

1995, chapter 18  
**AN ACT TO FACILITATE THE PAYMENT OF SUPPORT**

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**Bill 60**

Introduced by Madam Jeanne L. Blackburn, Minister of Income Security and Minister responsible for the Status of Women

Introduced 2 February 1995

Passage in principle 21 March 1995

Passage 11 May 1995

**Assented to 16 May 1995**

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**Coming into force: on the date or dates to be fixed by the Government**

- 1 December 1995: ss. 1-79, 81 (where the collector of support payments is charged with compulsory execution of a judgment awarding support), 82-84, 86, 89-95, 96 (where the collector of support payments is charged with compulsory execution of a judgment awarding support), 99 (except for subpar. 1 of the first paragraph), 101  
G.O., 1995, Part 2, p. 2963

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**Legislation amended:**

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

Taxation Act (R.S.Q., chapter I-3)

Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)

Act respecting labour standards (R.S.Q., chapter N-1.1)

Act respecting income security (R.S.Q., chapter S-3.1.1)





## CHAPTER 18

### An Act to facilitate the payment of support

[Assented to 16 May 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CHAPTER I

##### SCOPE

Payment of support      **1.** Support payable as a pension awarded to a creditor of support under a judgment enforceable in Québec shall be paid in the manner and according to the terms and conditions prescribed by this Act.

Payments to Minister of Revenue      **2.** The debtor of support shall make his support payments, including arrears, if any, to the Minister of Revenue for the benefit of the creditor of support.

Exemption      **3.** The court may exempt a debtor of support from the obligation under section 2, in the following cases:

(1) where the debtor of support establishes a trust guaranteeing the payment of the support;

(2) where the parties make a joint application therefor, the court is satisfied that the parties have given free and enlightened consent and the debtor furnishes sufficient security to guarantee support payments for three months.

Consent      To satisfy itself that the parties have given free and enlightened consent, the court may summon and hear the parties, even separately, in the presence of their attorneys, where applicable.

Trust      **4.** A debtor required to establish a trust must send a copy of the trust deed to the Minister within 30 days after the judgment is rendered.

Security            A debtor required to furnish security must furnish the security to the Minister within ten days after the judgment is rendered.

Cessation of exemption            **5.** The exemption granted by the court ceases to have effect for the duration of the obligation of support

(1) where it is ascertained by the Minister that the debtor of support has failed to establish the trust or furnish the security;

(2) where it is ascertained by the Minister, on application by the creditor of support, that the debtor of support has failed to make a support payment when due;

(3) where the parties make a joint application therefor.

Applications            The applications shall be transmitted to the Minister by registered or certified mail, accompanied with the information and documents prescribed by regulation.

## CHAPTER II

### COLLECTION OF SUPPORT PAYMENTS

#### DIVISION I

##### GENERAL PROVISIONS

Information to Minister            **6.** As soon as a judgment awarding support or revising a judgment awarding support is rendered, the clerk of the court shall notify the following information to the Minister:

(1) the amount and due date of the support payments;

(2) the amount of arrears in support payments, if any;

(3) the basis of indexation of the support payments, if any, specified in the judgment;

(4) any other information prescribed by regulation.

Documents to Minister            The clerk of the court shall also transmit to the Minister the sworn statements provided for in article 827.5 of the Code of Civil Procedure (R.S.Q., chapter C-25) and a copy of the judgment.

Collection            **7.** Support payments are collected by means of a deduction at source or by means of a payment order or both.

Notice to debtor      **8.** Upon receipt of an application under section 5 or of the information notified by the clerk of the court, the Minister shall give notice to the debtor of the collection procedure applicable to him.

Notice      The same applies where the failure to establish the trust or furnish the security is ascertained by the Minister. The Minister shall, in such a case, inform the creditor of support thereof.

Application      **9.** The debtor may, within ten days of that notice, file an application with the Minister requesting that another collection procedure be made applicable to him, if he meets the conditions thereof.

Support payments to Minister      As soon as the support payments are payable, the debtor shall make his support payments to the Minister until the deduction at source or payment order becomes effective.

