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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 6

## Unclaimed Property Act

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### Introduction

Introduced by  
**Mr. Raymond Bachand**  
Minister of Revenue

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## **EXPLANATORY NOTES**

*The purpose of this bill is to group in a separate Act the provisions of the Public Curator Act that relate to the provisional administration of unclaimed property, which has been entrusted to the Minister of Revenue since 1 April 2006.*

*The new Act essentially restates the current rules. It includes provisions to ensure that the debtors and holders of unclaimed property comply with the legal requirements and gives the Minister of Revenue the power to require the filing of information and documents. Certain penal and evidentiary provisions are amended to increase coherence with other provisions, including in taxation matters, that are under the administration of the Minister of Revenue.*

*It also allows the Minister of Revenue to communicate personal information held in connection with the administration of property or of a patrimony entrusted by law to the Minister to a person who proves sufficient interest in respect of the property or patrimony.*

*It authorizes the Minister of Revenue to enter into agreements to entrust the management of joint portfolios to the Minister of Finance or, if necessary, to a financial institution.*

*Moreover, the new Act provides that any clause or stipulation that operates to exclude the application of one or more of its provisions is absolutely null.*

*Finally, the necessary consequential amendments are made to a series of statutes.*

## **LEGISLATION AMENDED BY THIS BILL:**

- Civil Code of Québec;
- Tax Administration Act (R.S.Q., chapter A-6.002);
- Sustainable Forest Development Act (R.S.Q., chapter A-18.1);

- Act respecting reserved designations and added-value claims (R.S.Q., chapter A-20.03);
- Act respecting commercial aquaculture (R.S.Q., chapter A-20.2);
- Act respecting registry offices (R.S.Q., chapter B-9);
- Savings and Credit Unions Act (R.S.Q., chapter C-4.1);
- Charter of Ville de Québec (R.S.Q., chapter C-11.5);
- Professional Code (R.S.Q., chapter C-26);
- Cooperatives Act (R.S.Q., chapter C-67.2);
- Act respecting financial services cooperatives (R.S.Q., chapter C-67.3);
- Act respecting racing (R.S.Q., chapter C-72.1);
- Public Curator Act (R.S.Q., chapter C-81);
- Act respecting collective agreement decrees (R.S.Q., chapter D-2);
- Deposit Act (R.S.Q., chapter D-5);
- Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01);
- Forest Act (R.S.Q., chapter F-4.1);
- Winding-up Act (R.S.Q., chapter L-4);
- Act respecting commercial fishing and commercial harvesting of aquatic plants (R.S.Q., chapter P-9.01);
- Food Products Act (R.S.Q., chapter P-29);
- Animal Health Protection Act (R.S.Q., chapter P-42);
- Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);
- Act to reduce the debt and establish the Generations Fund (R.S.Q., chapter R-2.2.0.1);

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);
- Business Corporations Act (R.S.Q., chapter S-31.1);
- Marine Products Processing Act (R.S.Q., chapter T-11.01).

# **Bill 6**

## **UNCLAIMED PROPERTY ACT**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **CHAPTER I**

#### **OBJECT**

**1.** The purpose of this Act is to facilitate the recovery of unclaimed property by right-holders and to ensure that property without an owner or property in respect of which the right-holders remain unknown or untraceable is delivered to the State. The Act also sets out the rules governing provisional administration of that property.

### **CHAPTER II**

#### **SCOPE**

**2.** In addition to property otherwise entrusted by law to the administration of the Minister of Revenue, the Minister of Revenue is the provisional administrator of

(1) the property of an absentee, unless another administrator has been designated by the absentee or appointed by the court;

(2) property found on the body of an unknown person or on an unclaimed body, subject to the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2);

(3) the property of a dissolved legal person, subject to the provisions of the Civil Code relating to the dissolution and liquidation of legal persons;

(4) property belonging to a succession and situated in Québec, until the heirs, or a third person designated in accordance with the testamentary provisions made by the deceased or designated by the court, are able to discharge the office of liquidator of the succession or until the Minister, in particular in cases where the State is seized of the property, is empowered to act in that capacity;

(5) property without an owner which the State appropriates for itself, lost or forgotten property held by the State and property that becomes property of the State by permanent forfeiture, unless, in the latter case, the law provides

otherwise, in particular in respect of property governed by the Act respecting the forfeiture, administration and appropriation of proceeds and instruments of unlawful activity (R.S.Q., chapter C-52.2);

(6) unclaimed property described in section 3;

(7) property deposited or abandoned in a detention centre or in a facility maintained by an institution to which the Act respecting health services and social services (R.S.Q., chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) applies, if the property is not claimed within one year after the departure or death of the depositor;

(8) unless provisional administration is otherwise provided for by law or in the act constituting the administration, property entrusted to an administrator of the property of others who dies, resigns, is placed under tutorship or curatorship or otherwise becomes unable to exercise the functions of administrator, until another administrator is appointed;

(9) the property of a dissolved general partnership, limited partnership or association not endowed with legal personality, where the property devolves to the State or, in the case of a partnership, where liquidation has not been completed within five years of the filing of the notice of dissolution; and

(10) property situated in Québec, other than property referred to in subparagraphs 1 to 9, where the owner or other right-holder is unknown or untraceable.

