

1989, chapter 54
**AN ACT RESPECTING THE PUBLIC CURATOR
AND AMENDING THE CIVIL CODE AND
OTHER LEGISLATIVE PROVISIONS**

Bill 145

Introduced by Mr Gil Rémillard, Minister of Justice

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Acts amended:

Civil Code of Lower Canada

Civil Code of Québec

Act respecting Access to documents held by public bodies and the Protection of personal information
(R.S.Q., chapter A-2.1)

Land Surveyors Act (R.S.Q., chapter A-23)

Automobile Insurance Act (R.S.Q., chapter A-25)

Act respecting insurance (R.S.Q., chapter A-32)

Act respecting the Barreau du Québec (R.S.Q., chapter B-1)

Building Act (R.S.Q., chapter B-1.1)

Railway Act (R.S.Q., chapter C-14)

Code of Civil Procedure (R.S.Q., chapter C-25)

(Cont'd on next page)

Acts amended (Cont'd):

Companies Act (R.S.Q., chapter C-38)
Cooperatives Act (R.S.Q., chapter C-67.2)
Insurance Brokers Act (R.S.Q., chapter C-74)
Deposit Act (R.S.Q., chapter D-5)
Mining Duties Act (R.S.Q., chapter D-15)
Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2)
Act respecting fabriques (R.S.Q., chapter F-1)
Taxation Act (R.S.Q., chapter I-3)
Act respecting the Montréal Museum of Fine Arts (R.S.Q., chapter M-42)
Notarial Act (R.S.Q., chapter N-2)
Pharmacy Act (R.S.Q., chapter P-10)
Mental Patients Protection Act (R.S.Q., chapter P-41)
Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1)
Act respecting health services and social services (R.S.Q., chapter S-5)
Auditor General Act (R.S.Q., chapter V-5.01)
Act respecting trust companies and savings companies (1987, chapter 95)
Savings and Credit Unions Act (1988, chapter 64)

Act replaced:

Public Curatorship Act (R.S.Q., chapter C-80)



CHAPTER 54

An Act respecting the Public Curator and amending the Civil Code and other legislative provisions

[Assented to 22 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

PART I

PUBLIC CURATOR ACT

CHAPTER I

ADMINISTRATIVE ORGANIZATION

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|------------------|---|
| Public Curator | 1. The Government shall appoint a person to act as Public Curator. |
| Term of office | 2. The term of office of the Public Curator is five years; he remains in office at the expiry of his term until he is reappointed or replaced. |
| Resignation | 3. The Public Curator may resign at any time by giving written notice to the Minister of Justice. |
| Dismissal | The Public Curator cannot be dismissed except for cause. |
| Remuneration | 4. The Government shall fix the remuneration, social benefits and the other conditions of employment of the Public Curator. |
| Exclusive duties | 5. The Public Curator shall attend exclusively to his duties of office and shall hold no other office, responsibilities or employment without the authorization of the Government. |

Oath **6.** The Public Curator shall, before taking office, make an oath or solemn affirmation as follows:

Oath “I, (...) swear (*or solemnly declare*) that I will faithfully and honestly perform every duty and exercise every power assigned to or conferred upon the Public Curator, to the best of my capacity and knowledge. I also swear (*or solemnly declare*) that I will not reveal or disclose, unless expressly authorized, anything that may come to my knowledge by reason of my office.”

Oath The Public Curator shall carry out this requirement before the chief judge of the Court of Québec, and the writing verifying the oath or solemn affirmation shall be transmitted to the Minister of Justice.

Replacement and delegation **7.** The Public Curator shall designate one or several persons from among the members of his personnel to replace him in his absence. He may also delegate part of his powers to them so that they may assist him with his duties.

Written designation Both such designation and such delegation must be in writing. The instruments of designation and delegation must be published in the *Gazette officielle du Québec* but take effect upon being signed by the Public Curator.

Designation by Government **8.** Where the office of Public Curator is vacant or the Public Curator is unable to act, the Government shall designate a person to carry on the duties of Public Curator for the time being.

Salary The Government shall, where required, fix the salary, additional salary, fees and allowances of the person designated.

Personnel **9.** The members of the personnel of the Public Curator shall be appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Powers of Public Curator The Public Curator has in respect of his personnel the powers of chief executive officer of an agency within the meaning of the Public Service Act.

Restrictions **10.** The members of the personnel of the Public Curator are subject to the same legal restrictions as apply to the Public Curator regarding property subject to his administration.

Written authorization **11.** The Public Curator may, in writing and to the extent he indicates, authorize a natural or legal person, other than a member of his personnel, to carry out any duties necessary or useful for the administration of this Act.

Signature The authorization must be signed by the Public Curator or, on his behalf, by a person authorized by him therefor; the authorization may be revoked in the same manner at any time.

CHAPTER II

POWERS

DIVISION I

GENERAL PROVISIONS

Powers **12.** The Public Curator has the powers conferred on him by the Civil Code, this Act or any other Act.

Responsibilities The Public Curator is responsible, in particular, for

(1) supervision of the administration of tutorships and curatorships to minors and to persons of full age, and of curatorships to property of absentees;

(2) tutorships, curatorships or other duties related to the administration of the property of others, where such duties are assigned to him by a court;

(3) tutorship to property of minors and tutorship or curatorship to persons of full age under protective supervision who are not already provided with a tutor or a curator.

DIVISION II

INTERVENTIONS PERTAINING TO PROTECTIVE SUPERVISION

Intervention **13.** The Public Curator may intervene in any proceedings pertaining

(1) to the institution of protective supervision of a person of full age,

(2) to the homologation or revocation of a mandate given by any person in the event of his disability,

(3) to the physical integrity of a person of full age unable to give consent who is not already provided with a tutor, curator or mandatary,

(4) to the replacement of the tutor or curator of a minor or of a person of full age who is under protection or of the curator to property of an absentee.

Report of
disability

14. The Public Curator, upon receiving a report from the director general of a health or social services establishment setting forth the inability of a person of full age to care for himself or to administer his property, may take, within a reasonable time, any appropriate measure including the calling of a meeting of relatives, relatives by marriage or friends of the person of full age, in order to establish his condition, the nature and extent of his needs and faculties and his other circumstances. The Public Curator, where he believes it expedient to institute protective supervision, may transmit his recommendation to the prothonotary with a statement of the measures he has taken, and propose a person able to assist or represent the person of full age and who consents to do so. He shall then file the report of disability in the office of the court and notify the persons qualified to apply for the institution of protective supervision that the report has been filed.

Report of
disability

The Public Curator shall proceed in the same manner upon receiving a report from the director of professional services of a hospital centre under section 10 of the Mental Patients Protection Act (R.S.Q., chapter P-41).

DIVISION III

REPRESENTATION AND DELEGATION

Tutorship
or cura-
torship

15. In exercising a tutorship or curatorship, the Public Curator shall seek a tutor or a curator to replace him and, where applicable, may assist a person in obtaining appointment as such.

Measures

The Public Curator may take any necessary or useful measure in seeking a tutor or curator and, in particular, call a meeting of relatives, relatives by marriage or friends of the disabled person.

Delegation
of certain
duties

16. In acting as tutor or curator to a person of full age under protective supervision, the Public Curator may, to the extent he indicates, delegate the performance of certain duties of the tutorship or curatorship to a person he designates, provided that the designated person is not employed by the health or social services establishment in which the person of full age is receiving treatment and has no duties therewith. The Public Curator may, however, where the circumstances so justify, disregard such restriction if the employee of the establishment is the spouse or a close relative of the person of full age.

Consent
to care

17. The person to whom the performance of certain duties of tutorship or curatorship to a person of full age is delegated may, with

the authorization of the Public Curator, consent to the care required by the state of health of the person of full age, except the care which the Public Curator indicates he will provide.

Personal relationship That person shall, so far as possible, maintain a personal relationship with the person of full age, obtain his advice, where applicable, and keep him informed of the decisions taken in his regard.

Temporary curator **18.** To the extent that article 327 of the Civil Code of Lower Canada is not applicable to a person who is in Québec without being domiciled there, the court may designate the Public Curator to act temporarily as curator, tutor or adviser until the person is taken in charge in accordance with the laws of his domicile.

Person no longer residing in Québec **19.** Where a person who is represented by the Public Curator or whose property is administered by the Public Curator no longer ordinarily resides in Québec, the Public Curator may apply to the court to be relieved of the office of tutor or curator.

Representation The court shall grant the application only where the Public Curator proves that the person concerned is legally represented in accordance with the laws of his usual place of residence.

DIVISION IV

SUPERVISION

Information to tutors or curators **20.** The Public Curator, in exercising his powers of supervision over the administration of tutorships and curatorships, shall inform any tutor or curator who so requires of the manner of fulfilling his obligations.

Inventory and report Tutors and curators shall transmit to the Public Curator, within six months of the institution of tutorship or curatorship, a copy of the inventory of the property entrusted to their administration, made in accordance with Title VII of Book IV of the Civil Code of Québec respecting the administration of the property of others; they shall also transmit an annual report of their administration, a copy of the periodic report on the assessment of disability of the person of full age at the end of each year in which it must be made, and a copy of their rendering of accounts.

Books and accounts **21.** The Public Curator may require that the books and accounts relating to property administered by a tutor or curator be examined by an accountant if the value of the administered property exceeds \$100 000, or if there is a serious ground to believe that the person

represented may suffer damage by reason of the administration of the tutor or curator.

Replacement
of tutor
or curator

22. The Public Curator may apply for the replacement of a tutor or curator on the grounds set out in the Civil Code or where the annual account of the tutor or curator or an inquiry held by the Public Curator gives serious reason to believe that the person represented may suffer damage by reason of the failure of the tutor or curator to perform his duties, or of his performing them improperly. He may also apply for the revocation of any mandate for the eventuality of the inability of the mandator if the mandate is not faithfully carried out, or for any other serious cause.

Protection
during
proceedings

Where the court so orders, the Public Curator shall, during proceedings, exercise tutorship or curatorship or, where revocation of the mandate is applied for, ensure the protection of the disabled person or the administration of his property.