Legal hypothec      **10.** Where a support payment is not made when due, the Minister may register, in the name of the creditor of support, a legal hypothec on the debtor's property in accordance with the provisions of article 2730 of the Civil Code of Québec. The Minister shall, in such a case, inform the creditor of support thereof.

## DIVISION II

### DEDUCTIONS AT SOURCE

Amounts and order of deductions      **11.** Where an amount is paid periodically by a person to a debtor of support, the Minister shall collect support payments by means of a deduction at source from the following amounts and in the following order:

- (1) salary, wages or other remuneration;
- (2) fees or advances on remuneration, fees or profits;
- (3) benefits granted under an Act in respect of a pension plan or compensation plan;
- (4) the other amounts specified by regulation.

Persons      General partnerships, limited partnerships, undeclared partnerships and associations shall be regarded as persons.

Amounts of same rank      Where there are several amounts of the same rank from which the deduction at source may be made, it shall be made from the largest amount and, if need be, from the others in decreasing order.

Applicability

**12.** Section 11 does not apply to any amount which by law is totally exempt from seizure.

Communication of information to Minister

**13.** Any person who pays a periodic amount shall, at the request of the Minister, communicate to him any information with regard to that amount allowing the portion that may be deducted at source to be determined.

Valuation of services

**14.** If a person declares that the debtor of support works for him without remuneration or if the remuneration declared is clearly less than the value of the services rendered, the Minister may value those services and fix an adequate remuneration which, for the purposes of determining the sum to be deducted at source, shall be presumed to be paid periodically to the debtor of support.

Determination of sum to be deducted at source

**15.** The Minister shall determine the sum that may be deducted at source having regard to the support payments to be made, up to the portion that is seizable for support debts as determined pursuant to the second paragraph of article 553 of the Code of Civil Procedure. Arrears in support payments and fees, if any, may be included in that sum, in such proportion as the Minister determines.

Salary

For the purpose of determining that sum, the amounts referred to in subparagraphs 2 to 4 of the first paragraph of section 11 are deemed to be salary.

Deduction notice

**16.** Any person who pays a periodic amount shall, on notice from the Minister, deduct at source the sum determined by the Minister and remit it to him on the dates and in the manner specified in the notice.

Copy to debtor

A copy of the deduction notice shall be transmitted by the Minister to the debtor of support.

Interruption of deduction at source

**17.** If the deduction at source is interrupted or terminated, the debtor shall make his support payments to the Minister.

Sums deducted held in trust

**18.** Any person who deducts a sum at source pursuant to section 16 is deemed to hold that sum in trust for the Minister and shall keep it separate from his own funds.

Distinct patrimony

In the event of the bankruptcy of that person or the winding-up or alienation of the person's property, any sum so deducted shall constitute an autonomous and distinct patrimony not forming part of the property subject to the bankruptcy, winding-up or alienation, whether or not the sum deducted has in fact been kept separate from the person's own funds.

Period of  
deduction  
at source

**19.** A deduction at source is binding for as long as the periodic amount from which the deduction is made is payable to the debtor.

Release  
from  
obligation

However, the Minister shall release the person making a deduction at source from the obligation to do so and give notice thereof to the debtor of support where the support becomes payable under a payment order or where the debtor is discharged from the obligation to make support payments and no arrears or fees are owing.

Solidary  
obligation

**20.** Any person who, despite the deduction notice, neglects or refuses to deduct at source the sum determined by the Minister becomes solidarily liable for that sum with the debtor of support.

Liability

Moreover, any person who neglects or refuses to remit to the Minister a sum he has deducted at source becomes liable for that sum.

Notice to  
Minister

**21.** Every person making a deduction at source shall give notice to the Minister as soon as the periodic amount from which the deduction is made ceases to be payable to the debtor.

Seizure by  
garnish-  
ment

**22.** Every person who receives a deduction notice shall declare to the Minister any seizure by garnishment that is binding in respect of the debtor of support.

Suspension  
of deduc-  
tion at  
source

In such a case, the deduction at source is suspended for as long as the seizure by garnishment is binding. The Minister must file his claim in the record of the seizure by garnishment in accordance with the Code of Civil Procedure.

