



---

# NATIONAL ASSEMBLY OF QUÉBEC

---

SECOND SESSION

FORTY-SECOND LEGISLATURE

Bill 40

**An Act mainly to improve access to  
justice by simplifying civil procedure  
in the Court of Québec and by  
bringing about the digital  
transformation of the notarial  
profession**

---

**Introduction**

**Introduced by  
Mr. Simon Jolin-Barrette  
Minister of Justice**

---

**Québec Official Publisher  
2022**

## **EXPLANATORY NOTES**

*This bill makes various amendments to the Code of Civil Procedure.*

*The bill gives the Court of Québec exclusive jurisdiction to hear applications in which the amount claimed or the value of the subject matter in dispute is less than \$70,000. It also gives the Court of Québec concurrent jurisdiction with that of the Superior Court where that amount or that value is equal to or exceeds \$70,000, but is less than \$100,000. The bill provides for the adjustment of each of those monetary limits for the Court of Québec's jurisdiction.*

*In addition, the bill introduces a special procedure for applications brought before the Court of Québec. To that end, it establishes simplified rules applicable to those applications in order to, among other things,*

*(1) provide that a case protocol is not required and to set time limits for accomplishing certain procedural steps;*

*(2) provide special rules of evidence, including subjecting expert opinions that are not joint to the authorization of the court;*

*(3) provide that the court clerk sets the case down for trial and judgment;*

*(4) raise to \$50,000 the limit below which holding a pre-trial examination is not permitted; and*

*(5) only allow pre-trial examinations of the parties, unless otherwise authorized by the court.*

*The Code of Civil Procedure is also amended in order to*

*(1) provide that a court record that was the object of a pre-court protocol is to be tried by preference;*

*(2) provide that, for small claims, certain decisions may be rendered on the face of the record;*

*(3) allow the revendication of property in the Small Claims Division where the application is ancillary to an application under the jurisdiction of that Division; and*

*(4) provide for the adjustment of the monetary limit for small claims.*

*A further purpose of this bill is to provide for the use of information technologies in the context of the practice of the notarial profession. It therefore amends the Notaries Act in order to, among other things, provide for the execution and preservation of notarial acts en minute on a technological medium, subject to the possibility, in certain cases, of executing or temporarily preserving them in paper form until it is possible to transfer them to a technological medium. It provides that an act must be closed using a technological solution authorized by the board of directors of the Chambre des notaires. In addition, it constitutes digital central notarial records administered and financed by the Chambre des notaires and establishes the applicable rules. Lastly, it provides for the preservation of notarial records in the central notarial records until they are deposited with Bibliothèque et Archives nationales du Québec.*

*The bill also grants new regulatory powers to the board of directors of the Chambre des notaires, including those resulting from the establishment, administration and financing of the digital central notarial records, those concerning the transfer of the information contained in a notarial act en minute to another medium and those concerning the surrender of notarial records to Bibliothèque et Archives nationales du Québec.*

*Furthermore, the bill amends Schedule I to the Courts of Justice Act in order to expand the territory over which concurrent jurisdiction of the districts of Gatineau and of Labelle is exercised. Moreover, it amends that Act to provide that the Government may, by regulation, amend that Schedule to modify the description of the territory over which concurrent jurisdiction is exercised.*

*Lastly, the bill contains transitional provisions and a final provision.*

**LEGISLATION AMENDED BY THIS BILL:**

- Civil Code of Québec;
- Code of Civil Procedure (chapter C-25.01);

- Notaries Act (chapter N-3);
- Courts of Justice Act (chapter T-16);
- Act to amend the Code of Civil Procedure and other legislative provisions in relation to notarial matters (1998, chapter 51);
- Act to establish the new Code of Civil Procedure (2014, chapter 1);
- Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25).

**LEGISLATION REPEALED BY THIS BILL:**

- Notarial Act (chapter N-2).

## **Bill 40**

### **AN ACT MAINLY TO IMPROVE ACCESS TO JUSTICE BY SIMPLIFYING CIVIL PROCEDURE IN THE COURT OF QUÉBEC AND BY BRINGING ABOUT THE DIGITAL TRANSFORMATION OF THE NOTARIAL PROFESSION**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CIVIL CODE OF QUÉBEC

**1.** Article 441 of the Civil Code of Québec is amended

- (1) by striking out both occurrences of “de la minute” in the French text;
- (2) by replacing “original” in the French text by “d’origine”;
- (3) by replacing “on the original and on” by “on the contract and on”;
- (4) by replacing “the number of his minute” by “its minute number”;
- (5) by adding the following sentence at the end: “The notation of the change may be made on the contract or, if applicable, on a copy of it or in a writing attached to the contract or copy, directly or by a reference.”

**2.** Article 521.16 of the Code is amended, in the second paragraph,

- (1) by replacing both occurrences of “dépositaire de la minute” in the French text by “dépositaire”;
- (2) by replacing “original” in the French text by “d’origine”;
- (3) by striking out “established by the original contract”;
- (4) by striking out “original of the”;
- (5) by inserting the following sentence after the second sentence: “The notation of the reference may be made on the contract or, if applicable, on a copy of it or in a writing attached to the contract or copy, directly or by a reference.”

**3.** Article 2176 of the Code is amended

- (1) in the second paragraph,

- (a) by replacing “mention sur” in the French text by “mention à”;
  - (b) by replacing “depository of the original” by “depository of the act”;
  - (c) by replacing “on the original and on” by “on the act and on”;
- (2) by adding the following paragraph at the end:

“Such a notation may be made on the contract or, if applicable, on a copy of it or in a writing attached to the contract or copy, directly or by a reference.”

**4.** Article 3110 of the Code is amended by replacing “or if one of the parties is domiciled in Québec” by “, if it is entered into in the ordinary course of business of an enterprise in Québec or if one of the parties is domiciled in Québec or is a legal person or partnership constituted there”.

#### CODE OF CIVIL PROCEDURE

**5.** Article 4 of the Code of Civil Procedure (chapter C-25.01) is amended by adding the following paragraph at the end:

“In that regard, the parties may agree to file in the court record the content of a pre-court protocol and the evidence exchanged between the parties to prepare and implement the protocol.”