Voluntary
undertaking

23. The Public Curator, instead of applying for the replacement of a tutor or curator or the revocation of a mandate, may accept, according to the terms and conditions he indicates, any voluntary undertaking by the representative or mandatary to remedy his default, if any, and, to fulfil thenceforth, the obligations inherent in his office which he has failed to perform or has performed improperly.

DIVISION V

PROVISIONAL ADMINISTRATION OF PROPERTY

Provisional
administra-
tion

24. The Public Curator shall assume provisional administration of the following property:

(1) the property of an absentee until the institution of curatorship unless the court designates another administrator;

(2) the 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) property situated in Québec whose owners, assigns or heirs or successors are unknown or untraceable, or which such persons have renounced;

(4) sums of money intended to pay interest and to repay bonds or other evidences of indebtedness except those issued, secured or assumed by the Government or secured by the transfer of an undertaking of the Government, when those sums of money are not claimed within three years following their maturity;

(5) the proceeds of an insurance policy on the life of a person the beneficiary of which is unknown or untraceable;

(6) the property abandoned by a dissolved legal person, until a curator or a liquidator is appointed or until the Public Curator personally acts in that capacity;

(7) property entrusted to an administrator of the property of others and abandoned by him until another administrator is appointed;

(8) property without an owner and property that devolves to the state by failure of heirs or by final forfeiture.

Unclaimed
effects

Effects deposited in the offices of the courts of criminal jurisdiction which are not claimed within one year of the final judgment or of the discontinuance of the proceedings are deemed property without an owner.

Property
devolving
to the
state

Property described in subparagraphs 2 to 6 devolves to the state ten years after the beginning of the provisional administration of the Public Curator or, where the owners or heirs have renounced it, upon their renunciation.

Simple
administra-
tion

25. The Public Curator has the simple administration of the property of which he is provisional administrator without being required to keep it in kind unless otherwise provided by law.

Unclaimed
moneys

26. Every holder of moneys intended to pay interest and to repay bonds or other evidences of indebtedness which have not been claimed within three years from maturity must immediately make a declaration to that effect to the Public Curator and, at the same time, remit to him the moneys he holds.

Unclaimed
insurance
proceeds

The same rule applies to every insurer who has issued an insurance policy on the life of a person of which the beneficiary is unknown or untraceable, and to every person in possession of such a policy, as regards the proceeds of the policy held by them.

DIVISION VI

INQUIRY

Inquiry

27. The Public Curator may, of his own initiative or on request, hold an inquiry relating to the persons he represents, the property he administers or that should be entrusted to his administration and, generally, to any person under protective supervision; he may, in the

same manner, hold an inquiry relating to any person who is unable whose care or the administration of whose property have been entrusted to a mandatary.

Powers and
immunity

The Public Curator and any person authorized by him to hold an inquiry have the powers and immunity conferred on commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Consultation
of record

28. Notwithstanding section 7 of the Act respecting health services and social services (R.S.Q., chapter S-5), the Public Curator or any person authorized by him may, at any reasonable time or at any time in case of urgency, enter a health services or social services establishment to consult, on the premises, the record of the case of a person who is unable or a protected person and make copies of the record. The person authorized by the Public Curator shall, on request, identify himself and produce a certificate of his authorization.

Copy of
record

The establishment shall send a copy of the record to the Public Curator on request.

CHAPTER III

ADMINISTRATION

DIVISION I

GENERAL RULES GOVERNING ADMINISTRATION

Inventory

29. Upon being entrusted with the administration of property, the Public Curator, as the administrator of the property of others, shall make an inventory in accordance with Title VII of Book IV of the Civil Code of Québec respecting the administration of the property of others.

Witnesses

The inventory shall be made in a private writing; one of the witnesses shall, where possible, be a member of the family, a relative or a person connected with the owner of the property.

Acceptance
of legacy

Any acceptance of a legacy or succession made by the Public Curator on behalf of a person whose property he administers is deemed to be made under benefit of inventory.

Simple
administra-
tion

30. The Public Curator has the simple administration of the property entrusted to him unless the law provides otherwise.

Registration
of notice

31. The Public Curator must register against every immovable entrusted to his administration a notice stating his capacity of administrator. The registrar is bound to inform the Public Curator of every subsequent registration.

Cancellation
of notice

The cancellation of such notice shall be made upon registration of a certificate of the Public Curator attesting that he has terminated his administration of such immovable.

Notice of
quality

32. When the Public Curator acts as provisional administrator of property, except property referred to in subparagraph 8 of the first paragraph of section 24, he shall promptly make known his quality, by notice published once in the *Gazette officielle du Québec* and in a French language newspaper and an English language newspaper circulated in the locality where the property was situated at the time he became the administrator thereof.

Separation
of property

33. The property of which the administration is entrusted to the Public Curator must not be commingled with that of the state.

DIVISION II

SPECIAL RULES GOVERNING ADMINISTRATION

Consent of
person
represented

34. Where the rules of administration of the property of others provide that the person represented shall or may give his consent to an act, obtain advice or be consulted, the subrogate-tutor or the subrogate-curator, as the case may be, shall act on behalf of the minor or the person of full age under tutorship or curatorship represented by the Public Curator; otherwise, the person having parental authority or the spouse or, where both persons fail or are unable to act, a close relative or any person showing a special interest in the person represented shall act on his behalf. In any other case, the authorization of the court shall be required.

Review of
decision

The Public Curator may apply to the court for a review of the decision made by the person authorized to decide on behalf of the minor or the person of full age under tutorship or curatorship within ten days from the day on which the Public Curator is notified of the decision.

Borrowing
power

35. The Public Curator may borrow, without authorization of the court, on the security of the property included in the patrimony he administers, the sums necessary to maintain an immovable in good repair and to discharge the encumbrances affecting it.

Partition **36.** The Public Curator may, without authorization of the court, demand partition, take part therein or transact if the value of the concessions made by him, if any, does not exceed \$5 000.

Sale **37.** In the case of the sale by the Public Curator of property referred to in section 24 of this Act, authorization of the court is not required unless the value of the property exceeds \$25 000.

Valuation
of immov-
ables To determine the value of an immovable for the purposes of this section, the value entered on the assessment roll of the municipality is multiplied by the factor established for that roll by the Minister of Municipal Affairs under the Act respecting municipal taxation (R.S.Q., chapter F-2.1).

Provisions
not applic-
able **38.** For the performance of the acts described in sections 35 to 37 of this Act, the Public Curator is not required to comply with the formalities prescribed in articles 1342 and 1344 of the Civil Code of Québec or in section 34 of this Act.

Authoriza-
tions of
the court Authorizations of the court provided for in this division shall be obtained in accordance with the rules prescribed in the Code of Civil Procedure in respect of non-contentious matters.

Summary
account of
administra-
tion **39.** During his administration, the Public Curator must, once each year, at the request of a minor or a person of full age who is represented, a close relative, a person showing a special interest in the minor or person of full age or a subrogate-tutor or subrogate-curator, as the case may be, render a summary account of his administration.

Security In no case shall the Public Curator be required to provide security.

DIVISION III

END OF ADMINISTRATION

End of
administra-
tion **40.** The administration of the Public Curator shall cease by operation of law when

(1) he is notified that tutorship, curatorship or the liquidation ceases or a judgment orders the appointment of another tutor, curator or liquidator;

(2) an absentee returns, a curator is appointed to his property or a judgment declares him dead;

(3) an heir, an unknown or untraceable owner or the holder of any evidence of indebtedness referred to in subparagraph 4 of the first paragraph of section 24 appears or, if not, ten years after the beginning of his administration;

(4) the beneficiary of the proceeds of a life insurance policy appears or, if not, ten years after the curator has taken possession of the proceeds of the insurance policy;

(5) the property devolved to the state under section 24 is entrusted to the Minister of Finance.

Proof The person who appears shall establish his quality.

Account **41.** The Public Curator shall account for his administration when it terminates.

Death of
person
represented **42.** The Public Curator shall continue his administration after the death of the person he represents or whose property he administers until he is notified, by registered or certified mail, that the testamentary executor accepts his duties or, failing a testamentary executor, the heirs accept the succession. Failing notification of such acceptance within ten years from the opening of the succession, the succession devolves on the State.

Interment
or cremation The Public Curator shall, where required, take any measures necessary for the interment or cremation of the body of the deceased person, at the expense of the succession and with respect for the religious principles of the deceased person.

DIVISION IV

ADMINISTERED PATRIMONY

Separate
administra-
tion **43.** The Public Curator shall maintain a separate administration and accounting in respect of each patrimony of which he has the administration. He shall be liable for the debts relating to any patrimony he administers only to the extent of the value of the property of the patrimony.

Single
portfolio **44.** The Public Curator may constitute a single portfolio from the available moneys of the property he administers.

Investments
to bearer For the purposes of a joint administration, the Public Curator may make investments to bearer, provided they are presumed sound investments contemplated in article 1380 of the Civil Code of Québec.

- Revenues** **45.** At least twice a year, the Public Curator shall credit the account of each person whose property he administers with the revenues of the joint portfolio according to the value of the interest of the account, subject to section 56.
- Committee** **46.** The Government shall appoint a committee to advise the Public Curator on investment of the property under his joint administration.
- Term of office** **47.** The members of the committee are appointed for a term of not over three years. At the expiry of their term, they remain in office until they are reappointed or replaced.
- Reimbursement of expenses** **48.** The members of the committee receive no remuneration except in the cases, on the conditions and to the extent determined by the Government. However, they are entitled to reimbursement of expenses incurred in the discharge of their duties, on the conditions and to the extent determined by the Government.
- Report** **49.** The Public Curator must make a report of his investment portfolio to the committee at least four times a year.

CHAPTER IV

RECORDS AND REGISTERS

- Record** **50.** The Public Curator shall keep a record in respect of each person he represents or whose property he administers.
- Confidentiality** **51.** The record of a person represented by the Public Curator or whose property is administered by him shall be confidential.
- Access to record** **52.** No person may acquaint himself with any record kept by the Public Curator in respect of a person represented by him or whose property he administers, or receive written or oral communication thereof or otherwise have access thereto except
- (1) the personnel of the Public Curator in the performance of their duties;
 - (2) the person the Public Curator represents or has represented and the person whose property he administers or their assigns or heirs;
 - (3) the person having parental authority in respect of the person represented by the Public Curator, with the authorization of the Public Curator;

(4) the spouse, close relative, relative by marriage, any other person who has shown special interest in the person of full age or the person delegated by the Public Curator, with the authorization of the Public Curator;

(5) the Public Protector.