Seizure by  
garnish-  
ment

**23.** Every person who deducts at source a sum under section 16 shall declare to the Minister any seizure by garnishment served on him after receipt of the deduction notice. In such a case, the deduction at source is deemed to be a seizure by garnishment from the receipt of the deduction notice, and the Minister shall give notice to the person to declare and deposit, at the office of the court having awarded the support, the seizable part of what the person owes to the debtor of support, in accordance with the Code of Civil Procedure.

Filing of  
claims

The Minister shall, in addition, file with the clerk of the court having awarded the support a statement of his claim, and notify the seizing creditor, who shall then file his claim in the record of the support case concerned.

Release of  
seizure by  
garnish-  
ment

**24.** Where the Minister acts in the capacity of claimant or seizing creditor, the clerk shall release the seizure by garnishment once the other claims have been satisfied and shall give notice thereof to the Minister and the garnishee. The provisions relating to deductions at source, adapted as required, apply from that time.

Effect of  
seizure by  
garnish-  
ment

**25.** For the purposes of collocation, a seizure by garnishment for the execution of an ordinary claim subsequent to the original judgment awarding support has no effect in respect of the amount claimed by the Minister, except if that ordinary claim is another support claim.

### DIVISION III

#### PAYMENT ORDERS

Payment  
order

**26.** The Minister shall collect support payments by means of a payment order

(1) where there is no amount from which a deduction at source may be made;

(2) in respect of the balance owing, where the amount deducted at source is less than the amount of the support payment;

(3) where a debtor of support receiving a periodic amount so requests, provided there are no arrears.

Security

In such cases, security shall be furnished to the Minister and maintained by the debtor.

Payment  
order

**27.** The Minister may also collect support payments by means of a payment order where, having regard to the circumstances, deduction at source cannot ensure collection of support payments on a regular basis.

Failure to  
make a  
support  
payment

**28.** Subparagraph 3 of the first paragraph of section 26 ceases to have effect for the duration of the obligation of support if a support payment is not made when due.

Determi-  
nation of  
amount of  
payment

**29.** The Minister shall determine the amount that must be paid by the debtor having regard to the support payments to be made and, where applicable, any sum deducted at source pursuant to section 16. Arrears in support payments and fees, if any, may be included in that amount, in such proportion as the Minister determines.

Payment to  
Minister

The debtor shall pay to the Minister the amount so determined on the dates and in the manner specified in the payment order.

Security

**30.** The security required of the debtor must be sufficient to guarantee the support payments or, as the case may be, the payment of the balance owing, for three months.

New  
security

New or additional security must be furnished where the amount of the payments or balance is varied.

Gradual  
establish-  
ment of  
security

**31.** The Minister may, where the debtor shows him that he is unable to furnish the required security, agree with the debtor on terms and conditions allowing for the gradual establishment of the required security. However, a debtor referred to in subparagraph 3 of the first paragraph of section 26 is not eligible for such terms and conditions.

Payment of  
balance

Moreover, the Minister may, where he has reasonable grounds to believe that the financial situation of a debtor has improved, require payment of the balance owing on the security or agree on new terms and conditions.

Require-  
ment

The Minister may, for such purposes, require of the debtor that he file any document or information and that he report on any steps he has taken to obtain a loan or security from a financial institution.

Failure to  
furnish  
security

**32.** A debtor of support who fails to furnish or maintain the required security is deemed not to have made a support payment when due.

#### DIVISION IV

##### REIMBURSEMENT

Reimburse-  
ment to  
Minister

**33.** Any creditor of support who receives from the Minister an amount to which he is not entitled shall reimburse that amount to the Minister.

Return of  
security to  
debtor

**34.** Where the debtor is released from the obligation to pay support and no arrears or fees are owing, the Minister shall return to him the security not realized on or any balance thereof.

Return of  
security

The Minister shall also return the security if it is no longer required.

Interest

Interest at the legal rate is paid annually to the debtor if the security is a sum of money.

## DIVISION V

## FEES

Fee                   **35.** The Government may impose, in the cases and on the conditions prescribed by regulation, the payment of a fee for the collection of arrears in support payments owed by the debtor of support or of any amount exigible from another person under this Act.

