



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 45

An Act to amend certain legislative provisions respecting the Public Curator

Introduction

**Introduced by
Mr Robert Perreault
Minister of Relations with the Citizens and Immigration**

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EXPLANATORY NOTES

This bill first amends the rules applicable to the financing of the activities of the Public Curator. In the future, expenditures made by the Public Curator will be charged to the appropriations voted each year by Parliament and his revenues will be paid into the consolidated revenue fund. The Public Curator's power to charge fees for the protection and representation of persons and the administration of their property will be temporarily suspended.

As regards investments, the Public Curator will be exempt from the application of the rules on investments presumed sound with respect to joint portfolios that are under the management of the Caisse de dépôt et placement du Québec or its subsidiaries.

The Minister of Relations with the Citizens and Immigration is given the power to appoint a committee to advise the Public Curator on the protection and representation of incapable and protected persons.

The Auditor General will audit all the books and accounts of all the public or private funds under the administration of the Public Curator and a number of amendments are introduced to facilitate the exercise of the functions of the Public Curator.

Lastly, two amendments to the Civil Code of Québec are proposed: one to enable the Public Curator or another person to take, with the authorization of the court, provisional measures to protect an incapable person where protective supervision is about to be instituted, and the other to enable the Public Curator, where acting as a tutor or curator to a person of full age treated in a health or social services institution, to delegate to an employee of the institution or a person exercising duties within the institution the management of the person's monthly expense allowance.

LEGISLATION AMENDED BY THIS BILL :

- Civil Code of Québec ;
- Public Curator Act (R.S.Q., chapter C-81) ;
- Act to amend the Public Curator Act and other legislative provisions relating to property under the provisional administration of the Public Curator (1997, chapter 80).

Bill 45

AN ACT TO AMEND CERTAIN LEGISLATIVE PROVISIONS RESPECTING THE PUBLIC CURATOR

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

PUBLIC CURATOR ACT

1. Section 7 of the Public Curator Act (R.S.Q., chapter C-81) is replaced by the following section :

“7. The Public Curator shall designate in writing one or more persons from his personnel to replace him if he is absent. The designation shall be published in the *Gazette officielle du Québec* but shall take effect upon the signing by the Public Curator of the instrument evidencing it.

The Public Curator may also, in writing and to the extent he indicates, delegate the exercise of his functions to his public servants or employees. The Public Curator may, in the instrument of delegation, authorize the subdelegation of such functions as he indicates ; in that case, the Public Curator shall identify the public servants or employees to whom the functions may be subdelegated.”

2. The said Act is amended by inserting the following section after section 7 :

“7.1. An act, document or writing is binding on or may be attributed to the Public Curator only if it is signed by the Public Curator or, to the extent provided in the instrument of delegation of signature, by a public servant or an employee designated by the Public Curator. The delegation shall be published in the *Gazette officielle du Québec* but shall take effect upon the signing by the Public Curator of the instrument evidencing it.”

3. The said Act is amended by inserting the following sections after section 17 :

“17.1. The Minister of Relations with the Citizens and Immigration shall appoint a committee to advise the Public Curator on the protection and representation of incapable or protected persons.

“17.2. The committee on protection and representation of incapable or protected persons shall be composed of six persons who are not members of the personnel of the Public Curator.

The members of the committee shall be appointed for a term of not over three years. At the end of their term, the members of the committee shall remain in office until they are reappointed or replaced.

The committee shall meet at least twice each year. The quorum of the committee shall be four members.

“17.3. The members of the committee shall receive no remuneration except in such cases, on such conditions and to such extent as the Government may determine. They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“17.4. The Public Curator shall make available to the members of the committee all documents relevant to the carrying out of their mandate.”

4. Section 44 of the said Act is replaced by the following sections :

“44. The Public Curator may, under conditions set out in an investment policy established after consultation with the investment committee referred to in section 46, constitute joint portfolios with the available moneys that derive from the property administered by the Public Curator.

The Public Curator shall manage the portfolios so constituted in accordance with the rules of the Civil Code relating to investments presumed sound. The Public Curator may, nevertheless, make investments to bearer, provided they are investments presumed sound within the meaning of article 1339 of the Civil Code.

“44.1. Notwithstanding section 44, the Public Curator may entrust the management of the joint portfolios to the Caisse de dépôt et placement du Québec or to a subsidiary all the voting shares of which are held by the Caisse de dépôt et placement du Québec.

In that case, the management of the portfolios shall be governed solely by the investment policy established by the Public Curator, which may depart from the rules of the Civil Code relating to investments presumed sound.”