**6.** Article 7 of the Code is amended by adding the following paragraph at the end:

“If the parties exercise their right to act before the courts, the application then instituted is tried by preference provided it is accompanied by a certificate issued by a certified mediator confirming that the parties resorted to a private dispute prevention and resolution process, or by evidence that the parties agreed to a pre-court protocol.”

**7.** Article 35 of the Code is amended

(1) by replacing “\$85,000” in the first paragraph by “\$70,000 and concurrent jurisdiction, at the plaintiff’s option, where that value or amount is equal to or exceeds \$70,000 but is less than \$100,000”;

(2) by replacing, in the second paragraph, both occurrences of “\$85,000” by “\$100,000” and “that amount. In either case, the” by “\$70,000. The”;

(3) by replacing “The monetary jurisdiction limit of the Court of Québec” in the fourth paragraph by “The monetary limit for the Court of Québec’s exclusive jurisdiction”;

(4) by adding the following sentence at the end of the fourth paragraph: “The same applies to the increase in the upper monetary limit for the Court of Québec’s concurrent jurisdiction and to the annual adjustment of the upper limit amount.”

**8.** Article 86 of the Code is amended by replacing “in non-contentious proceedings and in the other cases specified in paragraph 7 of section 15 of the Notaries Act (chapter N-3)” by “in connection with any application that may be dealt with according to the procedure for non-contentious proceedings”.

**9.** Article 175 of the Code is amended by inserting “or prescribed by this Code” after “protocol” in the first paragraph.

**10.** Article 180 of the Code is amended by inserting “or prescribed by this Code” after “protocol” in the second paragraph.

**11.** Article 484 of the Code is replaced by the following article:

**“484.** Notaries are required, on payment of their professional fees and expenses, to issue a copy of the acts forming part of their records and required to be published to the parties to the act, their heirs or their representatives, or to otherwise give them access to those acts.

They are also required, on receipt of such a payment, to issue a copy of the acts that are not required to be published, or to otherwise give access to those acts,

(1) to the parties to the act or to a person authorized by one of the parties to be given access to the act;

(2) in the case of a protection mandate that has not been revoked, at the request of a person who may apply for the institution of protective supervision, in accordance with article 269 of the Civil Code, if it is established to the notary’s satisfaction that the incapacity of the mandator is such that the mandator needs to be represented in the exercise of his civil rights;

(3) in the case of an act containing testamentary provisions that have not been revoked, at the request of the liquidator of the succession, an heir, a successor, an heir by particular title, a person who, in the absence of testamentary provisions, would have been called to the succession or their representatives, on proof of the death of the testator or donor; and

(4) where the law so provides.

If the notary considers that a person requesting access to an act does not have the right or interest to be given access to all of its content, the notary gives access only to the relevant extracts.

This article also applies to the assignee of notarial records or of part of notarial records, to the provisional custodian of such records, to any other legal depositary and to the mandatory referred to in section 89 of the Notaries Act (chapter N-3).”

**12.** Article 485 of the Code is amended

(1) by replacing “to give access to or issue a copy of or extract from an act” in the first paragraph by “to issue a copy of an act or an extract from an act or to otherwise give access to it”;

(2) by replacing “access must be given or the copy or extract issued” in the second paragraph by “access is to be given”.

**13.** The Code is amended by inserting the following Title after article 535:

**“TITLE I.1**

**“SPECIAL SIMPLIFIED RULES FOR THE RECOVERY OF CERTAIN CLAIMS**

**“CHAPTER I**

**“GENERAL PROVISIONS**

**“535.1.** Applications in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than \$100,000, exclusive of interest, and those ancillary to such an application, including those for the specific performance of a contractual obligation, brought before the Court of Québec under the rules of Book II, are also conducted according to the following special rules.

**“CHAPTER II**

**“APPLICATION, DEFENCE AND CASE MANAGEMENT**

**“535.2.** The preparation of a case protocol is not required.

**“535.3.** An originating application shall not exceed five pages in length.

**“535.4.** The plaintiff must, within 30 days after service of the summons, complete the application by filing with the court office the exhibits in support of the application and a notice stating the nature and number of testimonies by affidavit that the plaintiff intends to file as well as the nature and number of pre-trial examinations that the plaintiff intends to conduct and of expert opinions that the plaintiff intends to seek so that the court may authorize them, if applicable.



**“535.5.** The preliminary exceptions and incidental applications that a party intends to raise must be disclosed in writing to the other party and filed with the court office within 45 days after service of the summons.

An application for dismissal of the proceeding based on a declinatory exception or on an exception to dismiss may be denied on the face of the record. Decisions on a preliminary exception or an incidental application that could lead to a stay of the proceeding are rendered on the face of the record.

**“535.6.** The defendant must, within 85 days after service of the summons, file with the court office a brief outline of the arguments not exceeding two pages, the exhibits in support of the defence and a notice stating the nature and number of testimonies by affidavit that the defendant intends to file as well as the nature and number of pre-trial examinations that the defendant intends to conduct and of expert opinions that the defendant intends to seek so that the court may authorize them, if applicable.

**“535.7.** A case management conference is held at a distance after the complete record of the defence is filed but within 100 days after service of the summons, if the court has to decide the preliminary exceptions or the incidental applications disclosed by a party or to authorize the pre-trial examinations that a party intends to conduct, the expert opinions that a party intends to seek or a witness’s affidavit.

**“535.8.** No pre-trial examination is permitted where the amount claimed or the value of the property claimed in the judicial application is less than \$50,000.

In addition, no party may, unless authorized by the court, conduct a pre-trial examination, except to examine the parties.

**“535.9.** The origin of evidence filed with the court office or the integrity of the information it contains is presumed to be admitted unless one of the parties objects.

**“535.10.** The court may, only by way of exception and if warranted on serious grounds, make an order directing a party to provide particulars as to allegations made or to strike immaterial allegations.

### **“CHAPTER III**

#### **“JUDICIAL CONCILIATION AND SETTING DOWN FOR TRIAL AND JUDGMENT**

**“535.11.** A settlement conference is held after the complete record of the defence is filed, not earlier than 120 days after service of the summons and not later than 150 days of the service. If no settlement is reached, the conference is converted into a pre-trial conference.