The Government may, by regulation, prescribe what information the Minister may require for the purpose of determining whether the Minister is to be provisional administrator under the law.

**3.** The following property is considered to be unclaimed property if the owner or other right-holder is domiciled in Québec:

(1) deposits of money with a financial services cooperative, a savings company, a trust company or any other institution authorized by law to receive deposits of money, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the deposits or the related accounts in the three years following the date on which the money deposited became due or payable;

(2) the value of cheques or bills of exchange certified or accepted by a financial institution or of drafts issued by a financial institution, where no request for payment has been made by the right-holder in respect of the instruments in the three years following the date of certification, acceptance or issue;

(3) amounts due on the reimbursement or redemption of debt securities, stocks, shares or any other form of participation in a legal person, partnership or trust, and the interest, dividends or other income, including patronage dividends, attaching to the securities or other form of participation, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the amounts or the income in the three years following the date on which they became due or payable;

(4) property to be distributed because of the conversion of a mutual insurance association into a joint-stock company, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the property in the three years following the date of conversion;

(5) funds, securities and other property received in any capacity whatsoever by a securities adviser or broker in the name or on behalf of a third person, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the property in the three years following the date of the receipt by the adviser or broker;

(6) funds, securities and other property held in trust by any person authorized by law to hold property in trust, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the property in the three years following the date on which they became due or payable; property held in trust includes sums of money required to be accounted for separately and kept in a separate trust account by the holder and sums of money held in a fiduciary capacity under any other designation indicating that they are held for the benefit of a third person;

(7) funds, securities and other property deposited in a safety deposit box in a financial institution, where the safety deposit box lease has been expired for three years and, during that period, neither the renewal of the contract nor access to the safety deposit box has been requested by the right-holder;

(8) funds, securities and other property held by a financial institution as pledge holder or custodian, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the property in the three years following the date on which the property became due or payable by reason of the extinction of the secured obligation or otherwise;

(9) insured amounts due under a life insurance contract, where no claim or transaction has been made and no instructions have been given by the right-holder in respect of the amounts in the three years following the date on which they became due or payable; any amount due on the death of the insured person is presumed to be due or payable on or before the date of the person's one hundredth birthday;

(10) amounts due under a pension or retirement contract or plan, other than benefits under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or under a similar plan within the meaning of that Act, where no claim or transaction has been made and no instructions have been given by the

right-holder in respect of the amounts in the three years following the date on which they became due or payable; such amounts are presumed to be due or payable on or before the end of the year in which the annuitant or employee reaches 71 years of age; where property to which this section applies is an asset of a retirement savings plan, it may not be considered separately from the amounts due under the plan;

(11) interest, dividends and other income produced by property described in any of subparagraphs 1 to 10, insofar as the instrument stipulates or the law provides that the income is payable to the right-holder; and

(12) property determined by government regulation, subject to the prescribed conditions.

Property described in the first paragraph is also considered to be unclaimed property if it is situated in Québec and the law of the domicile of the right-holder does not provide for provisional administration.

The Government may, by regulation, determine the amounts due under a pension or retirement contract or plan referred to in subparagraph 10 of the first paragraph.

**4.** A right-holder is deemed to be domiciled in Québec if the right-holder's last known address is in Québec or, where the address is unknown, if the act establishing the right-holder's rights was made in Québec.

### **CHAPTER III**

#### **SPECIAL PROVISIONS APPLICABLE TO CERTAIN PROPERTY**

**5.** A debtor or holder of property that becomes unclaimed property described in section 3 must, within six months preceding the date by which the property must be delivered to the Minister under section 6, give the right-holder at least three months' written notice describing the property and informing the right-holder that the property will be delivered to the Minister if it is not claimed within the allotted time.

The debtor or holder is not, however, required to give such notice if the debtor or holder cannot, by reasonable means, ascertain the right-holder's address, if the total value of the property unclaimed by the right-holder is less than \$100, and in other cases determined by government regulation.

**6.** The debtor or holder must, once a year, deliver to the Minister any property that has remained unclaimed after notices were given to the right-holders under section 5, and any unclaimed property for which no notice was required in accordance with that section.

On delivery of the property, the debtor or holder must file with the Minister, in the form prescribed by the Minister, a statement containing a description of



the property and all information necessary to determine the identity of the right-holders, their place of domicile and the nature and source of their rights. The statement must also contain a declaration by the debtor or holder that the required notice was given to the right-holders or specify, if such notice was not required, the reasons why it was not required.

The Government may, by regulation,

- (1) determine the documents that must accompany the statement;
- (2) determine the procedure pertaining to the delivery of the property and the filing of the related statement; and
- (3) determine, according to classes of debtors or holders, the yearly period during which property must be delivered and statements filed.