Arrears               Where arrears are owing, the fee shall not be collected until all arrears have been paid.

Interest               Such a fee bears interest at the legal rate and is exigible notwithstanding the cancellation of the support payments.

## CHAPTER III

## PAYMENT TO THE CREDITOR OF SUPPORT

Payment to creditor of support           **36.** The Minister shall pay to the creditor of support twice a month the amount of the support and arrears he has collected.

Sums in lieu of support                   The Minister may, however, in the cases and on the conditions prescribed by regulation, pay to the creditor, for a period not exceeding three months, sums of money up to a maximum amount of \$1 000 to stand in lieu of support payments. Such sums are paid in the name of the debtor and are recoverable from him, or, where applicable, from the person referred to in the second paragraph of section 20.

Increase               The Government may, by regulation, provide for an increase in the maximum amount that the Minister may pay under the second paragraph.

Realization on security                   **37.** Where a support payment is not made when due and the debtor of support has furnished security, the Minister shall realize on the security and shall pay the support to the creditor of support out of the proceeds.

## CHAPTER IV

## FONDS DES PENSIONS ALIMENTAIRES

Establish-  
ment

**38.** The Fonds des pensions alimentaires, hereinafter referred to as the "Fund", is hereby established at the Ministère du Revenu, and the following sums shall be paid into it:

- (1) the sums collected by the Minister under this Act;
- (2) the sums paid to the Minister as security;
- (3) the sums derived from realization on securities;
- (4) the fees collected under this Act;
- (5) the advances paid into the Fund by the Minister of Finance under section 41;
- (6) the sums paid into the Fund by the Minister, by a department or by a body of the Government and taken out of the appropriations allocated for that purpose by Parliament;
- (7) the interest accrued on the sums referred to in paragraphs 1 to 4.

Sums to be  
taken out of  
Fund

**39.** The sums required

(1) for the payment of the amounts payable by the Minister under this Act and

(2) for the return of any security that is a sum of money or of the balance thereof and for the payment of accrued interest

shall be taken out of the Fund.

Costs

**40.** The Government shall determine the costs to be charged to the Fund.

Advances

**41.** The Minister of Finance may advance to the Fund, on authorization by the Government and on the conditions determined by the latter, sums taken out of the consolidated revenue fund.

Remu-  
neration  
and ex-  
penses

**42.** The remuneration and expenses relating to the social benefits and other conditions of employment of the persons assigned, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1),

to the activities connected with the administration of this Act may be paid out of the Fund, up to the amount of the sums paid into the Fund under paragraph 6 of section 38.

**Fund management**            **43.** The sums making up the Fund shall be managed by the Minister. The Minister shall, notwithstanding section 13 of the Financial Administration Act (R.S.Q., chapter A-6), keep the books of account of the Fund and record the financial commitments chargeable to the Fund. The Minister shall also certify that such commitments and the payments arising therefrom do not exceed the available balances and comply with them.

**Provisions applicable**        **44.** Sections 22, 24 to 27, 33, 35, 47 to 49, 49.2, 51, 57 and 70 to 72 of the Financial Administration Act, adapted as required, apply to the Fund.

**Estimates**                    Section 23 of the said Act applies with respect to the estimates concerning the operating expenses of the Fund.

**Fiscal year**                 **45.** The fiscal year of the Fund ends on 31 March.

CHAPTER V

RECOVERY

**Time limit**                    **46.** Any person owing an amount under this Act shall pay the amount within ten days after receipt of a demand for payment from the Minister.

**Agreement**                    However, the Minister may enter into a written agreement with such a person to establish the terms and conditions of payment of the amount owed. The Minister shall, in the case of a debtor of support, inform the creditor of support thereof.

**Requirement**                 Before entering into such an agreement, the Minister may require of the person that he file any document or information which establishes his financial situation and that he report on any steps he has taken to obtain a loan or security from a financial institution.

**Lapsing**                        If the terms of the agreement are not complied with, the agreement lapses.

**Execution of the obligation of support**        **47.** In order to recover an amount owed, the Minister may use, in addition to any recovery measure under this Act, any remedy or become a party to any proceeding to foster the execution of the obligation of support.