The settlement conference may, with the parties' consent, be replaced by a pre-trial conference if the parties have already participated in another settlement conference in the course of the proceeding or if the plaintiff has filed with the court office, while completing the application, a certificate issued by a certified mediator confirming that the parties resorted to a private dispute prevention and resolution process, or evidence that the parties agreed to a pre-court protocol.

At the pre-trial conference, the parties also ready the case for trial.

**“535.12.** The court clerk sets the case down for trial and judgment after the pre-trial conference or not later than six months after service of the summons.

#### “CHAPTER IV

#### “TRIAL

**“535.13.** In lieu of the testimony of one of their witnesses on the facts of the dispute, a party may produce an affidavit from the witness, provided the affidavit has been notified to the other parties beforehand. An affidavit cannot exceed five pages, except with the authorization of the court.

**“535.14.** The parties cannot seek an expert opinion that is not joint, unless the court authorizes otherwise.”

**14.** Article 536 of the Code is amended by adding the following sentence at the end of the first paragraph: “The same also applies to an application ancillary to such an application and pertaining to the revendication of property.”

**15.** The Code is amended by inserting the following articles after article 539:

**“539.1.** The monetary limit for the recovery of small claims provided for in articles 536, 538, 539, 550, 565 and 660 is increased by \$1,000 on 1 September of the calendar year following the calendar year in which the total amount resulting from annual adjustment of the indexed limit amount on the basis of the Consumer Price Index for Québec, determined by Statistics Canada, since the last increase is equal to or exceeds \$1,000. A notice stating the monetary limit for the recovery of small claims resulting from that calculation is published in the *Gazette officielle du Québec* by the Minister of Justice not later than 1 August of the year in which the new limit comes into force. Judicial applications introduced before 1 September of that year continue in accordance with the rules under which they were brought.

**“539.2.** Any application in the course of a proceeding must be in writing. The court clerk informs the other party of the application, specifying that they have 10 days after being so informed to make representations in writing. On the expiry of that time, the court clerk submits the application and any representations to the court, which decides the matter on the face of the record, unless the court considers it necessary to hear the parties.”

**16.** Article 541 of the Code is amended by replacing “Book II” by “Title I.1 of this Book”.

**17.** Article 547 of the Code is amended by replacing “Book II” in subparagraph 2 of the second paragraph by “Title I.1 of this Book”.

**18.** The Code is amended by inserting the following article before article 562:

“**561.1.** At any stage of a proceeding pertaining to the recovery of a claim not exceeding \$3,000, the court may, with the parties’ consent, render judgment on the face of the record.”

**19.** The Code is amended by inserting the following article after article 607:

“**607.1.** A court seized of a dispute on an issue on which the parties have a mediation agreement may, on a party’s application, refer the parties back to mediation, unless the court finds the agreement to be null. The application for referral to mediation must be made within 45 days after the originating application.

If mediation fails, the evidence exchanged between the parties may be filed in the court record by mutual agreement.”

#### NOTARIAL ACT

**20.** The Notarial Act (chapter N-2) is repealed.

#### NOTARIES ACT

**21.** Section 6 of the Notaries Act (chapter N-3) is amended

(1) in the first paragraph,

(a) by inserting “including the preservation of the acts in the notarial records preserved in the digital central notarial records” after “professional services” in subparagraph 2;

(b) by inserting “to provide for the financing of the digitization and preservation of the notarial records held by notaries or the Order,” after “law library services,” in subparagraph 2;

(c) by inserting “, including special standards of practice for notaries practising outside Québec” at the end of subparagraph 3;

(d) by adding the following subparagraph at the end:

“(6) determine the conditions that a notary must meet to be certified as regards the institution or review of a tutorship and protection mandates.”;

(2) by striking out “, 4” in the second paragraph;

(3) by adding the following paragraph at the end:

“No regulation may be adopted by the board of directors under subparagraph 6 unless the secretary of the Order has sent a draft of it to every member of the Order at least 30 days before its adoption. The regulation shall be submitted to the Government, which may approve it with or without amendment.”

**22.** Section 7 of the Act is amended

(1) by replacing “shall” in the first paragraph by “may”;

(2) by striking out the third paragraph.

**23.** Section 8 of the Act is amended

(1) by striking out “, by resolution,” in the introductory clause;

(2) by replacing “and content of the notarial seal, and the cases in which a notary is required to use a seal, subject to the right of notaries practising on 1 March 1969 to continue to use the seal in their possession at that time” in paragraph 2 by “of the notarial seal and the information that it must bear, according to the medium used for the act, and the cases in which a notary is required to use it”.

**24.** Section 10 of the Act is amended by replacing the second paragraph by the following paragraphs:

“In his or her capacity as a public officer, a notary’s mission is to execute acts which the parties wish or are required to endow with the authenticity attaching to acts of public authority, to fix the date of such acts and to verify the identity, quality and capacity of the parties. A notary also sees to it that the acts he or she executes are juridically compliant, both in substance and in form, in particular by ensuring that the parties express their consent in a free and enlightened manner.

A notary’s mission also includes keeping the notarial acts *en minute* that he or she executes in notarial records and giving access to them, including by issuing copies of or extracts from those acts.”

**25.** Section 12 of the Act is amended by replacing “48 to 56, 159 and 161” in the fourth paragraph by “48 to 52.2, 55, 56, 159, 161 and 161.0.1”.

**26.** Section 14 of the Act is amended

(1) in the first paragraph,

(a) by replacing subparagraph 2 by the following subparagraph:

“(2) the notary’s fields of practice, specifying which of them constitutes his or her main field of professional practice;”;

(b) by striking out subparagraph 5;

(2) in the second paragraph,

(a) by replacing “addresses of the notaries or general partnerships of notaries sharing” in subparagraph 1 by “contact information of notaries who keep”;

(b) by replacing subparagraph 3 by the following subparagraph:

“(3) the names of the persons who have been removed from the roll of the Order with, in respect of each of them, the name and contact information of the assignees, provisional custodians or other depositaries of their notarial records.”