5. Section 45 of the said Act is amended by striking out “, subject to section 56” at the end.

6. Section 56 of the said Act is repealed.

7. Section 57 of the said Act is amended by striking out “and any fees charged” in the second line.

8. Section 58 of the said Act, replaced by section 31 of chapter 80 of the statutes of 1997, is again replaced by the following section :

“58. Expenditures made by the Public Curator for the purposes of this Act shall be charged to the appropriations voted each year for such purposes by Parliament.

The fees, interest and other sums collected by the Public Curator under sections 55 and 57 shall be paid into the consolidated revenue fund and shall, for all purposes, constitute appropriations for the fiscal year in which they are so paid, on the conditions and to the extent determined by the Government.”

9. Section 58.1 of the said Act, enacted by section 31 of chapter 80 of the statutes of 1997, is repealed.

10. Section 59 of the said Act, replaced by section 32 of chapter 80 of the statutes of 1997, is repealed.

11. Section 59.1 of the said Act, enacted by section 32 of chapter 80 of the statutes of 1997, is repealed.

12. Section 61 of the said Act, amended by section 34 of chapter 80 of the statutes of 1997, is repealed.

13. Section 63 of the said Act is repealed.

14. Section 64 of the said Act, amended by section 36 of chapter 80 of the statutes of 1997, is repealed.

15. Section 65 of the said Act is repealed.

16. Section 66 of the said Act is replaced by the following section :

“66. The books and accounts relating to the property administered by the Public Curator shall be audited each year by the Auditor General and whenever so ordered by the Government.

The report of the Auditor General must accompany the report of activities and the financial statements of the Public Curator.”

17. Section 67 of the said Act, amended by section 37 of chapter 80 of the statutes of 1997, is replaced by the following sections :

“67. The Public Curator must, not later than 30 June each year, file with the Minister of Relations with the Citizens and Immigration his financial statements and a report of activities for the preceding fiscal year.

The financial statements and report of activities must contain all the information required by the Minister.

“67.0.1. The Minister of Relations with the Citizens and Immigration shall table the report of activities and the financial statements of the Public Curator in the National Assembly within 30 days of receiving them or, if the Assembly is not in session, within 30 days of resumption.”

18. Sections 67.1 to 67.4 of the said Act, enacted by section 38 of chapter 80 of the statutes of 1997, are repealed.

19. Section 68 of the said Act, amended by section 39 of chapter 80 of the statutes of 1997, is again amended

- (1) by striking out paragraph 1;
- (2) by striking out paragraph 8;
- (3) by striking out “and fees charged” in paragraph 9;
- (4) by striking out paragraph 11.

ACT TO AMEND THE PUBLIC CURATOR ACT AND OTHER LEGISLATIVE PROVISIONS RELATING TO PROPERTY UNDER THE PROVISIONAL ADMINISTRATION OF THE PUBLIC CURATOR

20. Sections 79 and 80 of the Act to amend the Public Curator Act and other legislative provisions relating to property under the provisional administration of the Public Curator (1997, chapter 80) are repealed.

CIVIL CODE OF QUÉBEC

21. Article 264 of the Civil Code of Québec (1991, chapter 64) is amended by adding “or if the function delegated is the management, according to the Public Curator’s instructions, of the monthly personal expense allowance granted to the person” at the end of the first paragraph.

22. Article 272 of the said Code is amended by adding the following paragraph at the end:

“Even before the proceedings, the Court may, if protective supervision is about to be instituted and it is necessary to act in order to save the person of full age from serious harm, designate the Public Curator or another person provisionally to ensure protection of the person of full age or to represent him in the exercise of his civil rights.”

TRANSITIONAL AND FINAL PROVISIONS

23. The application of the provisions of section 55 of the Public Curator Act, replaced by section 30 of chapter 80 of the statutes of 1997, is, insofar as it concerns the fees that the Public Curator may charge for the protection and

representation of persons and the administration of their property, suspended for the period beginning on 1 July 1999 and ending on *(insert here the date preceding the date of coming into force of section 24)*.

24. The sums constituting the working fund of the Public Curator on *(insert here the date of coming into force of this section)* and the sums constituting the general fund of the Public Curator on that date shall be paid into the consolidated revenue fund without delay.

25. During the period beginning on 1 July 1999 and ending on *(insert here the date preceding the date of coming into force of section 24)*, the books and accounts of the Public Curator shall be audited by the Auditor General each year, if applicable, and whenever ordered by the Government.

26. The provisions of this Act come into force on 1 July 1999, except the provisions of sections 7 to 15, 17 and 18, paragraphs 1, 3 and 4 of section 19 and sections 20 and 24, which come into force on the date or dates, subsequent to 1 July 1999, to be fixed by the Government.