice published in the *Gazette officielle du Québec* or by such other means as it may consider appropriate.

O.C. 523-2001, s. 11.

12. The basic rent of a dwelling referred to by the Rent Supplement Program shall be reduced

(1) by an amount equal to 1/12th of the total cost of the water and domestic garbage collection taxes payable for the fiscal year preceding the beginning date of the lease, where those taxes are not included in the rent;

(2) by \$58.35 for a bachelor apartment and for a 1-bedroom dwelling unit, by \$63.45 for a 2-bedroom dwelling unit, by \$68.80 for a 3-bedroom dwelling unit and by \$84.75 for a dwelling unit with more than 3 bedrooms, where heating is not included in the rent;

(3) by \$11.95 for a bachelor apartment and for a 1-bedroom dwelling unit, by \$13.10 for a 2-bedroom dwelling unit, by \$14.35 for a 3-bedroom dwelling unit and by \$15.95 for a dwelling unit with more than 3 bedrooms, where hot water is not included in the rent.

The amounts prescribed in subparagraphs 2 and 3 shall be indexed annually on 1 March, according to the Hydro-Québec indexation rate applied in the preceding year for the supply of electricity to residences. Those indexed amounts shall be rounded to the nearest twentieth of a dollar. The Société shall inform the public of the annual indexation by a notice published in the *Gazette officielle du Québec* or by such other means as it may consider appropriate.

O.C. 523-2001, s. 12.

13. For each stove or refrigerator that the lessor fails to provide to a lessee in accordance with the second paragraph of section 9, an amount of \$1.50 per appliance shall be subtracted from the basic rent.

O.C. 523-2001, s. 13.

14. The term of a lease shall be 12 months.

Notwithstanding the foregoing, a lease entered into during the year with a new lessee or a lessee referred to in article 1990 of the Civil Code may be:

(1) for a term of less than 12 months, if the income considered to determine the rent applicable to that lease and the income that could be considered for its renewal do not refer to the same calendar year;

(2) for a term of more than 12 months, without exceeding 23 months, if the income considered for that lease and the income considered for its renewal refer to the same calendar year.

O.C. 523-2001, s. 14.

15. The cost for the use of a washing machine or a clothes dryer by lessees of a dwelling other than a dwelling subsidized by the Société d'habitation du Québec under the Rent Supplement Program is \$0.75 per use.

O.C. 523-2001, s. 15.

16. Where a subsidized dwelling belongs to a cooperative, a lessee who is not a member of the cooperative shall be responsible for any resulting fees. However, those fees may not exceed 10% of the rent calculated in accordance with section 5, without taking into consideration the adjustments provided for in section 12.

O.C. 523-2001, s. 16.

17. A lessee to whom a low-rental dwelling is allocated and who is required to pay rent for a private or public dwelling shall be exempt from paying rent for the low-rental dwelling until the resiliation provided for in article 1974 or 1995 of the Civil Code, as the case may be, takes effect. However, that exemption may not exceed 3 months.

O.C. 523-2001, s. 17.

18. Where a lease is entered into or renewed, the lessee shall provide the lessor with the names of the persons living with the lessee, and with the proof required to determine the rent applicable. The information shall be provided within one month of the lessor's request.

At all times, the lessee is bound to inform the lessor, within one month, of the arrival of a new occupant.

Should a new occupant arrive between the date on which the information referred to in the first paragraph was received and the date on which the lease was entered into or renewed, as the case may be, any new occupant shall be considered in determining the rent provided for in section 5.

O.C. 523-2001, s. 18.

19. Upon renewal of a lease, if there has been no change in the composition of the household which was considered to determine the rent applicable to the preceding lease, the lessor may, ex officio, so as to determine the rent applicable to the renewal, index the income appearing in the preceding lease by an amount equal to the actual indexation of benefits carried out the preceding year by the competent authorities. Such automatic indexation may be used for a period not exceeding 3 consecutive years and for a lessee or occupant, as the case may be:

(1) who only receives the old age security pension and maximum monthly guaranteed income supplement;

(2) who is a beneficiary under the Individual and Family Assistance Act (chapter A-13.1.1) and who receives, as the case may be, a temporarily limited capacity for employment allowance, where that allowance is paid to a person who is 58 years of age or older, or a social solidarity benefit owing to a severely limited capacity for employment;

(3) who receives a retirement pension or a surviving spouse's pension under the Act respecting the Québec Pension Plan (chapter R-9) and is at least 65 years of age.

In such cases, the provisions of the first paragraph of section 18 do not apply, unless expressly requested by the lessor. However, a lessee or an occupant referred to in subparagraph 1, 2 or 3 of the first paragraph who, throughout the year, benefits from a new source of income or from a change in the allowance received under the Individual and Family Assistance Act is bound to inform the lessor within one month of such a change.

O.C. 523-2001, s. 19; O.C. 729-2020, s. 4.

20. The rent payable by a lessee who applies for a rent reduction because of a decrease in income or a change in the composition of the household shall be determined on the basis of the presumed income of all the occupants for the period for which the reduction is granted.

In all cases, basic rent may not be less than the minimum basic rent determined in accordance with the provisions of section 8, which is based on the presumed household situation for the period for which the reduction is granted.

An application for a rent reduction shall be accompanied with all the necessary supporting documents.

No application for a monthly rent reduction of less than \$10.00 may be granted.

The lessor shall inform the lessee of his decision within 30 days of the date on which the application and the supporting documents were filed.