Compulsory  
execution

The Minister may use any measure for compulsory execution under the Code of Civil Procedure. In such a case, he shall act in the capacity of seizing creditor on behalf of the creditor of support.

Powers

He may also exercise any of the powers of a creditor under articles 543 to 546.1 of the said Code.

Notice to  
debtor

**48.** The Minister may, by written notice, require a person who is bound to make a payment, within one year after the date of the notice, to a person owing an amount under this Act, that he pay to the Minister all or part of the amount to be paid to his creditor, such payment to be made at the time at which the amount becomes payable to his creditor.

Secured  
creditor

The same applies in the case of a payment to be made to the secured creditor of a person owing an amount under this Act or to the transferee of a debt transferred by such person where the payment would, but for the security or transfer, be made to that person.

Financial  
institution

**49.** Where a person owing an amount under this Act is the debtor of a financial institution and has furnished security for his debt, and the institution has not yet paid its consideration for the debt, the Minister may, by written notice, require that the institution pay to the Minister all or part of the consideration.

Person to  
become a  
debtor  
within one  
year

The same rule applies where the person is to become the debtor of a financial institution within one year after the date of the notice from the Minister.

Person  
other than a  
financial  
institution

**50.** The Minister may, by written notice, require that a person other than a financial institution who, within one year after the date of the notice, is to lend or advance an amount to a person who owes an amount under this Act or is to pay an amount for that person, pay to the Minister all or part of that amount.

Applica-  
bility

The first paragraph applies only if the person owing an amount under this Act is to be, within one year after the date of the notice, remunerated by the person other than a financial institution, or, where the latter person is a legal person, only if the person is not dealing at arm's length therewith within the meaning of the Taxation Act (R.S.Q., chapter I-3).

Solidary  
obligation

**51.** Any person who neglects or refuses to comply with a notice of the Minister under any of sections 48 to 50 becomes solidarily liable, with the person owing an amount, for the amount claimed in the notice up to the amount of his obligation.

Acquisition  
and  
alienation  
of debtor's  
property

**52.** In order to recover an amount owed by a person under this Act, the Minister may acquire and alienate any property of that person, whether the property is offered for sale following legal proceedings or otherwise.

Amount  
payable by  
public body

**53.** Where a person owing an amount under this Act is also the creditor or recipient of an amount payable by a public body, the Minister may apply all or part of the amount payable to the payment of the debt owed by the person.

Provisions  
applicable

Sections 31.1.1 to 31.1.5 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), adapted as required, apply to such an application.

Applica-  
bility

This section applies notwithstanding section 33 of the Act respecting the Ministère du Revenu.

Certificate

**54.** Where a person other than a debtor of support owes an amount under this Act, the Minister may, at the expiry of the time prescribed by section 46, issue a certificate attesting that the debt is exigible and specifying the amount owed; the certificate shall be proof that the debt is exigible.

Certificate

If, however, the Minister has reasonable grounds to believe that such a person is attempting to evade paying that amount, the Minister may issue the certificate forthwith.

Effects of  
certificate

Once the certificate, together with a copy of a document attesting the amount owed, is filed at the office of the Superior Court, the certificate becomes enforceable as if it were a judgment of that court and has all the effects of such a judgment.

## CHAPTER VI

### EXAMINATIONS AND INVESTIGATIONS

Powers of  
examiner

**55.** A person authorized by the Minister to act as an examiner may, to insure the recovery of an amount owed, require any information and any document, examine such a document and make a copy thereof.

Immunity

**56.** No proceedings may be brought against an examiner for acts carried out in good faith in the performance of his functions.

Compliance

**57.** No person may hinder an examiner in the performance of his functions.

Powers of  
investiga-  
tion

**58.** The Minister and any person designated by the Minister as an investigator may carry out an investigation with respect to any fact or information relating to the recovery of an amount owed. For that purpose, the Minister and the investigator shall have the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Identifica-  
tion

**59.** An examiner or investigator shall, on request, identify himself and produce the certificate attesting his capacity signed by the Minister.