Exception

Notwithstanding the foregoing, at the request of any interested person, the Public Curator may certify that a person is a minor or under protected supervision, and indicate the name of the tutor or curator.

Medical
or social
information

53. The Public Curator may refuse, for the moment, to release to a person he represents nominative information of a medical or social nature concerning him or contained in his file where, in the opinion of the attending physician, serious damage to his health would likely result therefrom. The Public Curator, on the recommendation of the attending physician, shall determine when it will be possible to release the information and notify the person who applied therefor.

Registers

54. The Public Curator shall keep a register of tutorships to minors, a register of tutorships and curatorships to persons of full age, a register of homologated mandates for the eventuality of the inability of the mandator and a register of property under provisional administration other than that provided for in subparagraph 8 of the first paragraph of section 24.

Contents

The registers shall contain only the information prescribed by regulation. Such information is public.

CHAPTER V

FINANCING

Fees and
expenses

55. The Public Curator may require payment of the fees prescribed by regulation and the reimbursement of his expenses for the representation of persons, the administration of property entrusted to him and the supervision of tutorships and curatorships.

Fees for
management
of joint
portfolio

56. The Public Curator may collect fees for the management of a joint portfolio from the total revenues of the portfolio. The amount of the fees shall be established according to a percentage, fixed by regulation, of the average assets under his administration. The average assets consist of one-half of the sum of the assets at the beginning and at the end of the reference period fixed by regulation.

- Interest** **57.** The Public Curator may charge interest at the rate determined by regulation on any amount advanced and any fees charged to the account of a patrimony he administers.
- General fund** **58.** The fees, interest and other sums referred to in sections 55 to 57 shall be paid into the general fund of the Public Curator.
- Reserve fund** Expenditures made for the purposes of this Act shall be charged to the general fund and the excess of income over expenditures for a fiscal period shall be paid into the reserve fund of the Public Curator.
- State-owned property** **59.** Property owned by the state and under the administration of the Public Curator, except revenues derived therefrom after the property devolves to the state under section 24, must be remitted to the Minister of Finance within the time prescribed by regulation.
- Revenues** Revenues derived between devolution of the property to the state and remittance of the property to the Minister shall be paid into the reserve fund of the Public Curator.
- Reserve fund** **60.** The Government shall determine, each year, on the recommendation of the Minister of Justice and the Minister of Finance, the amounts paid into the reserve fund under sections 58 and 59 that, in particular, are remitted to the consolidated revenue fund or applied to the operating deficit of the Public Curator, where such is the case.
- Advance payment** **61.** The Minister of Finance may, with the authorization of the Government and on the terms and conditions it may determine, advance the sums taken from the consolidated revenue fund to the Public Curator.
- Repayment of advance** Any money advanced by the Minister of Finance may be repaid out of the fund designated by the Government.
- Financing of activities** **62.** The Public Curator shall finance his activities from the revenues he collects in accordance with sections 56 to 58 and from the sums taken from the reserve fund that are determined by the Government on the recommendation of the Minister of Justice and the Minister of Finance.
- Fiscal period** **63.** The fiscal period of the Public Curator ends on 31 December every year.
- Budget estimates** **64.** On the date fixed by the Minister of Justice, the Public Curator shall transmit to him his budget estimates for the next fiscal period.

Government
approval

The budget estimates are subject to approval by the Government.

Applicable
regulations

65. Subject to the adaptations prescribed by regulation, the regulations made under section 49 of the Financial Administration Act (R.S.Q., chapter A-6) and section 7 of the Act respecting the Ministère des Approvisionnements et Services (R.S.Q., chapter M-23.01) apply to every contract that may be charged to the budget of the Public Curator.

CHAPTER VI

BOOKS, ACCOUNTS AND REPORTS

Annual
audit

66. The books and accounts of the Public Curator shall be audited each year by the Auditor General and also whenever so ordered by the Government; the Government may, however, appoint another auditor to audit such books and accounts of the Public Curator as relate to the property administered by him.

Reports

The report of the Auditor General and the report of the auditor appointed by the Government shall accompany the annual report of the Public Curator.

Fees

The fees of any auditor appointed by the Government shall be paid out of the revenues of the Public Curator.

Annual
report

67. The Public Curator must, not later than 30 June each year, make a report to the Minister of Justice of his administration for his preceding fiscal period.

Tabling

The Minister shall lay such report before the National Assembly within thirty days of receiving it if it is in session, or if not, within ten days of the opening of the next session.

CHAPTER VII

REGULATIONS

Regulations

68. The Government may, by regulation

(1) establish norms relating to the remuneration to which persons whose services have been retained by the Public Curator under section 11, other than members of his personnel, are entitled;

(2) determine the information to be provided to the Public Curator by the director general of a health and social services establishment or the director of professional services pursuant to section 14;

(3) determine the form and content of the reports transmitted by tutors and curators;

(4) determine the information the Public Curator may require to establish those cases in which he becomes provisional administrator under section 24 or under article 686 of the Civil Code of Lower Canada;

(5) determine the form and content of the account that must be rendered by the Public Curator pursuant to section 41;

(6) determine the information to be entered in the registers;

(7) fix the tariff of fees which the Public Curator may charge for the representation of persons, for the administration of the property entrusted to him or for his supervision of tutorships and curatorships;

(8) fix the percentage to be used to determine the amount of the fees prescribed under section 56 and the reference period for establishing the average assets under the administration of the Public Curator;

(9) determine the rates of interest to be charged for amounts of money advanced and fees charged by the Public Curator;

(10) determine the time from which the property devolved to the state shall be remitted to the Minister of Finance;

(11) prescribe the adaptations to the regulations made under section 49 of the Financial Administration Act and section 7 of the Act respecting the Ministère des Approvisionnements et Services;

(12) determine the main place where the Public Curator shall perform his duties.

CHAPTER VIII

PENAL PROVISIONS

Offence
and
penalty

69. Every person who contravenes any provision of section 26 is guilty of an offence and liable to a fine of not over \$5 000 and, for a second or subsequent conviction, to a fine of not over \$15 000.

Offence
and
penalty

70. Any tutor or curator who contravenes the second paragraph of section 20 or who neglects or refuses to have his books and accounts audited where required in accordance with section 21 is guilty of an offence and liable to a fine of not over \$1 000 and, for a second or subsequent conviction, to a fine of not over \$2 500.

Proceedings

71. Penal proceedings may be instituted by the Attorney General or a person generally or specially authorized by him, in writing, for that purpose.

CHAPTER IX

MISCELLANEOUS PROVISIONS

Appearance
before court

72. The Public Curator may appear before the courts.

Representa-
tion

He may, for the purposes of Book VIII of the Code of Civil Procedure (R.S.Q., chapter C-25) and of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), whether as plaintiff or defendant, appear before the court himself or be represented before it by a member of his staff or by any other person he authorizes in writing. In the case of the recovery of small claims, he shall not be represented by a lawyer or a claims agent, except where permitted by the Code of Civil Procedure.

Service
of court
proceedings

73. Every service of court proceedings on the Public Curator shall be made at the main place in which he performs his duties.

Copy of
judgment

The clerk of the court shall transmit to the Public Curator, without delay and free of charge, a copy of any judgment relating to the patrimonial interests of a minor or person of full age under tutorship or curatorship, and of any transaction made within the scope of proceedings to which the tutor or curator is a party in such quality.

Suspension
of proceed-
ings

74. The judge shall, upon motion by the Public Curator, suspend for a period not exceeding thirty days, any judicial proceedings taken against the Public Curator or any person represented by him or whose property he administers, or relating to property administered by the Public Curator under section 24, to prepare the defence.

Signature

75. Every document signed by the Public Curator shall be *prima facie* evidence of its contents, without it being necessary to prove his signature and authority.

Sworn
declarations

When written declarations are to be sworn to by the Public Curator, they may be sworn to under his oath of office.

Agreements
with
governments

76. The Public Curator may, according to law, enter into agreements with any government other than that of Québec, or with any agency or body of such a government, with a view to the carrying out of this Act.

Minister
responsible

77. The Minister of Justice shall be responsible for the administration of this Act.

PART II

AMENDMENTS TO THE CIVIL CODE

C.C.,
aa. 19.1-
19.4, added

78. The Civil Code of Lower Canada is amended by inserting, after article 19, the following articles:

“19.1 No person may be made to undergo care of any nature, whether for examination, specimen taking, removal of tissue, treatment or any other act, except with his consent.

Where the person concerned is unable to consent to or refuse care, a person authorized by law or by mandate shall replace him.

“19.2 Where the inability of a person of full age to consent to care required by his state of health is ascertained, consent is given by the mandatary he designated when he was able to do so, or by his tutor or curator. If he is not so represented, consent is given by his spouse or, if he has no spouse or his spouse is prevented from giving it, by a close relative or by a person who shows a special interest in the person of full age.

“19.3 A person who consents to or refuses care for another person is bound to act in the sole interest of that person taking into account, so far as possible, any wishes expressed by that person.

If he consents to care, he must ensure that the care is beneficial despite its effects, that it is advisable in the circumstances and that the risks assumed are not disproportionate to the anticipated benefit.

“19.4 The authorization of the court is required where the person entitled to consent to care for a minor or a person of full age unable to give his consent is prevented or refuses without justification; such authorization is also required where a person of full age unable to give his consent refuses categorically to receive care, but it is not required in case of emergency or of hygienic care.”

C.C.,
a. 83, am.

79. Article 83 of the said Code is amended by replacing the fourth paragraph by the following paragraph:

“A person of full age under tutorship or curatorship is domiciled with his tutor or curator.”

C.C.,
aa. 251-253,
replaced

80. Articles 251 to 253 of the said Code are replaced by the following article:

“251. The persons to be called to a family council are the father and mother of the minor, his other ascendants and his brothers and sisters of full age.

The other relatives, relatives by marriage and the friends of the minor may be called to the council provided they are of full age.

Not fewer than five persons shall attend the family council and, as far as possible, the paternal and maternal lines shall be represented.”