**27.** Section 15 of the Act is amended

(1) by replacing “execute” in paragraph 1 by “prepare or draw up”;

(2) by replacing “draw up acts under private signature” in paragraph 2 by “prepare or draw up acts under private signature and notarial acts, other than the acts referred to in paragraph 1,”;

(3) by replacing “requête” in paragraph 3 in the French text by “demande”;

(4) in paragraph 4,

(a) by replacing “or draw up” by “, draw up, sign and send”;

(b) by replacing “sole proprietorships, partnerships and legal persons” by “enterprises”;

(5) by replacing paragraph 7 by the following paragraphs:

“(7) represent clients in connection with any application that may be dealt with according to the procedure for non-contentious proceedings set out in Book III of the Code of Civil Procedure (chapter C-25.01), prepare, draw up or present any related application on their behalf; and

“(8) prepare and draw up the documents required in connection with applications presented before him or her under article 312 of the Code of Civil Procedure.”

**28.** The Act is amended by inserting the following section after section 15:

**“15.1.** Except as provided by law, no person other than a notary may

(1) when drawing up or preparing a notarial act, ascertain or enter, in the act, the parties’ statements of facts and declarations relating directly to the juridical act the notarial act contains, or verify and validate such ascertainties or entries; and

(2) perform any other action intrinsically linked to the notary’s role as a public officer.”

**29.** Section 16 of the Act is amended by inserting “of directors or shareholders and all other documents that they are authorized to draw up under federal or provincial laws” at the end of paragraph 4.

**30.** Section 20 of the Act is amended by adding the following paragraph at the end:

“The notary may also, in the cases and in accordance with the terms determined by a regulation of the board of directors, practise his or her profession under another name.”

**31.** Section 21 of the Act is amended

(1) by replacing “written” in the first paragraph by “handwritten”;

(2) by replacing “official written” in the second paragraph by “official handwritten”;

(3) by adding the following paragraphs at the end:

“The procedure for authorizing the use of an official signature affixed by means of a technological process and that for revoking such an authorization shall be determined by a regulation of the board of directors. The regulation shall identify a technological process that must be used to affix it and the minimal conditions a certification service provider must meet.

The provisions of a regulation made under the fourth paragraph shall be submitted to the Government, which may, on the recommendation of the ministers responsible for the Act respecting registry offices (chapter B-9) made after consultation with the Office des professions, approve them, with or without amendment.”

**32.** Section 22 of the Act is amended by replacing “on” in the second paragraph by “to”.

**33.** Section 23 of the Act is amended by replacing all occurrences of “official written” and “written” by “official handwritten” and “handwritten”, respectively.

**34.** Section 26 of the Act is amended

(1) by striking out the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“In addition to property declared by law to be exempt from seizure, technological media and property related to a notary’s professional practice, such as notarial records, safes, filing cabinets, files, law books as well as the accounting books, registers and documents, where they belong to the notary or to the partnership within which the notary practises, are also exempt from seizure.”;

(3) by replacing “media requiring the use of information technology related to professional practice” in the third paragraph by “technological media”.

**35.** The Act is amended by inserting the following section after section 26:

**“26.1.** Where a technological medium related to the practice of the notarial profession that does not belong to the notary or to the partnership within which the notary practises is the object of a seizure, articles 727 and 728 of the Code of Civil Procedure (chapter C-25.01) apply as if the notary were the debtor or the garnishee.

The first paragraph does not apply if the object of the seizure is the technological medium that supports the digital central notarial records.”

**36.** Section 30 of the Act is amended by inserting “and shall thereafter no longer be a holder, user, signatory or mandatory of an account in trust attached to the notarial profession” at the end.

**37.** Section 32 of the Act is amended by adding the following paragraph at the end:

“(6) performs an action exclusively linked to a notary’s function as a public officer provided for in section 15.1 or proposes to perform such actions or seeks or contributes to have a notary not perform the mandatory actions linked to the notary’s function as a public officer.”

**38.** The Act is amended by inserting the following section after section 32:

**“32.1.** Any person other than a member of the Order who, acting as an intermediary between a third person and a notary,

(1) grants or promises or causes to be granted or promised, to the third person, a reduction in the disbursements or fees of the notary,

(2) gets a notary to forego part of his or her disbursements or fees, or

(3) procures, or promises or agrees to procure, professional services for the third person, without any liability on the person's part towards the notary for the notary's disbursements,

shall be presumed to usurp the functions of a notary.”

**39.** Section 35 of the Act is amended by striking out the first two sentences of the second paragraph.

**40.** The Act is amended by inserting the following section after section 35:

**“35.1.** Notarial acts *en minute* must be executed and preserved on a technological medium according to the procedure determined by a regulation of the board of directors and in a format authorized by the board.

An act must be closed using a technological solution authorized by the board of directors.

However, an act may be executed and temporarily preserved in paper form, according to the procedure determined by a regulation of the board of directors, where the notary considers that executing it in a technological medium is not possible or is inconvenient and that it is in the interest of the parties to promptly close the act or where the act is intended for use outside Québec. The information contained in such an act must be transferred to a technological medium as soon as possible. The act in its original medium may be destroyed after the transfer.

The Order shall, according to the procedure determined by a regulation of the board of directors, enter into a written agreement with any service provider of a technological solution authorized under the second paragraph.”

**41.** Section 36 of the Act is amended by inserting “at the time of their deposit in the notarial records” at the end.

**42.** Section 37 of the Act is repealed.

**43.** Section 39 of the Act is amended by replacing the first paragraph by the following paragraph:

“Acts *en brevet* must be executed according to the procedure determined by a regulation of the board of directors and in a format authorized by the board. The procedure may differ based on the medium used for the act.”

**44.** Section 43 of the Act is amended by replacing “second paragraph of section 50” in the second paragraph by “third paragraph of section 46”.



**45.** The Act is amended by replacing sections 45 to 59 by the following subdivisions:

“§1. — *General provisions*

“**45.** Notarial acts must be written without abbreviations; amounts, dates, numbers and other figures, other than simple references that are not absolutely essential, are to be written out in full and entries written out in full take precedence over figures, should there be a difference.