**7.** The debtor or holder may not evade the obligation to provide information or a document required under section 6 on the ground that the information or document is protected by professional secrecy.

However, if the debtor or holder files with the Minister a written statement that the information or document is protected by professional secrecy, the Minister, for the purposes of sections 16 and 18, may only make public the identity and professional domicile of the debtor or holder and state in general terms the source of the rights involved, for example, the trust account of the debtor or holder.

**8.** The debtor or holder owes interest, calculated on the value of the property the debtor or holder is required to deliver to the Minister, from the date by which the debtor or holder is required to deliver the property to the Minister in accordance with section 6.

The interest is paid on delivery of the property, at the rate set for debts owed to the State under section 28 of the Tax Administration Act (R.S.Q., chapter A-6.002). The interest is capitalized daily.

**9.** The debtor or holder of unclaimed property described in section 3 may not require from the right-holder the payment of any charge other than a charge expressly stipulated in the act establishing the right-holder's rights or a charge the debtor or holder is otherwise authorized by law to claim.

The debtor or holder is entitled to such charges on delivery of unclaimed property to the Minister, and may deduct them from the amounts delivered to the Minister.

**10.** The obligation to deliver property to the Minister in accordance with section 6 is neither reduced nor altered by prescription having run in favour of the debtor or holder during the period required for the property to be considered

to be unclaimed property for the purposes of this Act; no such prescription may be set up against the Minister.

**11.** Debtors or holders of unclaimed property described in section 3 must keep in their establishment an up-to-date list of unclaimed property containing the name and last known address of the right-holders and, if applicable, the date on which the property was delivered to the Minister.

All entries relating to unclaimed property must remain on the list for a period of 10 years.

**12.** Debtors or holders of unclaimed property described in section 3 are relieved of all liability towards any right-holder for any injury that may result from the performance of their obligations under this Act.

**13.** Sections 3 to 12 apply to the Government, to government departments and bodies and to any legal person established in the public interest, whether they have rights to assert in property to which those sections apply or are debtors or holders of such property.

However, departments and budget-funded bodies referred to in section 2 of the Financial Administration Act (R.S.Q., chapter A-6.001) are exempted, if the property they owe or hold are sums of money, from delivering those sums to the Minister.

## **CHAPTER IV**

### **ADMINISTRATION**

#### **DIVISION I**

##### **GENERAL RULES**

**14.** On being entrusted with the administration of property, the Minister, as the administrator of the property of others, must make an inventory in accordance with Title Seven of Book Four of the Civil Code respecting the administration of the property of others.

The inventory is to be made as a private writing; one of the witnesses must, if possible, be a family member, a relative or a person closely connected with the owner of the property.

The statement filed with the Minister in accordance with section 6 stands in lieu of an inventory of the property described in the statement, subject to the Minister being satisfied of its accuracy.

**15.** The Minister has the simple administration of the property entrusted to the Minister, unless the law provides otherwise.

The Minister is not, however, required to preserve the property in kind.

**16.** Except in relation to the provisional administration of property described in subparagraph 5 of the first paragraph of section 2, the Minister must promptly make known the Minister's capacity as administrator, by a notice published once in the *Gazette officielle du Québec* and in a newspaper circulated in the locality where the property was situated at the time the Minister became the administrator of the property.

If the property under the provisional administration of the Minister is property referred to in subparagraph 6 of the first paragraph of section 2 and the right-holder was domiciled or was deemed to be domiciled in Québec at the time the Minister became the administrator of the property, the notice must also be published in a newspaper circulated in the locality of the last known address of the right-holder, or, if there is no known address, in the locality where the act establishing the right-holder's rights was made, if different from the locality where the property was situated.

**17.** The Minister must, with regard to any immovable entrusted to the Minister's administration, register the Minister's capacity as administrator in the land register. From the time of publication, the registrar is bound to inform the Minister by way of a written notice of any subsequent registration made in respect of the immovable.

The registration of the Minister's capacity as administrator is obtained on presentation of a notice describing the immovable concerned. The cancellation of the registration is obtained on presentation of a certificate of the Minister attesting the termination of the administration.

**18.** The Minister keeps a register of property under provisional administration other than property described in subparagraph 5 of the first paragraph of section 2.

Only the information prescribed by government regulation is entered in the register. The information is public; it is kept in the register until the administration of the Minister terminates or, if the administration terminates in circumstances described in paragraph 4 of section 28, until the expiry of the period prescribed by government regulation.

**19.** Property entrusted to the Minister's administration must not be commingled with that of the State.

**20.** The Minister must maintain separate administration and accounting in respect of each patrimony under the Minister's administration. The Minister is liable for debts relating to such a patrimony only up to the value of the property of the patrimony.

**21.** Despite the confidential nature of personal information under section 53 of the Act respecting Access to documents held by public bodies

and the Protection of personal information (R.S.Q., chapter A-2.1), the Minister may communicate personal information held by the Minister in connection with the administration of property or a patrimony entrusted by law to the Minister's administration to a person who proves sufficient interest in respect of the property or patrimony.