C.C.,
a. 266.1,
added

31. The said Code is amended by inserting, after article 266, the following article:

“266.1 The tutor, except the director of youth protection or the person he recommends as tutor, may receive, where circumstances so justify, such remuneration as may be fixed by the court, taking into account the expenses of the tutorship and revenue from the property to be administered.”

C.C.,
a. 282, am.

32. Article 282 of the said Code is amended by replacing paragraph 2 by the following paragraph:

“2. Persons of full age under tutorship or curatorship.”

C.C.,
a. 296a,
replaced

33. Article 296a of the said Code is replaced by the following article:

“296a. The tutor may deposit the sums of money belonging to the minor with a bank, a savings bank, a trust company, a société d’entraide économique or a savings and credit union if the deposit is repayable upon demand or upon notice of not more than thirty days.

The tutor may also deposit such sums of money for a longer term if repayment is fully guaranteed by the Régie de l’assurance-dépôts du Québec. Failing that, he may do so only with the authorization of the court, on the conditions fixed by the court and upon the advice of the family council.”

C.C.,
heading,
replaced

34. The heading of Title Tenth of Book First of the Civil Code is replaced by the following heading:

“OF MAJORITY AND PROTECTIVE SUPERVISION”.

C.C.,
aa. 325-336s,
replaced

35. The said Code is amended by replacing Chapter Second of Title Tenth of Book First, consisting of articles 325 to 336s, by the following:

“CHAPTER SECOND

“PROTECTIVE SUPERVISION OF PERSONS OF FULL AGE

“SECTION I

“GENERAL PROVISIONS

“325. Protective supervision of a person of full age is established in his interest and is intended to ensure the protection of his person, the administration of his patrimony and, generally, the exercise of his civil rights.

Any incapacity resulting from protective supervision is established solely in favour of the person under protection.

“326. Every decision relating to the institution of protective supervision or concerning a person of full age who is under protection must be in his interest, respect his rights and safeguard his autonomy.

The person of full age shall, so far as possible and without delay, be informed of the decision.

“327. A tutor or curator shall be appointed to represent, or an adviser to assist, a person of full age who is unable to care for himself or to administer his property by reason of, particularly, illness, deficiency or debility due to age which impairs his mental faculties or his physical ability to express his will.

A tutor or an adviser may also be appointed to a prodigal who endangers the well-being of his spouse or minor children.

“328. In selecting the form of protective supervision, consideration is given to the degree of the person’s inability to care for himself or to administer his property.

As the case may be, a curator, a tutor to the person and to property, a tutor to the person or to property or an adviser to assist him is appointed to the person.

“329. The curator or the tutor to a protected person of full age is responsible for his custody and maintenance; he is also responsible for ensuring the moral and physical well-being of the protected person, taking into account his condition, needs, faculties and other circumstances.

He may delegate the exercise of the custody and maintenance of the protected person of full age but, so far as possible, he and the

delegated person shall maintain a personal relationship with the protected person, obtain his advice where necessary, and keep him informed of the decisions made in his regard.

“330. The Public Curator exercises curatorship or tutorship to a person of full age under protective supervision if he is appointed by the court to perform that duty or if the person of full age is no longer provided with a curator or tutor.

“331. The Public Curator has the simple administration of the property of a protected person of full age even when acting as curator.

“331.1 The Public Curator does not have custody of the protected person of full age to whom he is appointed tutor or curator unless, where no other person can assume it, the court entrusts it to him.

He remains nevertheless responsible for protection of the person where the latter is entrusted to the custody of another person. The other person, however, shall exercise the power of a tutor or curator to give consent to the care required by the state of health of the person of full age, except the care which the Public Curator indicates he will provide.

“331.2 The Public Curator acting as tutor or curator to a person of full age under protective supervision may delegate the exercise of certain functions related to tutorship or curatorship to a person he designates after ascertaining, where the person of full age is receiving care or services from a health or social services establishment, that the designated person is not employed by the establishment and has no duties therewith. He may, however, where circumstances so justify, disregard such restriction if the employee of the establishment is the spouse or a close relative of the person of full age. He may authorize the designated person to give consent to the care required by the state of health of the person of full age, except the care which the Public Curator indicates he will provide.

“331.3 At least once a year, the designated person shall render account of the exercise of the delegation to the Public Curator. The Public Curator may revoke the delegation in the case of a conflict of interest between the designated person and the person of full age or for any other serious reason.

“331.4 The rules pertaining to tutorship to minors apply, adapted as required, to tutorship and curatorship to persons of full age.

For the purposes of the first paragraph, the descendants of the person of full age, if any, must, in addition to the persons to be called to a family council pursuant to article 251, be called to such council.

“SECTION II

“INSTITUTION OF PROTECTIVE SUPERVISION

“332. The institution of protective supervision of a person of full age is awarded by the court.

The court is not bound by the application and may decide on a form of protective supervision other than the form contemplated in the application.

“332.1 The person of full age himself, his spouse, his close relatives and relatives by marriage, any person showing a special interest in the person or any other interested person, including the mandatory designated by the person of full age or the Public Curator, may apply for the institution of protective supervision.

“332.2 Where a person of full age receiving care or services from a health or social services establishment requires to be assisted or represented in the exercise of his civil rights by reason of his isolation, the predictable duration of his inability, the nature or state of his affairs or because no mandatory designated by him gives him adequate assistance or representation, the director general of the health or social services establishment shall report that fact to the Public Curator and transmit a copy of his report to the person of full age.

The report must contain, in particular, the medical and psychosocial assessment prepared by the person who examined the person of full age; it shall deal with the nature and degree of the inability of the person of full age, the extent of his needs and the other circumstances of his situation and with the advisability of instituting protective supervision for him. It shall also set out the names of the persons who are qualified to apply for the institution of protective supervision, if such names are known.

“332.3 Upon transmitting the report to the Public Curator, the director general of the establishment shall inform a close relative of the person of full age.

“332.4 The institution of protective supervision of a person of full age may be applied for in the year preceding his attaining full age.

The judgment takes effect on the day the person attains full age.

“332.5 During proceedings, the court may, even of its own initiative, decide on the custody of the person of full age if it is clear that he is unable to care for himself and that custody is required to save him from serious damage.

“332.6 An act under which a person of full age has entrusted a third person to care for himself or to administer his property continues to produce its effects notwithstanding the proceedings unless it is revoked by the court for serious reason.

If no mandate has been given by the person of full age or by the court under article 476 of the Civil Code of Québec, the rules provided in respect of the management of the business of another are observed and the Public Curator and any other person who is qualified to apply for the institution of protective supervision may, in an emergency or even before proceedings if an application for the institution of protective supervision is about to be made, perform the acts required to preserve the patrimony.

“332.7 In cases where there is no mandate or management of the business of another or even before proceedings if an application for the institution of protective supervision is about to be made, the court may, if it is necessary to act in order to prevent serious damage, provisionally designate the Public Curator or another person either to perform a specific act or to administer the property of the person of full age within the limits of simple administration.

“332.8 In the course of the proceedings and thereafter, if the form of protective supervision is a tutorship, the dwelling of the protected person of full age and the furniture in it shall be kept at his disposal. The power to administer, in respect of that property, allows only for conventions of precarious enjoyment, which cease to have effect by operation of law upon the return of the protected person of full age.

Should it be necessary or in the best interest of the protected person of full age that his furniture or his rights in respect of a dwelling be disposed of, the act shall be authorized by the subrogated tutor or, failing that, two close relatives of the person of full age. Even in such a case, except for a compelling reason, souvenirs and other personal effects shall not be disposed of and shall, if possible, be kept at the disposal of the person of full age by the health or social services establishment.

“332.9 Where the court is called upon to establish protective supervision, it shall take into consideration, in addition to the advice

of the persons who are likely to be called to form the family council, the medical and psychosocial evidence, the will of the person of full age expressed in a mandate given by him for the eventuality of his inability but which is not homologated, and the degree of autonomy of the person in whose respect the institution of protective supervision is applied for.

The court shall give to the person of full age an opportunity to be heard, personally or through a representative where required by the state of his health, on the merits of the application and, as the case may be, on the form of protective supervision and as to the person who will represent or assist him.

“332.10 Any judgment establishing protective supervision may be reviewed at any time.

“332.11 Unless the court fixes an earlier date, the judgment shall be reviewed after three years in the case of a tutorship or the appointment of an adviser or after five years in the case of a curatorship.

The curator, tutor or adviser to the person of full age is bound to see to it that the person of full age be submitted to a medical and psychosocial assessment in due time. Where the person making the assessment ascertains that the situation of the person of full age has so changed as to justify the termination or modification of protective supervision, he shall make a report to the person of full age and to the person having applied for the assessment and file a copy of the report in the office of the court, and the court shall then review the judgment.

“332.12 The director general of the health or social services establishment where a protected person of full age is receiving care or services shall, if the inability that justified protective supervision ceases, attest that fact in a report filed in the office of the court. The report shall include the medical and psychosocial assessment.

The prothonotary shall notify the persons qualified to intervene in the application for the institution of protective supervision that the report has been filed. If no objection is made within thirty days, protective supervision is terminated without any other formality. An attestation of the termination shall be drawn up by the prothonotary and transmitted without delay to the person of full age himself and to the Public Curator.

“SECTION III

“CURATORSHIP TO PERSONS OF FULL AGE

“333. The court shall institute curatorship to a person of full age if it is established that the inability of the person of full age to care for himself or to administer his property is total and permanent and that he requires to be represented in the exercise of his civil rights.

The court shall then appoint a curator.

“333.1 The curator has the full administration of the property of the protected person of full age, except that he is bound, as the administrator entrusted with simple administration of the property of others, to make only investments that are presumed to be sound. The only rules which apply to his administration are the rules of administration of the property of others.

“333.2 Every act performed alone by a person of full age under curatorship may be annulled or the obligations resulting from it reduced without it being necessary to prove lesion.

“333.3 Acts performed before the curatorship may be annulled or the obligations resulting from them reduced on the mere proof that the inability was notorious or known to the other party at the time the acts were performed.

“SECTION IV

“TUTORSHIP TO PERSONS OF FULL AGE

“334. The court shall institute tutorship to a person of full age if it is established that the inability of the person of full age to care for himself or to administer his property is partial or temporary and that he requires to be represented in the exercise of his civil rights.