“**46.** A notarial act is closed by the signatures of the parties and of the witnesses required, as the case may be, in the physical presence of the officiating notary and by the officiating notary’s signature, which must be affixed immediately after the last of the parties has signed the act and at the place where that party signed.

The notary may authorize a party or a witness to sign the act remotely if the circumstances permit and if it may be done in compliance with the rights of the parties. The notary may withdraw the authorization at any time, in particular if the notary ascertains there are problems with using the technological solution for closing. The remote act is closed at the place where the notary signs it and according to the procedure determined by a regulation of the board of directors.

The signature of any party to a notarial act may, at the request of the officiating notary or a party to the act, be affixed in the presence of a notary other than the officiating notary, provided that the last signature is affixed before the officiating notary. A signature may also be affixed before a notary who is authorized to practise in a State which has a professional order belonging to the Union internationale du notariat and who is designated by the board of directors, provided that the signature is affixed within the territorial boundaries of the State in which that notary practises. In such cases, after the party signs, the notary before whom the signature is affixed must enter and sign an attestation, immediately below the party’s signature, that the signature was affixed before him or her, indicating the date on which it was affixed.

“**47.** Before it is signed, a notarial act must be read aloud to each of the parties by the notary or by a third person appointed by the notary. The act need not be read to parties who have themselves read the act or where the parties declare to the notary that they have taken cognizance of it and exempt the notary from reading it. Mention of the declarations and exemption must be made in the act, above the signatures.

The inclusion in the act of the words “After due reading hereof” constitutes a simple presumption that the act has been read in accordance with the provisions of this Act.

“**48.** A notarial act must indicate

(1) the date of the act;

(2) the name, official capacity and place of the professional domicile of the notary who executes the act;

(3) the name, quality and address of the parties and a designation of the powers of attorney or the mandates produced;

(4) the presence, name, quality and address of the required witnesses;

(5) the place where the act is executed;

(6) the fact that the act is executed *en brevet*, where applicable; and

(7) a mention of the fact that the act was read to the parties or, where applicable, the mention required in the cases described in section 47.

**“49.** A notarial act must contain the signatures of the parties or their declaration that they are unable to sign, the signatures of the witnesses and the official signature of the notary or notaries.

The official signature of any notary, other than the officiating notary, before whom one of the parties signs constitutes a sufficient designation.

Where a party signed a notarial act in the presence of a notary other than the officiating notary and such notary entered in it and signed the attestation in accordance with the third paragraph of section 46, the party is deemed to have appeared before the officiating notary for the purposes of that act.

**“50.** A notarial act is declared to be executed at the place where it is closed. If that place is situated in Québec, it is sufficiently described by specifying the name of the municipality. In any other case, the name of the State must also be specified in the act.

**“51.** Where a notarial act between several parties is signed or consented to by the parties on different days or at different places, the notary may express the plurality of dates or places by mentioning the day on which and the place where each party signed the act or consented to it.

**“52.** A notarial act *en minute* under the authority of which a notarial act is executed must be sufficiently described in such act by the nature and date of the notarial act, the name of the notary who executed it, the minute number given to it and, where applicable, its registration number in the appropriate register for the publication of rights. No copy of a notarial act *en minute* is to be appended to the act.

Any other documents under the authority of which a notarial act is executed must be appended, by being attached directly or by reference, and be sufficiently identified, acknowledged as true and signed in the presence of the notary by the party or parties who produce them and countersigned by the notary.

All other documents that the parties wish to append to a notarial act may be so appended by complying with the formalities prescribed in the second paragraph.

Documents appended to a notarial act form an integral part of it. They must be in the same medium as the act.

**“53.** A notary may not alter or change the content of a notarial act after a party has signed it, unless the party agrees to the alteration or change and the procedure that the board of directors may determine by regulation is complied with.

Nor may a notary delete, destroy or alter a notarial act after it is closed, unless authorized by law. Should it be necessary to make changes to the act, the parties may do so only by means of another act.

Any deletion, destruction or alteration must be done according to the procedure determined by a regulation of the board of directors, which may differ based on the medium used for the act.

**“54.** Any transfer of the information contained in a notarial act *en minute* to another medium or another format must be made according to the procedure determined by a regulation of the board of directors, which must specify the standards applicable to verifying the integrity of the information transferred.

Such a transfer does not affect the authentic nature of the act.

*“§2.—Special provisions*

**“55.** Every act executed by a notary in paper form and signed by him or her, but which does not bear that notary’s official handwritten signature as filed with the secretary of the Order, is nevertheless authentic and has the same effect as if it had been signed with the notary’s official signature.

**“56.** Notarial acts in paper form must comply with the following formalities:

(1) the acts must be written in ink of good quality, typewritten or printed legibly and permanently;

(2) the body of the act and the insertions or additions to insertions must not contain any overwriting, interlineation or added word; any overwriting, interlineated or added words, letters, figures or signs are deemed unwritten;

(3) the crossing out of words, letters or figures must be done in such manner that the words, letters or figures may be counted;

(4) insertions and additions to insertions must, under pain of nullity, be made in accordance with the procedure determined by a regulation of the board of directors;

(5) the acts must not contain any blanks, gaps or intervening spaces, other than the usual spaces, that are not crossed out; and

(6) the number of insertions and additions to insertions and the number of words, letters or figures crossed out and the fact that any words, letters or figures are null must be mentioned at the end of the act, above the signatures.

**“57.** In addition to the particulars provided for in section 48, a notarial act *en minute* executed in paper form must also specify the date and time of signing for each of the signatories.

**“58.** In addition to the items provided for in section 52, the documents appended to a notarial act in a technological medium must be so appended by means of the technological solution used for the closing of the act and must be in the same format as the act or in any other format authorized by the board of directors.

Any transfer of the information contained in an appendix to another medium or another format must be made according to the procedure determined by a regulation of the board of directors, which must specify the standards applicable to verifying the integrity of the transfer to be made by the notary.

**“59.** The information contained in a notarial act *en minute* on a technological medium may be transferred from one format to another to the extent that the other format is authorized by the board of directors.”