## **DIVISION II**

### **SPECIAL RULES**

**22.** The Minister may, without authorization of the court, borrow on the security of the property included in a patrimony under the Minister's administration, the sums of money necessary to maintain an immovable in good condition, make the necessary repairs or discharge the encumbrances affecting it.

**23.** The Minister may, without authorization of the court, demand partition, take part in it and transact if the value of any concessions made by the Minister does not exceed \$5,000.

**24.** The Minister may, without authorization of the court, alienate by onerous title property described in section 2, in article 699 of the Civil Code or in any legislative provision under which the Minister must act as the administrator of the property of others, if the value of the property does not exceed \$25,000.

For the purposes of the first paragraph, the value of an immovable is its value as entered on the assessment roll of the municipality, multiplied by the factor determined for the assessment roll by the Minister of Municipal Affairs, Regions and Land Occupancy under the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

## **DIVISION III**

### **JOINT PORTFOLIOS**

**25.** The Minister may constitute joint portfolios with the available moneys that derive from the property administered by the Minister. The Minister manages the joint portfolios.

**26.** Despite section 25, the Minister may enter into agreements to entrust the management of all or part of the joint portfolios to the Minister of Finance or, if necessary to obtain or maintain acceptance for registration by the Minister of National Revenue of a retirement savings plan or a retirement income fund under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), to a financial institution.

**27.** The management of the joint portfolios is governed by an investment policy established jointly by the Minister and the Minister of Finance.

## **DIVISION IV**

### **TERMINATION OF ADMINISTRATION**

**28.** The administration of the Minister terminates by operation of law

(1) when the absentee returns, the administrator designated by the absentee comes forward, a tutor to the property of the absentee is appointed or a judgment declares the absentee dead;

(2) when the heirs, or a third person designated in accordance with the testamentary provisions made by the deceased or designated by the court, are able to discharge the office of liquidator of the succession;

(3) when, in other cases, a right-holder claims the property under the Minister's administration, or another administrator is appointed with respect to the property; and

(4) in the absence of any beneficiary of the administration and in all cases where the property is administered on behalf of the State, once the Minister's liquidation of the property has ended and all operations for the delivery of the administered sums of money and of those deriving from the liquidation have been completed.

**29.** On the termination of administration, the Minister must render an account of the administration and deliver the property to the right-holders concerned.

If the administration terminates in circumstances described in paragraph 4 of section 28, the account is to be rendered, and the sums of money remaining are to be delivered, to the Minister of Finance.

The Government may, by regulation, determine the form and content of the account to be rendered by the Minister under this section, as well as the terms for the delivery of the sums of money referred to in the second paragraph.

**30.** All sums of money delivered to the Minister of Finance become property of the State.

Any right-holder with respect to sums of money so delivered, or with respect to the property from whose liquidation such sums derive, may recover the sums from the Minister, with interest capitalized daily and calculated from the date of delivery, at the rate set under the second paragraph of section 28 of the Tax Administration Act. Subject to the provisions of the Civil Code relating to the petition of inheritance, the right of recovery is not subject to prescription, except where it relates to a sum of money amounting to less than \$500 at the time of its delivery to the Minister of Finance, in which case the right to recovery is prescribed 10 years after the date of delivery.

[[The Minister of Finance is authorized to take the sums of money required to make payments to the right-holders under the second paragraph out of the sums of money referred to in the first paragraph and, if these are insufficient, out of the consolidated revenue fund.]]

On the conditions and to the extent the Government determines on the joint recommendation of the Minister and the Minister of Finance, the Minister of Finance pays into the Generations Fund established under the Act to reduce the debt and establish the Generations Fund (R.S.Q., chapter R-2.2.0.1) the sums of money referred to in the first paragraph, minus those required to make payments to the right-holders under the second paragraph.

**31.** It is incumbent upon persons who claim property or want to recover a sum of money from the Minister to establish their quality.

## **CHAPTER V**

### **INVESTIGATION AND INQUIRY**

**32.** In this chapter, unless the context indicates a different meaning, “document” means any document, whatever the medium used, including any computer program, and the equipment supporting the document, in particular any electronic component.

**33.** Any person so authorized by the Minister may, for any purpose relating to the administration of this Act,

(1) enter at any reasonable hour any premises where unclaimed property may be situated or where documents or information that may relate to the administration of this Act may be held;

(2) use any computer, equipment or other thing that is on the premises to access data contained in an electronic device, computer system or other medium or to inspect, examine, process, copy or print out such data;

(3) require the persons present to provide any information relating to the administration of this Act and to produce any book, register, account, record or other related document; and

(4) examine and make copies of documents containing such information.

A person having custody, possession or control of property, documents or information referred to in this section must, on request, make them available to the person conducting the investigation and facilitate their examination.

**34.** The Minister may authorize a person to hold any inquiry which the Minister considers necessary into anything relating to the administration of this Act.