The court shall then appoint a tutor.

“334.1 The tutor has the simple administration of the property of the person of full age unable to administer his property. He exercises his administration in the same manner as the tutor to a minor, unless the court decides otherwise.

In the case of incompatibility between the rules pertaining to the administration of the property of minors and the rules provided in Title Seven of Book Four of the Civil Code of Québec with respect to the administration of the property of others, the latter rules prevail.

“334.2 The rules pertaining to the exercise of the civil rights of minors apply, adapted as required, to persons of full age under tutorship.

“334.3 The court may, on the institution of the tutorship or subsequently, increase or limit the capacity of the person of full age according to the medical and psychosocial assessment and, as the case may be, on the advice of the family council or of the persons who are likely to be called upon to form the family council.

The court shall then indicate the acts which the person under tutorship may perform alone or with the assistance of the tutor, or those that he cannot perform unless he is represented.

“334.4 The person of full age under tutorship retains the administration of the proceeds of his work, unless the court decides otherwise.

“334.5 Acts performed before the tutorship may be annulled or the obligations resulting from them reduced on the mere proof that the inability was notorious or known to the other party at the time the acts were performed.

“SECTION V

“ADVISER TO THE PERSON OF FULL AGE

“335. The court shall appoint an adviser to a person of full age who, although generally and habitually able to care for himself and to administer his property, requires, for certain acts or for a certain time, to be assisted or advised in the administration of his property.

“335.1 The adviser does not have the administration of the property of the protected person of full age. He shall, however, intervene in the acts for which he is bound to give his assistance.

“335.2 The court, on the institution of the advisership or subsequently, shall indicate the acts for which the adviser’s assistance is required, and those for which it is not required.

If the court gives no indication, the protected person of full age shall be assisted by his adviser for every act beyond the capacity of a minor who has been granted simple emancipation.

“335.3 Acts performed alone by a person of full age for which the intervention of his adviser was required may be annulled or the obligations resulting from them reduced if the acts entail lesion.

"SECTION VI

"END OF PROTECTIVE SUPERVISION

"336. Protective supervision ceases by a judgment of release or by the death of the protected person of full age.

Protective supervision also ceases upon the expiry of the prescribed period for contesting the report attesting the cessation of the inability.

"336.1 A protected person of full age may at any time after the removal of protective supervision and, where such is the case, after the rendering of accounts by the tutor or curator, confirm any act that may otherwise be annulled.

"336.2 Where an act is annulled following an application by the protected person of full age or his curator, tutor or adviser, the person of full age is exempt from returning what he received under that act while he was under protective supervision, except to the extent of his permanent enrichment thereby.

"336.3 A vacancy in the office of curator, tutor or adviser does not terminate protective supervision.

The subrogated tutor or curator shall, on the occurrence of the vacancy, demand the appointment of a new curator or tutor; any interested person may also demand such an appointment, as well as that of a new adviser."

C.C.,
heading,
replaced

86. The heading of Chapter Third of Title Tenth of Book First of the said Code is replaced by the following heading:

"OF OTHER CURATORSHIPS".

C.C.,
a. 338, am.

87. Article 338 of the said Code is amended by striking out paragraph 2.

C.C.,
a. 339, am.

88. Article 339 of the said Code is amended by replacing the words "With the exception of curators to habitual drunkards, curators to the person" in the first paragraph by the words "Curators contemplated in this chapter".

C.C.,
aa. 341-344,
repealed

89. Articles 341 to 344 of the said Code are repealed.

C.C.,
chapter,
repealed

90. Chapter Fourth of Title Tenth of Book First of the said Code is repealed.

C.C.,
a. 643, am. **91.** Article 643 of the said Code is amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 691, am. **92.** Article 691 of the said Code is amended
(1) by replacing the words “of a minor, nor the curator of an interdicted person or of” in the first paragraph by the words “to a minor, nor the tutor or curator to a person of full age or to”;

(2) by replacing the words “interdicted person or absentee” in the said paragraph by the words “person of full age under tutorship or curatorship or absentee”.

C.C.,
a. 693, am. **93.** Article 693 of the said Code is amended by replacing the words “or interdicted or absent” in the second paragraph by the words “, persons of full age under tutorship or curatorship or absentees”.

C.C.,
a. 709, am. **94.** Article 709 of the said Code is amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 789, am. **95.** Article 789 of the said Code is amended
(1) by replacing the words “persons interdicted for prodigality, and those to whom an adviser has been judicially appointed,” in the first paragraph by the words “persons of full age under tutorship or persons of full age to whom an adviser has been appointed”;

(2) by replacing the words “appointed to interdicted persons” in the said paragraph by the words “to persons of full age under curatorship”.

C.C.,
a. 792, am. **96.** Article 792 of the said Code is amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 810, am. **97.** Article 810 of the said Code, amended by section 17 of chapter 77 of the statutes of 1969, is again amended by replacing the words “interdicted persons” in the second paragraph by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 834, am. **98.** Article 834 of the said Code is amended
(1) by replacing the words “the persons under their control” in the first paragraph by the words “their pupils”;

(2) by replacing the second and third paragraphs by the following paragraph:

“Persons of full age under curatorship cannot dispose of property by will. A will made subsequently to the institution of a tutorship may be confirmed or not, according to circumstances and the nature of the dispositions.”

C.C.,
a. 837, am. **99.** Article 837 of the said Code is amended by replacing the words “interdicted or insane persons” by the words “persons of full age under curatorship”.

C.C.,
a. 867, am. **100.** Article 867 of the said Code is amended by replacing the words “interdicted for prodigality,” in the second paragraph by the words “of full age under tutorship”.

C.C.,
a. 938, am. **101.** Article 938 of the said Code is amended by replacing the word “interdicted” in the third paragraph by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 967, am. **102.** Article 967 of the said Code is amended by replacing the word “interdicted,” by the words “of full age under tutorship or curatorship”.

C.C.,
a. 986, am. **103.** Article 986 of the said Code, amended by section 11 of chapter 84 of the statutes of 1971, is again amended by replacing the words “Minors in the cases and according to the provisions contained in this Code; Interdicted persons;” by the words “Minors and protected persons of full age, in the cases and according to the prescriptions provided by law;”.

C.C.,
a. 987,
replaced **104.** Article 987 of the said Code is replaced by the following article:

“**987.** Persons capable of contracting cannot set up the incapacity of minors and protected persons of full age with whom they have contracted. Such incapacity is established in their favour.”

C.C.,
a. 1010, am. **105.** Article 1010 of the said Code is amended

(1) by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”;

(2) by replacing the words “persons of the age of majority and free from interdiction” by the words “persons capable of giving consent”.

C.C.,
a. 1011, am. **106.** Article 1011 of the said Code is amended

(1) by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”;

(2) by replacing the word “interdiction” by the words “the tutorship or curatorship”.

C.C.,
a. 1054, am. **107.** Article 1054 of the said Code, amended by section 7 of chapter 72 of the statutes of 1977, is again amended by replacing the fourth paragraph by the following paragraph:

“Persons having custody of a person of full age lacking in discernment are responsible for any damage caused by such person of full age.”

C.C.,
a. 1054.1,
added **108.** The said Code is amended by inserting, after article 1054, the following article:

“**1054.1** Notwithstanding article 1054, tutors and curators to persons of full age, persons exercising custody of a person of full age whose tutor or curator is the Public Curator and mandataries performing a mandate given by a person of full age for the eventuality of his inability, are not responsible for damage caused by such persons of full age to third persons unless the tutors or curators are guilty of a deliberate or gross fault in exercising custody.”

C.C.,
a. 1078, am. **109.** Article 1078 of the said Code is amended by replacing paragraph 3 by the following paragraph:

“3. When an administrator of the property of others has received or ought to have received interest on the moneys of the minor, the protected person of full age or the beneficiary of the administration and has failed in his obligation to invest it within a reasonable time or within the term prescribed by law.”

C.C.,
a. 1701.1,
added **110.** The said Code is amended by inserting, after article 1701, the following article:

“**1701.1** The object of the mandate may be the performance of a juridical act of any nature whatever in connection with the business of the mandator, including juridical acts intended to ensure the personal protection of the mandator, the administration, in whole or in part, of his patrimony as well as his moral and physical well-being, should he become unable to take care of himself or to administer his property.”

C.C.,
aa. 1731.1-
1731.11,
added

111. The said Code is amended by inserting, after article 1731, the following chapter:

“CHAPTER THIRD A

“MANDATE FOR THE EVENTUALITY OF THE MANDATOR’S INABILITY

“**1731.1** A mandate given by a person of full age for the eventuality of his inability to take care of himself or to administer his property shall be made by a notarial deed *en minute* or in the presence of witnesses.

“**1731.2** A mandate given in the presence of witnesses must be written by the mandator or by a third person. The mandator, in the presence of two witnesses who have no interest in the deed and who are in a position to ascertain the ability of the mandator to act, shall declare the nature of the writing presented by him but need not disclose its contents; he shall sign the writing at the end or, if he signed it earlier, recognize his signature; he may also have a third person sign the writing for him, in his presence and according to his instructions.

The witnesses shall sign the mandate forthwith in the presence of the mandator.

“**1731.3** The performance of the mandate is subordinate to the occurrence of the inability and to homologation by the court, at the request of the mandatory designated in the deed.

“**1731.4** Where the scope of the rights and obligations of the mandatory is in doubt, the mandatory shall, to interpret it, refer to the rights and obligations of the tutor of a person of full age under protection.

If any notice, consent or authorization is then required under the rules respecting the administration of the property of others, the mandatory may obtain it from the Public Curator or from the court.

“**1731.5** Where the mandate is insufficient to allow adequate representation of the mandator and protective supervision has otherwise been instituted to ensure the representation of the mandator, the mandatory shall proceed to carry out the mandate, but he shall make a report, on demand and at least once each year, to the tutor or curator of the person of full age. If the scope of his rights and obligations is in doubt, he shall refer to those of the tutor or curator of the person of full age. At the end of his mandate, the mandatory

shall render an account to the tutor or curator of the person of full age.