**46.** Sections 60 and 61 of the Act are repealed.

**47.** Section 62 of the Act is replaced by the following section:

**“62.** All notarial records must, according to the procedure determined by a regulation of the board of directors, be preserved in the digital central notarial records.”

**48.** Sections 63 to 65 of the Act are repealed.

**49.** Section 66 of the Act is amended

(1) by striking out the last sentence of the first paragraph;

(2) by adding the following paragraphs at the end:

“The repertory and the index must be kept, safeguarded and preserved in a technological medium, according to the procedure determined by a regulation of the board of directors.

Any transfer of the information contained in a repertory or an index to another medium or another format must be made according to the standards determined by a regulation of the board of directors, which must specify the standards applicable to verifying the integrity of the information transferred.

The repertory and the index whose information has been transferred may be destroyed, according to the standards determined by a regulation of the board of directors.”

**50.** Section 67 of the Act is amended

(1) by replacing “annexed thereto may not be surrendered except in the cases provided by law” in the first paragraph by “appended to them may not be surrendered, except in the cases provided by law or by a regulation of the board of directors. In the latter case, the regulation determines the terms applicable to the surrendering of possession”;

(2) in the second paragraph,

(a) by striking out “or, in the case of joint or shared notarial records, one of the notaries or partners”;

(b) by replacing “and stands in lieu of the minute until the act *en minute*” by “and stands in lieu of the act until it”;

(3) by replacing “was received in a medium other than paper, it shall be reproduced and delivered” in the third paragraph by “was executed in a technological medium, a true copy of the act shall be delivered”.

**51.** Section 68 of the Act is amended

(1) by replacing “shall keep the notarial records in which notarial acts executed *en minute* by notaries to whom the Public Service Act (chapter F-3.1.1) applies are deposited” in the first paragraph by “may keep, according to the terms the Minister determines, one or more sets of notarial records in order to preserve the notarial acts executed *en minute* by notaries to whom the Public Service Act (chapter F-3.1.1) applies”;

(2) by replacing the second paragraph by the following paragraph:

“When establishing a set of notarial records, the Minister shall notify the secretary of the Order.”

**52.** The Act is amended by inserting the following subdivision after section 68:

“§1.1. — *Digital central notarial records*

“**68.1.** The Order is responsible for the administration and financing of the digital central notarial records.

The central notarial records group together, for preservation purposes, all the notarial records kept or safeguarded on a technological medium until they are deposited with Bibliothèque et Archives nationales du Québec.

However, the Order may, under a written agreement entered into according to the procedure determined by a regulation of the board of directors, entrust a part of the administration of the central notarial records to any person or body.

**“68.2.** A notary may only access his or her own notarial records as well as the notarial records for which he or she is the assignee, provisional custodian or mandatary under section 89.

**“68.3.** The Order may access a notary’s notarial records only in the cases and according to the terms provided for by government regulation.

**“68.4.** The Order must ensure the security of the information contained in the digital central notarial records.

**“68.5.** The digital central notarial records must be hosted in Québec. However, the Government may, according to the terms it determines, authorize that the records be hosted outside Québec.

**“68.6.** Where the technological medium on which the digital central notarial records are based is the object of a seizure, the bailiff is required to notify the Order of the right to transfer any documents that must be preserved from the medium seized to another.

**“68.7.** The board of directors may, by regulation, determine the costs, duties or fees for using the digital central notarial records or for providing any related service, in particular those payable for the issuing of copies of or extracts from an act or for the custody, assignment, surrender and reinstatement of notarial records.”

**53.** Section 69 of the Act is amended

(1) by striking out “or a general partnership of notaries”;

(2) by replacing “and with the authorization of the secretary of the Order, be surrendered, in whole or in part, to the Superior Court” by “, be surrendered, in whole or in part, to the Order”.

**54.** The Act is amended by inserting the following section after section 69:

**“69.1.** The files relating to assigned records must be delivered to the assignee notary.”

**55.** Section 70 of the Act is replaced by the following section:

**“70.** The liquidator of the succession of a deceased notary must notify the Order without delay of the death and see to it that the notary’s notarial records and all notarial records assigned to or under custody of the notary and the related files remain confidential until they are handed over to a provisional custodian.”

**56.** Section 71 of the Act is replaced by the following section:

**“71.** As soon as a notary who keeps notarial records is removed from the roll, the notary shall, subject to the conditions determined by regulation of the board of directors, assign the notarial records or surrender them to the Order.”

**57.** Section 72 of the Act is amended by replacing “to the Superior Court” by “to the Order”.

**58.** Section 73 of the Act is amended by replacing “15” by “30”.

**59.** The Act is amended by inserting the following section after section 73:

**“73.1.** A person who surrenders notarial records must, before the surrender, destroy, in their original medium, the acts whose content was transferred to a technological medium.

The obligation to destroy referred to in the first paragraph does not apply to acts executed before 1 January 1950, which must be preserved in their original medium.”

**60.** Section 74 of the Act is amended

- (1) by striking out the first sentence;
- (2) by replacing “the State” by “the Order, as the depositary”.

**61.** Section 75 of the Act is repealed.

**62.** Section 77 of the Act is amended

- (1) in the first paragraph,

(a) by replacing “subject to the conditions determined by regulation of the board of directors, appoint a provisional custodian for the individual notarial records” in the introductory clause by “in the absence of a mandate referred to in section 77.1, appoint a provisional custodian for the notarial records”;

- (b) by inserting the following subparagraphs after subparagraph 4:

“(4.1) the notary is deceased;

“(4.2) the notary has ceased to be entered on the roll and has not assigned or surrendered his or her notarial records;”;

(c) by replacing subparagraph 5 by the following subparagraph:

“(5) the notary has not, contrary to that which is required under section 89, appointed a mandatary to issue copies where the notary is unable to do so within a reasonable time;”;

(d) by adding the following subparagraph at the end:

“(7) in the case of provisional custody referred to in section 77.1, the provisional custodian ceases to be a practising notary, does not properly exercise his or her function or renounces the exercise of that function.”;

(2) by adding the following paragraph at the end:

“The board of directors shall determine by regulation the terms and conditions relating to provisional custody and to the appointment of a custodian.”