The person so authorized is, for the purposes of the inquiry, vested with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

**35.** For the purposes of this Act, any person authorized for that purpose by the Minister may, by a formal demand delivered by registered mail or personal service, require from any person, whether or not the person is subject to an obligation under this Act, that the person file by registered mail or personal service, within a reasonable time specified in the demand, information or documents, including a statement, return or report.

The person to whom the demand is made must, within the specified time, comply with the demand, whether or not the person has already filed such a statement, return or report following a similar demand made under this Act.

The formal demand must mention the consequences of a failure to comply as set out in section 38.

**36.** An authorized person referred to in section 35 may apply ex parte to a judge of the Court of Québec, acting in chambers, for authorization to send a person the formal demand referred to in section 35 concerning one or more unnamed persons, on the conditions that the judge considers reasonable in the circumstances.

The judge may grant the authorization if satisfied that the filing of the information or document is required to ascertain whether the person or persons concerned have complied with an obligation under this Act, and that the person or persons are identifiable.

**37.** The authorization granted under section 36 must be attached to the formal demand.

Within 15 days after receiving the formal demand, the person concerned may, by motion, apply to a judge of the Court of Québec for a review of the authorization.

At least five days' prior notice must be given to the Minister of the date on which the motion is to be presented.

The court may extend the time limit provided for in the second paragraph if the person demonstrates that it was in fact impossible for the person to act and that the motion was presented as soon as circumstances permitted.

The judge may confirm, vacate or vary the authorization under review and make any order the judge considers expedient. The judgment cannot be appealed.

**38.** If a person has not complied with a formal demand in respect of information or a document, any court must, on the motion of the Minister, prohibit the introduction of such information or document as evidence unless the person establishes that the formal demand was unreasonable under the circumstances.

**39.** If a person has not provided access, information or documents as required under section 33 or 35, the authorized person referred to in section 33 or 35 may apply to a judge of the Court of Québec acting in chambers and that judge may, despite section 45, order the person to provide access, information or documents to the Minister, or may make such order as the judge deems proper in order to remedy the failure which is the subject of the application, if the judge is satisfied that

(1) the person was required under section 33 or 35 to provide access, information or documents and did not do so; and

(2) the professional secrecy to which advocates and notaries are bound cannot be invoked.

A notice must be served on the person concerned at least five days before the application is heard.

The order is sent to the person concerned by registered mail or personal service, unless it is made from the bench in the person's presence.

The order may be appealed to the Court of Appeal, with leave of a judge of that court. However, an appeal does not suspend the enforcement of the order, unless the judge seized of the appeal decides otherwise. The judgment cannot be appealed.

**40.** No one may in any manner whatsoever hinder or attempt to hinder a person in the performance of an act that the person is required or authorized to perform under this Act.

**41.** Persons authorized to act under this chapter must, on request, identify themselves and produce a certificate of authorization.

They may not be prosecuted for anything done in good faith in the exercise of their functions.

**42.** Any document or other thing which has been examined or of which an authorized person referred to in section 33 has taken possession or which has been filed with the Minister may be copied, photographed or printed out, and any copy, photograph or printout of such document or thing, certified by the Minister or a person authorized by the Minister, is admissible as evidence.



## **CHAPTER VI**

### **PENAL PROVISIONS**

**43.** Every person who contravenes a provision of any of sections 5, 6, 9 and 11 is guilty of an offence and liable to a fine of not more than \$5,000 and, for a second or subsequent conviction, to a fine of not more than \$15,000.

**44.** Every person who contravenes section 33, 35 or 40 is guilty of an offence and liable to a fine of not less than \$800 nor more than \$10,000.

**45.** When a person is convicted by a court of an offence under section 43 or 44, the court may make such order as it deems proper in order to remedy the failure sanctioned by the offence.

Prior notice of the application for such an order must be served by the prosecutor on the person who could be compelled under the order, unless the person is present before the judge. The prior notice may be given on the statement of offence, specifying that the application for such an order is to be made when the judgment is rendered.

The order is sent to the person concerned by registered mail or personal service, unless it is made from the bench in the person's presence.

## **CHAPTER VII**

### **PROCEDURE AND EVIDENCE**

**46.** Despite any provision to the contrary, a penal proceeding or civil action in relation to the Minister's provisional administration of property under the law is instituted by the Agence du revenu du Québec under the designation of "Agence du revenu du Québec".

Subject to article 34 of the Code of Penal Procedure (R.S.Q., chapter C-25.1), no person may intervene in first instance or in appeal, or replace the Agence du revenu du Québec, in any penal proceeding instituted in its name.

**47.** Despite any provision to the contrary, any person having a remedy against the Minister, the Agence du revenu du Québec or the State in relation to the Minister's provisional administration of property under the law must direct it against the Agence du revenu du Québec under the designation of "Agence du revenu du Québec".

Any proceeding to which the Agence du revenu du Québec is a party must be served upon Agence du revenu du Québec at the Montréal or Québec office of its legal department, by leaving a copy of the proceeding with a person in charge of that office.