The mandatary is bound by such obligations only with respect to the tutor or curator to the person of full age. Where the protection of the person of full age is ensured by the mandatary, the tutor or curator to the property is bound by the same obligations with respect to the mandatary.

“1731.6 Acts performed before the homologation of a mandate may, if the mandator suffers damage thereby, be annulled, or the resulting obligations may be reduced, on sole proof that his inability was notorious or known to the co-contractor at the time the acts were executed.

“1731.7 Unless otherwise provided in the mandate, the mandatary is authorized to perform, to his benefit, the obligations of the mandator provided in articles 1720, 1722, 1724 and 1725.

“1731.8 A mandator who again becomes able to take care of himself or to administer his property may, at any time, apply to the court for the authorization to revoke his mandate.

“1731.9 The director general of the health or social services establishment where an unable mandator is receiving care or services shall, if the inability that justified the continuance of the mandate ceases, attest that fact in a report filed in the office of the court. The report shall include the medical and psychosocial assessment.

The prothonotary shall notify the mandatary, the mandator and the persons qualified to intervene in an application for the institution of protective supervision that the report has been filed. If no objection is made within thirty days, the mandate is revoked of right. An attestation of the revocation shall be drawn up by the prothonotary and transmitted without delay to the mandator, the mandatary and the Public Curator.

“1731.10 Where the mandate is revoked, a mandator who has again become able to take care of himself or to administer his property may confirm any act that may otherwise be annulled.

“1731.11 The mandatary shall not, notwithstanding any provision to the contrary, resign as mandatary unless he has previously provided for his replacement in accordance with his mandate where it provides therefor, or has applied for the institution of protective supervision in respect of the mandator.”

112. Article 1755 of the said Code is amended

C.C.,
a. 1755, am.

(1) by replacing paragraph 4 by the following paragraph:

“4. By the bankruptcy of either party;”;

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

“8. By the institution of protective supervision in respect of either party, but does not terminate by the mere fact that the mandator becomes unable to take care of himself or to administer his property.”

C.C.,
a. 1756.1,
added

113. The said Code is amended by inserting, after article 1756, the following article:

“1756.1 Where the mandator is incapacitated, any interested person, including the Public Curator, may, if the mandate is not faithfully executed or for any other serious reason, apply to the court for the revocation of the mandate, the rendering of account of the mandatory and the institution of protective supervision in respect of the mandator.”

C.C.,
a. 1761, am.

114. Article 1761 of the said Code is amended by adding the following paragraph:

“In the case of a mandate for the eventuality of the mandator’s inability, the legal representatives of the mandatory shall, in the same circumstances, give notice of the mandatory’s death to the Public Curator.”

C.C.,
a. 1892, am.

115. Article 1892 of the said Code, amended by section 32 of chapter 50 of the statutes of 1896-97, section 2 of chapter 38 of the statutes of 1906 and section 2 of chapter 99 of the statutes of 1978, is again amended by replacing subparagraph 6 of the first paragraph by the following subparagraph:

“6. By the institution of tutorship or curatorship in respect of one of the partners of full age;”.

C.C.,
a. 2030,
replaced

116. Article 2030 of the said Code is replaced by the following article:

“2030. Minors and persons of full age under tutorship or curatorship have a legal hypothec on the immovables of their tutors or curators for the balance of the tutorship or curatorship account.

The tutor or curator may, as a replacement for such legal hypothec, purchase an insurance policy or provide such other security

as is sufficient to secure the performance of his obligations. He may be required to do so if he holds no immovable.”

C.C.,
a. 2031,
replaced

117. Article 2031 of the said Code is replaced by the following articles:

“2031. A legal hypothec is created, or the security is exigible, only in cases where the value of the property administered exceeds \$25 000. The nature and object of the security, and the time allotted for providing it, shall be determined in the judgment appointing the tutor, the curator or, where no mention of a curator is made therein, the Public Curator.

The tutor or curator providing security shall, for the duration of his term, maintain such security or provide other security of the same value, and justify it every year to the Public Curator.

“2031.1 Where it is advisable to release a hypothec or security, the family council, the person of full age no longer under protective supervision or the minor who has attained full age may do so and, where applicable, apply for cancellation of the registration. Notice thereof must be given to the Public Curator.”

C.C.,
a. 2039, am.

118. Article 2039 of the said Code is amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 2086, am.

119. Article 2086 of the said Code, amended by section 50 of chapter 39 of the statutes of 1980, is again amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 2087, am.

120. Article 2087 of the said Code, amended by section 50 of chapter 39 of the statutes of 1980, is again amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 2117,
replaced

121. Article 2117 of the said Code is replaced by the following article:

“2117. Tutors to minors and curators or tutors to persons of full age are bound to register without delay any hypothecs encumbering their immovables in favour of such minors or persons of full age in cases where such hypothecs are created under articles 2030 and 2031.”

C.C.,
a. 2119, am. **122.** Article 2119 of the said Code is amended by replacing the words “of the minors, or the curatorships of the interdicted persons” by the words “to minors and the tutorships and curatorships to persons of full age”.

C.C.,
a. 2120, am. **123.** Article 2120 of the said Code is amended by replacing the words “interdicted persons against their curator” by the words “persons of full age under tutorship or curatorship against their tutor or curator”.

C.C.,
a. 2129b,
am. **124.** Article 2129b of the said Code is amended by replacing the words “interdicted persons” by the words “persons of full age under tutorship or curatorship”.

C.C.,
a. 2232, am. **125.** Article 2232 of the said Code is amended by replacing the second paragraph by the following paragraph:

“Saving what is declared in article 2269, prescription does not run, even in favour of subsequent purchasers, against those who are not born, nor against minors or persons of full age who are unable to give consent, with or without tutors or curators.”

C.C.,
a. 2258, am. **126.** Article 2258 of the said Code is amended by replacing the third paragraph by the following paragraph:

“This time runs only with regard to persons of full age under tutorship or curatorship from the day the tutorship or curatorship ends. It does not run against persons who are unable to give consent and who are not under tutorship or curatorship. It runs against minors from the day they attain full age or become fully emancipated.”

C.C.,
a. 2269, am. **127.** Article 2269 of the said Code is amended by replacing the words “, idiots, madmen and insane persons” by the words “and persons of full age who are unable to give consent”.

C.C.Q.,
a. 468,
replaced **128.** Article 468 of the Civil Code of Québec is replaced by the following article:

“**468.** No person of full age provided with an adviser or tutor may make matrimonial agreements without the assistance of his adviser or tutor, the latter having to be authorized by the court upon the advice of the family council.

No agreement made in violation of this article may be impugned except by the person of full age, his tutor or his adviser nor except in the year immediately following the solemnization of the marriage or the day of the act changing the matrimonial agreements.”

- c.c.q.,
a. 477, am. **129.** Article 477 of the said Code is amended by inserting the words “tutor or” after the words “with a” in the second paragraph.

PART III

AMENDMENTS TO THE CODE OF CIVIL PROCEDURE

- c. C-25,
a. 4, am. **130.** Article 4 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by adding, at the end, the following paragraph:

“The meaning of the word “court” used in the Civil Code of Québec and in articles 325 to 336.3, 1731.1 to 1731.11 and 1756.1 of the Civil Code of Lower Canada is determined in accordance with this Code and may designate, as the case may be, a judge presiding over a sitting of a court, a judge in chambers or a prothonotary.”

- c. C-25,
a. 70, am. **131.** Article 70 of the said Code is amended by replacing the words “person of weak intellect” wherever they appear in the second paragraph by the words “person of full age under tutorship”.

- c. C-25,
a. 70.2,
added **132.** The said Code is amended by inserting, after article 70.1, the following article:

“**70.2** Applications with respect to integrity, tutorship to minors or protective supervision of persons of full age are taken before the court of the domicile or residence of the minor or of the person of full age.

Applications with respect to the integrity of a person kept in a health or social services establishment may be taken before the court of the place of the establishment.”

- c. C-25,
a. 97, am. **133.** Article 97 of the said Code is amended by adding, at the end, the following paragraph:

“A judge, *ex officio*, may also order any application questioning the integrity of a person of full age unable to consent to care who is not represented by a tutor, curator or mandatary to be served upon the Public Curator. In such case, the suit is suspended until the expiry of five days from the date of the service.”

- c. C-25,
a. 483, am. **134.** Article 483 of the said Code is amended by replacing the words “interdicted person” in paragraph 3 by the words “person of full age under tutorship or curatorship”.

- c. C-25,
a. 818.2, am. **135.** Article 818.2 of the said Code is amended by replacing the words “The curator who, in the name of a person of weak intellect”

by the words "The tutor who, in the name of a person of full age under tutorship".

c. C-25,
heading,
replaced

136. The heading of Chapter VII of Book VI of the said Code is replaced by the following heading:

"PROTECTIVE SUPERVISION OF PERSONS OF FULL AGE AND
HOMOLOGATION OF A MANDATE GIVEN BY A PERSON FOR THE
EVENTUALITY OF HIS INABILITY

"SECTION I

"PROTECTIVE SUPERVISION OF PERSONS OF FULL AGE".

c. C-25,
a. 877,
replaced

137. Article 877 of the said Code is replaced by the following article:

"877. An application for the institution of protective supervision of a person of full age shall be brought before a judge or before the prothonotary of the district where the person of full age has his domicile or residence; it must set forth all the facts on which it is based and which the applicant will be required to prove.

The application must be served on the person of full age, on a reasonable member of his family and on the Public Curator, who may intervene in the application; service on the person of full age must be made personally. Failing service of the application on the Public Curator, the prothonotary must suspend the proceedings until proof of the service is received at the office of the court."

c. C-25,
a. 877.1,
replaced

138. Article 877.1 of the said Code is replaced by the following article:

"877.1 If no person applies for the institution of protective supervision within thirty days of the filing of the recommendation of the Public Curator under section 14 of the Public Curator Act, the prothonotary shall give notice thereof to the Public Curator. The latter shall then apply for the institution of protective supervision for the person of full age."

c. C-25,
a. 878,
replaced

139. Article 878 of the said Code is replaced by the following article:

"878. The person contemplated by an application for the institution of protective supervision must be examined by the judge or prothonotary, unless it is manifestly unreasonable to hear his testimony by reason of his state of health. The person may be

examined by a judge or a prothonotary of the district where he resides, even if the application is made in another district.