**63.** The Act is amended by inserting the following section after section 77:

“**77.1.** A notary may mandate, in writing, another notary to be the provisional custodian of the notary’s notarial records or of any notarial records assigned to the notary in anticipation of the occurrence of any of the situations mentioned in subparagraphs 1 to 6 of the first paragraph of section 77. A copy of the mandate must be sent to the Order. The mandator must give notice to the Order of any change to or revocation of the mandate.

The mandated notary must notify the secretary of the Order of the effective date of the mandate and of the date on which it ends.

The terms prescribed for the provisional custody referred to in the fifth paragraph of section 77 apply to the provisional custody provided for in this section.”

**64.** Section 78 of the Act is repealed.

**65.** The Act is amended by inserting the following section after section 78:

“**78.1.** Where a provisional custodian of the notarial records of a notary who is in one of the situations provided for in the first paragraph of section 77 must effect the surrender or assignment of the notarial records, the provisional custodian must first notify in writing the notary or, where applicable, the liquidator of the notary’s succession.



At the written request of the notary or the liquidator, the provisional custodian must provide a written estimate of the value of the notarial records. If the provisional custodian does not receive such a request within 10 days of the notary or liquidator receiving the notice referred to in the first paragraph, he or she may effect the surrender or assignment of the notarial records.

The notary or the liquidator may, within 10 days of receiving the estimate, require the provisional custodian to effect, within a reasonable time, the assignment of the notarial records. The proceeds from the assignment are remitted to the notary or to the notary's succession.

Where the provisional custodian is unable to find an assignee within a reasonable time, he or she may, after so notifying in writing the notary or liquidator of the notary's succession, effect the surrender of the notarial records."

**66.** Section 79 of the Act is amended

(1) by replacing "the notary or notaries who deposited their acts in the notarial records last practised" by "the notary who deposited his or her acts in the notarial records last practised";

(2) by striking out "or, in the case of shared notarial records, the district where the general partnership concerned is established";

(3) by inserting "special" before "clerk".

**67.** Section 81 of the Act is amended by replacing "to the office of the Superior Court" in the first paragraph by "to the Order".

**68.** Section 83 of the Act is amended

(1) in the first paragraph,

(a) by inserting "established by the mandate mentioned in section 77.1 or, if no fees are established by the mandate, to those" after "entitled to the fees";

(b) by replacing "notary or notaries, the general partnership" by "notary";

(2) by striking out the third paragraph.

**69.** The Act is amended by inserting the following subdivision after section 83:

*"§3.—Deposit of notarial records with Bibliothèque et Archives nationales du Québec*

**83.1.** The Order shall deposit with Bibliothèque et Archives nationales du Québec, at the expiry of the period determined by a regulation of the board of directors, the notarial records of which it is the depositary.

The regulation determines the other terms of the deposit.

Notarial records deposited under this section are deemed to be public archives within the meaning of the Archives Act (chapter A-21.1).

Regulatory provisions made under the first paragraph must be submitted to the Government, which may, after consultation with the Office des professions and Bibliothèque et Archives nationales du Québec, approve them with or without amendment.”

**70.** Section 84 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“The right to issue copies of or extracts from a notarial act *en minute* belongs exclusively to the notary who executed the act, to the assignee of that notary’s notarial records, to a person authorized by the depositary of that notary’s notarial records or to the mandatary referred to in section 89.”;

(2) by replacing “minutes and annexes” in the second paragraph by “acts”.

**71.** The Act is amended by inserting the following section after section 84:

“**84.1.** Regulatory provisions made under this division must be part of the same regulation.”

**72.** Section 85 of the Act is replaced by the following section:

“**85.** Copies of or extracts from notarial acts *en minute*, regardless of the medium used for the act, may, in accordance with the procedure determined by a regulation of the board of directors, be issued in a technological medium or in paper form. The copies or extracts issued in a technological medium must be issued in a format authorized by the board of directors.

The choice of the medium of a copy or extract belongs to the person requesting its issue.

The copies or extracts issued under this section are authentic.”

**73.** Section 86 of the Act is replaced by the following section:

“**86.** A notary may not issue a copy of or extract from acts that are part of his or her notarial records and whose publication is not required, or otherwise give access to them, except on an order of the court or in the cases provided for in the second paragraph of article 484 of the Code of Civil Procedure (chapter C-25.01) or in the cases provided for by a regulation of the board of directors, in accordance with the terms determined by the regulation.

The first paragraph applies to the assignee of notarial records or of part of notarial records, to the provisional custodian and any other legal depository of such notarial records and to the mandatary referred to in section 89.”

**74.** Section 87 of the Act is amended

- (1) in the first paragraph,
  - (a) by striking out “or of annexes to such acts”;
  - (b) by replacing “the minutes or annexes” by “the act”;
- (2) by replacing “the minute or annex” in the second paragraph by “the act”;
- (3) by replacing all occurrences of “inserts” by “insertions”.

**75.** Section 88 of the Act is amended

- (1) by striking out “or annexes to such acts”;
- (2) by replacing “the minute and annexes” by “the act”;
- (3) by replacing “56” by “52”.

**76.** Section 89 of the Act is amended by replacing the first, second and third paragraphs by the following paragraphs:

“Where a notary expects to not be able to issue copies of or extracts from the acts in his or her notarial records or in the notarial records assigned to him or her or under his or her provisional custody within a reasonable time, the notary must, under the conditions prescribed by regulation of the board of directors, give a temporary mandate, by a notarial act *en minute*, to another notary to issue the copies or extracts. A notary may also, at any time, appoint a mandatary for a specified time, in accordance with this paragraph.

A statement containing the name of the mandatary, the period and the part of the notarial records covered by the mandate, as well as the name of the officiating notary and the number of the minute of the mandate must be filed immediately with the Order.”

**77.** Section 90 of the Act is amended

- (1) by inserting “in paper form” after “notary”;
- (2) by inserting “handwritten” after “other than the notary’s official”.

**78.** Section 94 of the Act is amended

- (1) by striking out “periodically”;

(2) by replacing “attorney, another notary depositing acts in the same joint notarial records, a partner in a general partnership having constituted shared notarial records” by “mandatary”.