The return of service must mention the name of the person with whom the copy of the proceeding was left.

**48.** The Agence du revenu du Québec is represented for all purposes by the advocate appearing in its name, and the advocate is not required to prove his or her capacity.

**49.** When penal proceedings are instituted in relation to the application of this Act, the statement of offence is signed and issued by an employee of the Agence du revenu du Québec authorized by the president and chief executive officer, and proof of the quality, signature or authorization of the employee is not necessary, unless the defendant contests it and the judge considers it necessary to provide such proof.

A facsimile of the signature of a person referred to in the first paragraph that is affixed on the statement of offence has the same force as the person's signature.

**50.** On an application by the Agence du revenu du Québec, a judge suspends for a period not exceeding 30 days any judicial proceeding brought against the Agence du revenu du Québec under this Act or relating to property administered by the Minister under this Act, to allow it to prepare the defence.

**51.** Every document signed by the Minister for the purposes of this Act is prima facie evidence of its contents, without it being necessary to prove the Minister's signature and authority.

**52.** When this Act obliges a person to file a document, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee is in charge of the appropriate registers and that after making a careful examination of it,

(1) the employee was unable to ascertain that the document in question was filed by the person, proves, in the absence of any evidence to the contrary, that no such document has been filed by the person; or

(2) the employee ascertained that the document in question was filed on a designated day, proves, in the absence of any evidence to the contrary, that the document was filed on the date specified and not previously.

**53.** An affidavit of an employee of the Agence du revenu du Québec attesting that the employee is in charge of the proper registers and that a document attached to the affidavit is a document or copy of a document, or a printout, made by or on behalf of the Minister or any other person exercising the powers of the Minister, or by or on behalf of a person subject to this Act, is proof, in the absence of any evidence to the contrary, of the nature and content of the document and must be admitted as evidence and have the same probative force as the original document would have had if its veracity had been proved in the ordinary manner.

**54.** When proof is provided under section 52 or 53 by an affidavit of an employee of the Agence du revenu du Québec, it is not necessary to prove the

employee's signature or status as an employee of the Agence du revenu du Québec. Nor is it necessary to prove the signature or the official capacity of the person before whom the affidavit was sworn.

In any affidavit or other similar document signed by an employee of the Agence du revenu du Québec under this Act or in the course of proceedings relating to this Act, the address of the office of the Agence du revenu du Québec being the usual place of work of the signatory is a sufficient indication of the signatory's address.

**55.** For the purposes of the Code of Penal Procedure, a person referred to in section 33 or 49 is a person entrusted with the enforcement of this Act.

## **CHAPTER VIII**

### **FINANCING, BOOKS AND ACCOUNTS**

**56.** In addition to the reimbursement of expenses incurred, the Minister may require fees for administering property under the law. The fees are determined by government regulation.

However, the fees relating to property the administration of which terminates in the circumstances described in paragraph 4 of section 28, and the nature and amount of the expenses relating to such property the reimbursement of which may be required by the Minister, are determined by government order on the recommendation of the Minister and the Minister of Finance.

**57.** The Minister may charge interest at the rate set for debts owed to the State under section 28 of the Tax Administration Act on any amount advanced to the account of a patrimony the Minister administers. The interest is capitalized daily.

**58.** The Minister may waive, in whole or in part, any interest provided for by this Act.

The Minister may also cancel, in whole or in part, any interest payable under this Act.

The decision of the Minister cannot be appealed.

The Minister must include such interest waivers and cancellations in the statistical summary tabled by the Minister in the National Assembly under section 94.1 of the Tax Administration Act.

**59.** The books and accounts relating to the property administered by the Minister must be audited each year by the Auditor General and whenever so ordered by the Government.

The report of the Auditor General must accompany the annual management report of the Agence du revenu du Québec.

## **CHAPTER IX**

### **MISCELLANEOUS PROVISIONS**

**60.** The Minister may, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec or with a department or body of that government, for the administration of this Act or an Act relating wholly or partly to the provisional administration of property by that government, department or body.

The purpose of the agreements entered into by the Minister may include the delegation to the Minister of the administration of property unclaimed by its owners or other right-holders who are domiciled in Québec or are deemed to be domiciled in Québec under this Act.

**61.** Any clause or stipulation that operates to exclude the application of one or more provisions of this Act is absolutely null.

**62.** The Minister of Revenue is responsible for the administration of this Act.

## **CHAPTER X**

### **AMENDING PROVISIONS**

#### **CIVIL CODE OF QUÉBEC**

**63.** Article 699 of the Civil Code of Québec is amended by replacing “the Acts respecting public curatorship” by “the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

**64.** Article 701 of the Code is amended by replacing “calculated at the rate prescribed pursuant to the Public Curator Act (chapter C-81) from the time the amounts were transferred to the Minister of Finance” in the second paragraph by “capitalized daily and calculated from the time the amounts were transferred to the Minister of Finance, at the rate set under the second paragraph of section 28 of the Tax Administration Act (chapter A-6.002)”.