O.C. 523-2001, s. 20.

21. The rent calculated in accordance with section 20 has effect from the month following the month in which the application was filed and remains in force for a period determined by the lessor, which may be from 1 to 6 months without exceeding the renewal date of the lease.

Upon the expiry of that period, the former rent shall be re-established unless the lessee demonstrates that he may benefit from an extension of the reduction for another period.

Where the decrease in income is permanent, the rent reduction shall, notwithstanding the first paragraph, be granted for the remainder of the lease.

O.C. 523-2001, s. 21.

22. Notwithstanding section 6, on the date on which the immovable in which the lessee lives is acquired by the lessor, the rent shall be increased by 1% for the first renewal of the lease and by 2% for each subsequent renewal, up to 25% if the dwelling becomes low-rental housing.

O.C. 523-2001, s. 22.

23. This By-law does not apply to dwellings for the Inuit that belong to the Société and are located north of the 55th parallel.

O.C. 523-2001, s. 23.

24. This Regulation replaces the Regulation respecting the conditions for the leasing of dwellings in low-rental housing (O.C. 251-92, 92-02-26) and revokes the Regulation respecting the conditions for the leasing of dwellings in low-rental housing (O.C. 159-90, 90-02-14).

O.C. 523-2001, s. 24.

25. This By-law comes into force on 21 August 2001. It shall apply to any lease entered into or renewed from that date.

Notwithstanding the foregoing, for a lease in effect on 21 August 2001, for which the basic rent was calculated by considering the income earned by a child of occupant 1 or of his spouse who is aged between 18 and 20 years, section 8 of this By-law does not apply upon renewal of the lease and, where applicable, at subsequent renewals until that child has reached the age of 21, if:

(1) there has been no change in the composition of the household that was considered for the purposes of the preceding lease;

(2) that child continues to be occupant 2 for the purposes of determining the basic rent applicable to the renewed lease;

(3) the application of section 8 of this By-law entails for the household an increase in the minimum basic rent as determined under section 2 of the By-law respecting the conditions for the leasing of dwellings in low-rental housing (O.C. 251-92, 92-02-26).

In such case, the minimum basic rent applicable to the renewed lease is that determined pursuant to section 2 above.

O.C. 523-2001, s. 25; O.C. 729-2020, s. 5.

SCHEDULE 1

MINIMUM BASIC RENT

According to the composition of the household and whether occupant 1 or occupants 1 and 2 receive social assistance or social solidarity benefits under the Individual and Family Assistance Act (chapter A-13.1.1) (*Basic rent indexed*)

FOR OCCUPANT OR OCCUPANTS WHO ARE RECIPIENTS UNDER THE SOCIAL ASSISTANCE PROGRAM OR THE SOCIAL SOLIDARITY PROGRAM			
WITHOUT CHILDREN			
Number of occupants		Minimum rent	
1 adult		\$172.50	
2 adults or more		\$262.25	
WITH CHILDREN			
Occupant 1 and occupant 2, where applicable, without a limited capacity for employment			
Number of adults	1 child	2 children or more	
1 adult	\$233.75	\$264	
2 adults or more	\$292.50	\$316.50	
Occupant 1 and occupant 2, where applicable, with a temporarily limited capacity for employment			
Number of adults	1 child	2 children or more	
1 adult	\$268.25	\$298.50	
2 adults or more	\$352.25	\$376.25	
One occupant without a limited capacity for employment, one with a temporarily limited capacity for employment			
Number of adults	1 child	2 children or more	
2 adults or more	\$324	\$348	
One occupant with a severely limited capacity for employment			
Number of adults	1 child	2 children or more	
1 adult	\$331	\$362.25	
2 adults or more	\$430.75	\$455.50	
At least one occupant is not a recipient under the Social Assistance Program or the Social Solidarity Program			
Number of adults	Number of children		
	0	1	2 or more
1 adult	\$172.50	\$233.75	\$264
2 adults or more	\$262.25	\$292.50	\$316.50

O.C. 523-2001, Sch. 1; O.C. 729-2020, s. 6.

TRANSITIONAL

2020

(O.C. 729-2020) SECTION 7. Despite sections 20 and 21 of the By-law, a lessee may, as of 6 August 2020 apply for a rent reduction, for a lease in effect on that date, when the income of the lessee's household may be reduced following the amendment made in subparagraph 5 of the first paragraph of section 2 of the By-law by paragraph 4 of section 2 of this By-law.

The lessee's application must be submitted in writing to the lessor not later than before the date of the renewal of the lessee's lease or 30 September 2021, whichever occurs last, and must be accompanied with all the necessary supporting documents.

No application for a monthly rent reduction of less than \$10.00 may be awarded.

The rent reduction provided for in this section is granted to the lessee as of 6 August 2020.

The application must be processed by the lessor not later than the next renewal of the lessee's lease, that is, before 30 September 2021, when such a lease is renewed according to section 1 of the Regulation respecting certain temporary measures relating to the lease of low-rental housing (O.C. 672-2020, 2020-06-23). The lessor must inform the lessee of the decision in writing.

This section applies, with the necessary modifications, to the application submitted by a person who was lessee on 6 August 2020, but who is no longer lessee at the time the application is filed. However, in such case, the lessor must process the application within a maximum of 3 months following the date on which the application was filed.

UPDATES

O.C. 523-2001, 2001 G.O. 2, 2249

S.Q. 2016, c. 25, s. 45

O.C. 729-2020, 2020 G.O. 2, 1989