**79.** Section 96 of the Act is amended

(1) by replacing “the manner in which entries are to be made in registers” in the first paragraph by “the procedure for making entries in those registers”;

(2) by striking out the third paragraph.

**80.** Section 98 of the Act is repealed.

**81.** Section 105 of the Act is repealed.

#### COURTS OF JUSTICE ACT

**82.** Section 5.5 of the Courts of Justice Act (chapter T-16) is amended by adding the following paragraph at the end:

“The Government may, by regulation, amend Schedule I as regards the description of the territory over which concurrent jurisdiction is exercised.”

**83.** Section 83.1 of the Act is amended by replacing “of that Code that are applicable to a court of original jurisdiction” in the third paragraph by “of Title I.1 of Book VI of that Code”.

**84.** Schedule I to the Act is amended by replacing “Duhamel and Notre-Dame-du-Laus” in the column pertaining to the description of the territory over which concurrent jurisdiction is exercised between the districts of Gatineau and of Labelle by “Denholm, Duhamel, Kazabazua, Lac-Sainte-Marie, Low and Notre-Dame-du-Laus”.

#### ACT TO AMEND THE CODE OF CIVIL PROCEDURE AND OTHER LEGISLATIVE PROVISIONS IN RELATION TO NOTARIAL MATTERS

**85.** Section 28 of the Act to amend the Code of Civil Procedure and other legislative provisions in relation to notarial matters (1998, chapter 51) is repealed.

#### ACT TO ESTABLISH THE NEW CODE OF CIVIL PROCEDURE

**86.** Section 836 of the Act to establish the new Code of Civil Procedure (2014, chapter 1) is amended by adding the following paragraph at the end:

“(3) the last paragraph of article 35, which comes into force on 30 June 2022.”

## ACT TO MODERNIZE LEGISLATIVE PROVISIONS AS REGARDS THE PROTECTION OF PERSONAL INFORMATION

**87.** Section 66 of the Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25) is amended by replacing “the Code of Civil Procedure that are applicable in first instance” in the second paragraph of section 152 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) that it enacts by “Title I.1 of Book VI of the Code of Civil Procedure”.

**88.** Section 142 of the Act is amended by replacing “the Code of Civil Procedure that are applicable in first instance” in the second paragraph of section 67 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) that it enacts by “Title I.1 of Book VI of the Code of Civil Procedure”.

### TRANSITIONAL AND FINAL PROVISIONS

**89.** The applications provided for in article 35 of the Code of Civil Procedure (chapter C-25.01) in which the value of the subject matter of the dispute or the amount claimed, including in lease resiliation matters, is less than \$85,000, exclusive of interest, are continued before the Court of Québec and remain governed by the provisions of that Code, as they read before 30 June 2022, if they were introduced before that date.

**90.** The information contained in notarial acts *en minute* executed in paper form by a notary before the coming into force of this Act may be transferred to a technological medium. An act in its original medium may then be destroyed, provided that it was executed on or after 1 January 1950.

If such information has not been transferred, notarial acts *en minute* executed in paper form by a notary before the coming into force of this Act must be safeguarded or preserved in the notary’s records according to the procedure determined by a regulation of the board of directors, and those records must be safeguarded or preserved in Québec or in any place that is authorized by the board of directors.

**91.** As regards a notarial act *en minute* executed before the coming into force of this Act, if the notary finds that a mistake is made in numbering, the notary must immediately make a declaration under his or her oath of office, below the signatures, on any act that contains such an error, describing the nature of the error, and must enter in the repertory the number as it appears on the act. Such a declaration may also be made in a writing attached to the act, directly or by reference.

If a number has been omitted, the notary must enter the omitted number in the repertory with a note to the effect that no act corresponds to the number.

The obligations imposed on notaries under this section are also incumbent on any person who, in particular as provisional custodian or assignee, is the depositary of the notarial records.

**92.** Despite the second paragraph of section 85 of the Notaries Act (chapter N-3), as replaced by section 72, the Superior Court may issue a copy of or extract from a notarial act *en minute* on paper or, if the technological environment of the Court enables it, on a technological medium.

**93.** The fees collected by the Superior Court as depositary of notarial records forming part of its archives for searches and the issue of copies of or extracts from acts belong to the State.

**94.** When the Superior Court deposits notarial records forming part of its archives with Bibliothèque et Archives nationales du Québec, the Court immediately notifies the secretary of the Ordre des notaires du Québec.

**95.** All notarial records not already surrendered to the Superior Court of which the most recent notarial act executed dates back 100 years or more at the time of the coming into force of section 58 of this Act must be deposited with Bibliothèque et Archives nationales du Québec. The notary who deposits them must inform the secretary of the Ordre des notaires du Québec without delay.

The other terms of the deposit are determined by the regulation of the board of directors referred to in the second paragraph of section 83.1 of the Notaries Act, as enacted by section 69.

Notarial records deposited under this section are deemed to be public archives within the meaning of the Archives Act (chapter A-21.1).

**96.** The authorization to close a notarial act *en minute* using a technological medium, including remotely, provided for in Order 2020-4304 of the Minister of Justice dated 31 August 2020 and renewed by Order 2021-4556 of the Minister of Justice dated 20 August 2021, is maintained in force until the coming into force of section 40 or until any earlier date determined by the Government.

In addition, the terms determined by the board of directors of the Ordre des notaires du Québec under those Orders, or amended in accordance with those Orders, and the power of the board of directors to modify those terms, are also maintained in force for the same period.

**97.** All notarial records surrendered to the Superior Court between 1 April 2020 and the coming into force of this Act which contain an act on a technological medium are delivered free of charge to the Ordre des notaires du Québec as depositary.

**98.** This Act comes into force on (*insert the date of assent to this Act*), except

(1) sections 5 to 7, 9, 10, 13 to 19, 83 and 86 to 89, which come into force on 30 June 2022; and

(2) sections 1 to 4, 8, 11, 12, 20 to 81, 85, 90, 91, 93 and 97, which come into force on the date or dates to be set by the Government.