#### **TAX ADMINISTRATION ACT**

**65.** Section 69.0.0.7 of the Tax Administration Act (R.S.Q., chapter A-6.002) is amended by inserting the following subparagraph after subparagraph v of subparagraph b of the first paragraph:

“vi. the Unclaimed Property Act (*insert the year and chapter number of this Act*);”.

#### ACT RESPECTING REGISTRY OFFICES

**66.** Section 12 of the Act respecting registry offices (R.S.Q., chapter B-9) is amended by replacing the fourteenth dash in the first paragraph by the following:

“— a notice of the capacity of the Public Curator as administrator under the Public Curator Act (chapter C-81);

“— a notice of the capacity of the Minister of Revenue as administrator under the Unclaimed Property Act (*insert the year and chapter number of this Act*);”.

#### SAVINGS AND CREDIT UNIONS ACT

**67.** Section 72 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended by replacing “unclaimed property within the meaning of the Public Curator Act (chapter C-81)” in the second paragraph by “property to which the Unclaimed Property Act (*insert the year and chapter number of this Act*) applies”.

#### CHARTER OF VILLE DE QUÉBEC

**68.** Section 50 of Schedule C to the Charter of Ville de Québec (R.S.Q., chapter C-11.5) is amended by replacing “section 24 of the Public Curator Act (chapter C-81)” in the fourth paragraph by “the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### PROFESSIONAL CODE

**69.** Section 89 of the Professional Code (R.S.Q., chapter C-26) is amended by replacing “the Public Curator Act (chapter C-81)” in the portion of the second paragraph before subparagraph 1 by “the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

**70.** Section 173 of the Act respecting financial services cooperatives (R.S.Q., chapter C-67.3) is amended by replacing “The provisions of the Public Curator Act (chapter C-81) apply” in the fourth paragraph by “The Unclaimed Property Act (*insert the year and chapter number of this Act*) applies”.

#### PUBLIC CURATOR ACT

**71.** Section 12 of the Public Curator Act (R.S.Q., chapter C-81) is amended by striking out the third paragraph.

**72.** Division V of Chapter II of the Act, comprising sections 24 to 26.9, is repealed.

**73.** Section 27.1 of the Act is repealed.

**74.** Section 28.1 of the Act is amended by replacing “sections 27.1 and 28” in the first paragraph by “section 28”.

**75.** Section 29 of the Act is amended by striking out the third paragraph.

**76.** Section 30 of the Act is amended by striking out the second paragraph.

**77.** Section 32 of the Act is repealed.

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

**79.** Section 40 of the Act is amended

(1) by striking out “or of the Minister of Revenue” in the portion of the first paragraph before subparagraph 1;

(2) by striking out the second paragraph.

**80.** Section 41 of the Act is amended by striking out the second paragraph.

**81.** Section 41.1 of the Act is repealed.

**82.** Section 54 of the Act is replaced by the following section:

**“54.** The Public Curator shall keep a register of tutorships to minors, a register of tutorships and curatorships to persons of full age and a register of homologated mandates in anticipation of the inability of the mandator.

The registers shall contain only the information prescribed by regulation. Such information is public; it shall be kept in the register until the administration of the Public Curator ceases.”

**83.** Section 55 of the Act is amended by striking out the second paragraph.

**84.** Section 68 of the Act is amended by striking out paragraphs 4 and 4.1.

**85.** Section 69 of the Act is repealed.

**86.** Section 69.1 of the Act is amended by replacing “of the Public Curator, of the Minister of Revenue or of a person authorized by either of them in the exercise of a power conferred by section 27.1 or 28” by “of the Public Curator or of a person authorized by the Public Curator in the exercise of a power conferred by section 28”.

**87.** Section 74 of the Act is replaced by the following section:

“**74.** On an application by the Public Curator, a judge suspends for a period not exceeding 30 days any judicial proceeding brought against the Public Curator or any person represented by or whose property is administered by the Public Curator, to allow the Public Curator to prepare the defence.”

**88.** Section 75.1 of the Act is replaced by the following section:

“**75.1.** The Public Curator may enter into an agreement for the administration of this Act with any person, partnership or association or with the Government, a government department or a government body.”

**89.** Section 76 of the Act is amended

- (1) by striking out “and the Minister of Revenue” in the first paragraph;
- (2) by striking out “, or an Act relating wholly or partly to the provisional administration of property” in the first paragraph;
- (3) by striking out the second paragraph.

**90.** Sections 76.1 to 76.4 of the Act are repealed.

**91.** Section 77 of the Act is replaced by the following section:

“**77.** The Minister of Families is responsible for the administration of this Act.”

#### DEPOSIT ACT

**92.** Section 27.1 of the Deposit Act (R.S.Q., chapter D-5) is amended by replacing “calculated at the rate prescribed pursuant to the Public Curator Act (chapter C-81) from the time the sums of moneys were paid into the fund” in the first paragraph by “capitalized daily and calculated from the time the sums of moneys were paid into the fund, at the rate set under the second paragraph of section 28 of the Tax Administration Act (chapter A-6.002)”.