The examination shall be taken in writing and transmitted to the family council."

c. C-25,
aa. 878.1-
878.3, added

140. The said Code is amended by inserting, after article 878, the following articles:

"878.1 Where, in proceedings, the prothonotary or the judge ascertains that it is necessary for a person of full age who is unable to take care of himself or to administer his property to be represented for the safeguard of his rights, he may, even of his own motion, adjourn the hearing of the application until an attorney is appointed to represent the person of full age.

The judge or prothonotary may also make any order necessary to ensure such representation, in particular to rule on the amount of the fees payable to the attorney of the person of full age and to determine who will pay such fees.

"878.2 The documents supporting an application for the institution of protective supervision must be filed in the office of the court not less than ten days before the date scheduled for the hearing.

"878.3 At any time before judgment, the judge or prothonotary may order, even of his own motion, the production of any additional evidence or the summoning of any person whose testimony he considers expedient."

c. C-25,
a. 879, am.

141. Article 879 of the said Code is amended by replacing the words "The person whose interdiction is sought" by the words "A person in respect of whom an application for the institution of protective supervision is made".

c. C-25,
a. 880, am.

142. Article 880 of the said Code is amended

(1) by adding the words ", or by a notary" after the word "other" in the first paragraph;

(2) by striking out the second paragraph.

c. C-25,
a. 881,
replaced

143. Article 881 of the said Code is replaced by the following article:

"881. The judge or prothonotary may, instead of granting the institution of the form of protective supervision applied for, determine

another form of protective supervision if the circumstances so require.”

c. C-25,
a. 882,
repealed

144. Article 882 of the said Code is repealed.

c. C-25,
a. 883,
replaced

145. Article 883 of the said Code is replaced by the following article:

“883. Every judgment relating to the institution, review or removal of protective supervision or ordering that a tutor or curator be replaced must be served on the person of full age. The prothonotary shall transmit a copy of the judgment forthwith and without charge to the Public Curator.”

c. C-25,
a. 884,
replaced

146. Article 884 of the said Code is replaced by the following article:

“884. Protective supervision may be reviewed only if the formalities prescribed for the institution of protective supervision are observed.”

c. C-25,
aa. 884.1-
884.6, added

147. The said Code is amended by inserting, after article 884, the following section:

“SECTION II

“HOMOLOGATION OF MANDATE GIVEN BY A PERSON FOR THE EVENTUALITY OF HIS INABILITY

“884.1 An application for the homologation of a mandate given by a person for the eventuality of his inability shall be submitted to a judge or to the prothonotary of the district where the mandator has his domicile or residence.

The application must be served on the mandator, on a reasonable member of his family and on the Public Curator; service of the application on the mandator must be made personally.

The judge or prothonotary may order that the application be served on the persons who would be qualified to intervene in the institution of protective supervision in respect of the mandator.

“884.2 The application for the homologation of the mandate must be accompanied with a medical and psychosocial assessment ascertaining the inability of the mandator and with a copy of the mandate.

“884.3 The judge or prothonotary seized of the application for homologation shall ascertain the inability of the mandator, the existence of the mandate and the validity of the mandate where it has been made in the presence of witnesses.

“884.4 Articles 878 to 878.3 apply to applications for the homologation of a mandate.

“884.5 The revocation of a mandate cannot be obtained except by observing the prescribed formalities for the homologation of the mandate.

“884.6 Any judgment ordering the homologation of a mandate must be served on the mandator; any judgment revoking a mandate must be served on the mandatory and, where applicable, on the mandator. The prothonotary shall transmit without delay and free of charge a copy of every judgment to the Public Curator.”

PART IV

CONCORDANCE AMENDMENTS

c. A-2.1,
s. 2.2, added **148.** The Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by inserting, after section 2.1, the following section:

Access to
documents **“2.2** Access to documents contained in a file held by the Public Curator on a person whom he represents or whose property he administers, and the protection of the personal information contained in such a file, are governed by the Public Curator Act.

Personal
information In respect of the personal information contained in such a file, this Act applies only to allow the Commission to exercise the duty contemplated in paragraph 6 of section 123 and the powers contemplated in subparagraph 3 of the first paragraph of section 127 and in section 128.1.”

c. A-2.1,
s. 4, am. **149.** Section 4 of the said Act is amended by adding, at the end, the following paragraph:

Government
agency **“For the purposes of this Act, the Public Curator is deemed a Government agency to the extent that he holds documents other than those referred to in section 2.2.”**

c. A-2.1,
s. 53, am. **150.** Section 53 of the said Act is amended by replacing the words “also may” in the first and second lines of the second paragraph by the words “or the tutor also may”.

c. A-2.1,
s. 123, am. **151.** Section 123 of the said Act is amended by adding the following paragraph:

“(6) see to it that the confidentiality of personal information contained in files held by the Public Curator on persons whom he represents or whose property he administers is respected.”

c. A-2.1,
s. 127, am. **152.** Section 127 of the said Act is amended

(1) by inserting, after subparagraph 2 of the first paragraph, the following subparagraph:

“(3) whether the confidentiality of personal information contained in a file held by the Public Curator on a person whom he represents or of whose property he administers has been respected.”;

(2) by replacing the word and figure “subparagraph 2” wherever they appear in the second paragraph by the words and figures “subparagraph 2 or 3”.

c. A-2.1,
s. 128.1, am. **153.** Section 128.1 of the said Act is amended by adding, at the end, the following paragraph:

Powers “The Commission shall exercise the same powers with respect to the Public Curator on completion of an investigation pertaining to the matter contemplated in subparagraph 3 of the first paragraph of section 127.”

c. A-23,
s. 58, am. **154.** Section 58 of the Land Surveyors Act (R.S.Q., chapter A-23) is amended by replacing the words “becomes incapacitated from acting owing to interdiction or removal from office, or who voluntarily ceases practising his profession, shall be deposited by him, his curator” in the second, third, fourth and fifth lines of subsection 1 by the words “becomes unable to act following the institution of tutorship or curatorship or following his removal from office, or voluntarily ceases to practise his profession shall be deposited by him, his tutor or curator”.

c. A-25,
s. 11,
replaced **155.** Section 11 of the Automobile Insurance Act (R.S.Q., chapter A-25) is replaced by the following section:

Victim under tutorship **“11.** The indemnity of a victim who is a minor or a person of full age under tutorship or curatorship shall be paid to his tutor or curator.”

c. A-32,
ss. 93.14,
93.79,
93.147,
93.229,
174.8,
am. **156.** Sections 93.14, 93.79, 93.147, 93.229 and 174.8 of the Act respecting insurance (R.S.Q., chapter A-32) are amended by

replacing the words “an interdicted person or a person of unsound mind declared incapable by a court, even a court of another jurisdiction” wherever they appear by the words “a person of full age under tutorship or curatorship or declared incapable by a court of another jurisdiction”.

c. B-1,
s. 87,
replaced **157.** Section 87 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is replaced by the following section:

Tutorship
or
curatorship **“87.** The institution by the court of tutorship or curatorship in respect of an advocate entails disbarment *ipso facto*.

Judgment The prothonotary shall inform the executive director of the judgment as soon as it becomes *res judicata*.

Termination Upon termination of the protective supervision, the person may apply for re-entry on the Roll in accordance with section 70.”

c. B-1,
s. 122, am. **158.** Section 122 of the said Act is amended by replacing paragraph c of subsection 1 by the following paragraph:

“(c) he is provided with a tutor, a curator or an adviser;”.

c. B-1.1,
s. 69, am. **159.** Section 69 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing the words “his executor, heir or legatee, administrator or legal representative or, in the case of incapacity, his curator or judicial adviser” in the first, second and third lines of the second paragraph by the words “the executor, heir or legatee, the administrator of the succession, the legal representative of the deceased person, or the tutor or adviser to a person of full age”.

c. C-14,
s. 91, am. **160.** Section 91 of the Railway Act (R.S.Q., chapter C-14) is amended by replacing the words “, lunatics, idiots,” in the fifth line of subsection 1 by the words “or persons of full age under tutorship or curatorship”.

c. C-38,
s. 42, am. **161.** Section 42 of the Companies Act (R.S.Q., chapter C-38) is amended by replacing the words “, ward or interdicted person” in the sixth and seventh lines by the words “or a person of full age under tutorship or curatorship”.

c. C-38,
s. 123.10,
am. **162.** Section 123.10 of the said Act is amended
(1) by replacing paragraph 2 by the following paragraph:

“(2) a person of full age under tutorship or curatorship;”;

(2) by striking out the words “of unsound mind, who has been” in the first line of paragraph 3.

c. C-38,
s. 123.73,
am.

163. Section 123.73 of the said Act is amended

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

“(2) a person of full age under tutorship or curatorship;”;

(2) by striking out the words “of unsound mind, who has been” in the first line of paragraph 3.

c. C-38,
s. 140, am.

164. Section 140 of the said Act is amended by replacing the words “, ward or interdicted person” in the sixth and seventh lines by the words “or person of full age under tutorship or curatorship”.

c. C-67.2,
ss. 44 and
202, am.

165. Sections 44 and 202 of the Cooperatives Act (R.S.Q., chapter C-67.2) are amended by replacing the word “interdiction” wherever it appears by the words “placing under tutorship or curatorship”.

c. C-74,
s. 19, am.

166. Section 19 of the Insurance Brokers Act (R.S.Q., chapter C-74) is amended by replacing paragraph *d* by the following paragraph:

“(d) is placed under tutorship or curatorship or provided with an adviser;”.

c. D-5,
s. 24, am.

167. Section 24 of the Deposit Act (R.S.Q., chapter D-5) is amended by replacing the words “any tutor or judicial administrator,” in the second line by the words “a tutor, curator or other administrator”.

c. D-15,
s. 37, am.

168. Section 37 of the Mining Duties Act (R.S.Q., chapter D-15) is amended by inserting the word “tutor,” after the word “curator” in the first line.

c. E-2.2,
s. 47, am.

169. Section 47 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by replacing the words “neither interdicted, nor under close treatment pursuant to the Mental Patients Protection Act (chapter P-41), nor under the protection of the Public Curator,” in the second, third and fourth lines of what precedes paragraph 1 by the words “neither under curatorship”.

c. E-2.2,
s. 52, am.