#### WINDING-UP ACT

**93.** Section 20 of the Winding-up Act (R.S.Q., chapter L-4) is amended by replacing “the provisions of the Public Curator Act (chapter C-81) pertaining

to unclaimed property” by “the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### ACT RESPECTING THE DETERMINATION OF THE CAUSES AND CIRCUMSTANCES OF DEATH

**94.** Section 63 of the Act respecting the determination of the causes and circumstances of death (R.S.Q., chapter R-0.2) is amended by replacing “Public Curator Act (chapter C-81)” in the second paragraph by “Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

**95.** Section 64 of the Act is amended by replacing “Public Curator Act (chapter C-81)” by “Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### ACT TO REDUCE THE DEBT AND ESTABLISH THE GENERATIONS FUND

**96.** Section 3 of the Act to reduce the debt and establish the Generations Fund (R.S.Q., chapter R-2.2.0.1) is amended by replacing “41.1 of the Public Curator Act (chapter C-81)” in subparagraph 5 of the first paragraph by “30 of the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

**97.** Section 147.0.6 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing “sums transferred to the latter by the Commission pursuant to the Public Curator Act (chapter C-81)” in the first paragraph by “sums transferred by the Commission pursuant to the Public Curator Act (chapter C-81) or the Unclaimed Property Act (*insert the year and chapter number of this Act*)”.

#### MISCELLANEOUS ACTS

**98.** The following provisions are amended by replacing “The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property apply” and “The provisions of the Public Curator Act (chapter C-81) pertaining to unclaimed property shall apply”, wherever they appear, by “The Unclaimed Property Act (*insert the year and chapter number of this Act*) applies”:

(1) the second paragraph of section 220 of the Sustainable Forest Development Act (R.S.Q., chapter A-18.1);

(2) the second paragraph of section 45 of the Act respecting reserved designations and added-value claims (R.S.Q., chapter A-20.03);



(3) the second paragraph of section 40 of the Act respecting commercial aquaculture (R.S.Q., chapter A-20.2);

(4) the third paragraph of section 314 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1);

(5) the second paragraph of section 185 of the Cooperatives Act (R.S.Q., chapter C-67.2);

(6) the third paragraph of section 100 of the Act respecting racing (R.S.Q., chapter C-72.1);

(7) subparagraph *o* of the second paragraph of section 22 of the Act respecting collective agreement decrees (R.S.Q., chapter D-2);

(8) the second paragraph of section 36 of the Act respecting threatened or vulnerable species (R.S.Q., chapter E-12.01);

(9) the second paragraph of section 196 of the Forest Act (R.S.Q., chapter F-4.1);

(10) the second paragraph of section 45 of the Act respecting commercial fishing and commercial harvesting of aquatic plants (R.S.Q., chapter P-9.01);

(11) the second paragraph of section 33.5 of the Food Products Act (R.S.Q., chapter P-29);

(12) the second paragraph of section 55.22 of the Animal Health Protection Act (R.S.Q., chapter P-42);

(13) the second paragraph of section 238 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);

(14) the second paragraph of section 349 of the Business Corporations Act (R.S.Q., chapter S-31.1);

(15) the second paragraph of section 42 of the Marine Products Processing Act (R.S.Q., chapter T-11.01).

## **CHAPTER XI**

### **TRANSITIONAL AND FINAL PROVISIONS**

**99.** Unless the context indicates otherwise, a reference in a regulation or any other document to a provision of the Public Curator Act (R.S.Q., chapter C-81) relating to the provisional administration of property is a reference to the equivalent provision of this Act.

**100.** The provisions of the Regulation respecting the application of the Public Curator Act (R.R.Q., chapter C-81, r. 1), to the extent that they relate to the provisional administration of property, entrusted to the Minister of Revenue under the Public Curator Act, as it read on (*insert the date preceding the date of assent to this Act*), continue to apply, with the necessary modifications and unless they are inconsistent with a provision of this Act, until they are replaced or repealed by a regulation made under this Act.

**101.** The provisions of the Order in Council respecting the fees, nature and amount of expenses relating to certain property under the administration of the Public Curator (R.R.Q., chapter C-81, r. 2) continue to apply, with the necessary modifications, until they are replaced or repealed by an order made under this Act.

**102.** Sections 3 to 8, the second paragraph of section 9 and section 10 apply to property that became unclaimed property described in section 3 before (*insert the date of assent to this Act*).

**103.** For the period between (*insert the date of assent to this Act*) and the date to be set by the Government for the coming into force of section 57, section 57 of the Public Curator Act applies, with the necessary modifications, to the Minister of Revenue's provisional administration of property under this Act.

**104.** This Act comes into force on (*insert the date of assent to this Act*), except sections 30, 57, 64, 81 and 92, which come into force on the date or dates to be set by the Government.