170. Section 52 of the said Act is amended by replacing the words “neither interdicted nor under close treatment pursuant to the

Mental Patients Protection Act (chapter P-41), nor under the protection of the Public Curator,” in the third, fourth and fifth lines by the words “neither under curatorship”.

c. E-2.2,
s. 518, am.

171. Section 518 of the said Act is amended by replacing the words “neither interdicted, nor under close treatment pursuant to the Mental Patients Protection Act (chapter P-41), nor under the protection of the Public Curator,” in the second, third and fourth lines of the second paragraph by the words “neither under curatorship”.

c. E-2.2,
s. 523, am.

172. Section 523 of the said Act is amended by replacing the second paragraph by the following paragraph:

Curatorship

“A natural person must not be under curatorship at the time of voting.”

c. E-2.2,
s. 528, am.

173. Section 528 of the said Act is amended by replacing the words “neither interdicted, nor under close treatment pursuant to the Mental Patients Protection Act (chapter P-41) nor under the protection of the Public Curator,” in the second, third, fourth and fifth lines of the second paragraph by the words “neither under curatorship”.

c. E-2.2,
s. 533, am.

174. Section 533 of the said Act is amended by replacing the second paragraph by the following paragraph:

Curatorship

“A natural person must not be under curatorship at the time he makes such entries in the register.”

c. F-1,
s. 39, am.

175. Section 39 of the Act respecting fabriques (R.S.Q., chapter F-1) is amended by replacing paragraph *b* by the following paragraph:

“(b) if a tutorship or curatorship is instituted in his regard;”.

c. I-3,
s. 1049.12,
am.

176. Section 1049.12 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing the words “deceased, disabled or interdicted member” in the seventh and eighth lines by the words “member who is deceased, disabled or under tutorship or curatorship”.

c. M-42,
s. 6.2, am.

177. Section 6.2 of the Act respecting the Montréal Museum of Fine Arts (R.S.Q., chapter M-42) is amended by replacing paragraph 2 by the following paragraph:

“(2) a person of full age under tutorship or curatorship;”.

c. N-2,
s. 15, am.

178. Section 15 of the Notarial Act (R.S.Q., chapter N-2) is amended by replacing the words “interdicted or to whom a judicial

adviser has been appointed" in the second line of paragraph *k* by the words "under protective supervision".

c. N-2,
s. 120, am.

179. Section 120 of the said Act is amended

(1) by replacing the words "against whom a judgment of interdiction is rendered or to whom a judicial adviser is appointed" in the first and second lines of subsection 1 by the words "placed under protective supervision";

(2) by replacing the words "such interdiction or appointment of a judicial adviser" in the second and third lines of subsection 2 by the words "institution of protective supervision".

c. P-10,
s. 29, am.

180. Section 29 of the Pharmacy Act (R.S.Q., chapter P-10) is amended by replacing the words "becomes insane or is interdicted" in the first and second lines by the words "is placed under tutorship or curatorship" and by replacing the word "curator" in the third line by the words "tutor or curator".

c. P-41,
s. 8, am.

181. Section 8 of the Mental Patients Protection Act (R.S.Q., chapter P-41) is amended by replacing the second paragraph by the following paragraph:

Ability

"It must mention, in all cases, the ability of the person to take care of himself or to administer his property."

c. P-41,
s. 9, am.

182. Section 9 of the said Act is amended by replacing the words "incapable of administering his property" in the fourth line of the first paragraph by the words "unable to take care of himself or to administer his property".

c. P-41,
s. 10,
replaced

183. Section 10 of the said Act is replaced by the following section:

Report to
Public
Curator

"10. The director of professional services of every hospital centre where a psychiatric clinical examination is made must, every time a report referred to in section 7 concludes that the person contemplated by such report is unable to take care of himself or to administer his property, report it to the Public Curator and transmit a copy of such report to the person having undergone the examination. The director has the same obligation where the same conclusion is reached in the report referred to in section 9. A physician practising in the hospital centre may also fulfil such duties.

Rules
applicable

The director or physician shall observe the rules established in articles 332.2 and 332.3 of the Civil Code of Lower Canada."

c. Q-1,
s. 37, am. **184.** Section 37 of the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1) is amended

(1) by replacing the word “incapacity” in the first line of the second paragraph by the words “placing under protective supervision”;

(2) by replacing the words “or judicial adviser of the incapable person” in the fourth line of the second paragraph by the words “, tutor or adviser to the person of full age”.

c. S-5,
s. 8, am. **185.** Section 8 of the Act respecting health services and social services (R.S.Q., chapter S-5) is amended by adding, at the end of subparagraph *a* of the first paragraph, the words “, including the mandatary of an incapable person of full age”.

c. S-5,
s. 77, am. **186.** Section 77 of the said Act is amended by replacing the third paragraph by the following paragraph:

User
unable to
express
his will
“When a user is unable to express his will, his right to vote shall be exercised by his tutor, his curator or the mandatary he designated before his inability began.”

c. S-5,
s. 86, am. **187.** Section 86 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

“(a) he is under tutorship or curatorship;”;

(2) by striking out the words “or incapable of administering his property” in the first and second lines of subparagraph *b* of the first paragraph.

c. S-5,
s. 105, am. **188.** Section 105 of the said Act is amended

(1) by adding, at the end, the following subparagraph:

“(i) in matters of protective supervision of unable persons and mandate given by a person for the eventuality of his inability, fulfil the obligations provided for in the Civil Code and in the Public Curator Act (1989, chapter 54). He may however designate the director of professional services to fulfil such obligations.”;

(2) by replacing the period at the end of subparagraph *h* of the second paragraph by a semicolon.

c. V-5.01,
s. 4, am. **189.** Section 4 of the Auditor General Act (R.S.Q., chapter V-5.01) is amended by adding, at the end, the following paragraph:

Government
agency “The Public Curator is deemed a government agency for the purposes of this Act.”

1987, c. 95,
ss. 1 and
170, am. **190.** Sections 1 and 170 of the Act respecting trust companies and savings companies (1987, chapter 95) are amended by replacing the words “judicial advisor” and “judicial counsel” by the words “adviser to a person of full age”.

1988, c. 64,
s. 33, am. **191.** Section 33 of the Savings and Credit Unions Act (1988, chapter 64) is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 2 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 137, am. **192.** Section 137 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 5 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 159, am. **193.** Section 159 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 5 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 172, am. **194.** Section 172 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 5 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 345, am. **195.** Section 345 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 6 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 358, am. **196.** Section 358 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 5 by the words “a person of full age under tutorship or curatorship or a person”.

1988, c. 64,
s. 361, am. **197.** Section 361 of the said Act is amended by replacing the words “an interdicted person or a person of unsound mind” in the first line of paragraph 5 by the words “a person of full age under tutorship or curatorship or a person”.

PART V

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

- c. C-80,
replaced **198.** This Act replaces the Public Curatorship Act (R.S.Q., chapter C-80).
- Reference **199.** In any Act, regulation, by-law, order, contract, agreement or other document, any reference to the Public Curatorship Act or to any provision thereof is considered to be a reference to the Public Curator Act or the equivalent provision of that Act.
- Provisions
deemed to
be in force **200.** Articles 1338 to 1411 of the Civil Code of Québec, which deal with the administration of the property of others, are deemed in force for the application of the Public Curator Act and of the provisions relating to protective supervision of persons of full age introduced into the Civil Code of Lower Canada by this Act.
- Interdicted
persons of
full age **201.** Persons of full age interdicted on (*insert here the date of coming into force of this section*) shall be, from that date, under protective supervision, as it applies to persons of full age under tutorship. Such tutorship extends to the person and his property where the person has been interdicted for imbecility, insanity or madness; in other cases, the tutorship extends only to the person's property.
- Persons
provided
with
judicial
adviser Persons who, on (*insert here the date of coming into force of this section*), are provided with a judicial adviser shall be, from that date, subject to protective supervision of persons of full age provided with an adviser.
- Persons
subject to
certificate
of incapacity **202.** Persons contemplated by a certificate of incapacity issued under section 10 of the Mental Patients Protection Act (R.S.Q., chapter P-41) or section 6 of the Public Curatorship Act and who, on (*insert here the date of coming into force of this section*), are not otherwise under protective supervision shall be, from that date, under protective supervision, as it applies to persons of full age under tutorship to the person and to property.
- Review of
protective
supervision **203.** Protective supervision established under sections 201 and 202 may be reviewed in accordance with articles 332.10 and 332.11 of the Civil Code of Lower Canada.
- Term The term prescribed for the periodic examination is three years for the first examination, and starts running from the date of coming into force of sections 201 and 202.

Property
of the
state

204. Where property referred to in subparagraphs 2 to 6 of the first paragraph of section 24 of this Act has been entrusted to the Public Curator for provisional administration for at least seven years on the date of coming into force of sections 24 and 40, such property shall become the property of the State three years after that date, unless the heir, owner, holder of a debt security or beneficiary of an insurance policy, as the case may be, presents himself before the expiry of that term.

Property
of the
state

Where such property has been entrusted to the Public Curator for provisional administration less than seven years before the date of coming into force of sections 24 and 40 of this Act, it shall become the property of the State 10 years after the beginning of such administration.

Income
paid into
reserve
fund

205. Any income from property referred to in subparagraphs 2 to 6 of the first paragraph of section 24 and in the first paragraph of section 42 of the Public Curator Act, as well as income from property entrusted to the administration of the Public Curator under section 15 of the Public Curatorship Act and from a vacant succession under article 686 of the Civil Code of Lower Canada, generated before (*insert here the date of coming into force of this section*), shall be paid into the reserve fund of the Public Curator.

Remittance
of income

The Public Curator shall, however, remit any income generated after the beginning of the provisional administration of a property concerned to the owner, heir or beneficiary, as the case may be, who presents himself within the time prescribed by this Act and establishes his right to such property.

Income
covered
by s. 205

206. Any income paid into the reserve fund of the Public Curator under section 205 does not become subject to section 60 of the Public Curator Act until three years after the date of coming into force of section 205.

Coming into
force

207. The provisions of this Act will come into force on the date or dates fixed by the Government.