## CHAPTER VII

## REMEDIES

Contesta-  
tion

**60.** A debtor having received a notice under section 8 by reason of the application of subparagraph 1 or 2 of the first paragraph of section 5 may, within ten days after receipt of the notice, contest the application of this Act in his respect by a motion to the Superior Court.

Preference

The motion shall be heard and decided by preference.

Notice of  
contesta-  
tion

**61.** Any person presumed to pay remuneration under section 14, any debtor who receives a copy of a deduction notice pursuant to section 28 or any person to whom a demand for payment under section 46 is transmitted may oppose the deduction notice or demand for payment by sending to the Minister by registered or certified mail, within ten days after receipt of the notice or demand, a notice of contestation setting out the reasons for the contestation and all relevant facts.

Decision

**62.** The Minister shall, within 30 days after receipt of a notice of contestation, examine the grounds of the contestation and make his decision known to the person having sent the notice.

Appeal

**63.** A person may, within 30 days after a decision rendered by the Minister under section 62, file an appeal from the decision to the Superior Court of the judicial district in which the person resides or to the Superior Court of the judicial district of Québec or Montréal, according to the judicial district in which the decision would be appealable under article 30 of the Code of Civil Procedure if it were an appeal to the Court of Appeal.

- 64.** The appeal is brought by means of a motion filed in duplicate at the office of the court or sent in duplicate to the office of the court by registered or certified mail.
- Motion
- The clerk of the court shall transmit one copy of the motion to the Minister, who shall send to the clerk a copy of the notice of contestation and a copy of the decision appealed from.
- Copy to Minister
- The motion is heard and decided by preference.
- Preference
- 65.** The court may dismiss the motion, cancel or vary the deduction notice or demand for payment or refer the notice or demand to the Minister for re-examination and a new decision.
- Power of the Court
- 66.** A remedy sought under this chapter shall not prevent support payments from being collected or made by the Minister or recovery measures from being taken in respect of the amount at issue, unless a judge acting in chambers orders otherwise.
- Collection of support payments
- Such an order may be issued only where there are exceptional grounds therefor and the judge is satisfied that the payment of the support is assured until a decision is rendered regarding the remedy sought.
- Order

## CHAPTER VIII

## PENAL PROVISIONS

- 67.** Every person who fails to withhold or remit a sum in accordance with section 16 is guilty of an offence and liable to a fine of not less than \$100 nor more than \$5 000.
- Offence and penalty
- 68.** Every person who fails to provide the information required by section 13 or 21, provides false information or contravenes section 57 is guilty of an offence and liable to a fine of not less than \$100 nor more than \$1 000.
- Offence and penalty
- 69.** Every person who contravenes section 75 is guilty of an offence and liable to a fine of not more than \$500.
- Offence and penalty
- 70.** Where a person is convicted of an offence under section 67, the court may make any order to remedy the failure constituting the offence.
- Order

Prior notice      Prior notice of the application for such an order shall be given by the prosecutor to the person who could be compelled under such an order, except where the person is present in court.

## CHAPTER IX

### REGULATORY PROVISIONS

Regulations      **71.** The Government may determine, by regulation,

- (1) the amounts from which a deduction at source may be made pursuant to subparagraph 4 of the first paragraph of section 11;
- (2) the nature of the security referred to in sections 3 and 26;
- (3) the cases and conditions in and on which the Government may impose a fee under section 35 and fix the amount of such fee;
- (4) the cases and conditions in and on which the Minister may pay sums of money to stand in lieu of support payments and the increase in the maximum amount, for the purposes of section 36;
- (5) the information and documents that must be transmitted under section 5, 6 or 99.

## CHAPTER X

### MISCELLANEOUS PROVISIONS

Public order      **72.** This Act is of public order.

Government bound      **73.** This Act is binding on the Government, its departments and their mandatary bodies.

Employment      **74.** No person may, on pain of damages, refuse to employ a person by reason of his being a debtor of support subject to the provisions of this Act.

Confidentiality      **75.** Any information obtained under this Act is confidential.

Confidentiality      No person may use such information for a purpose other than a purpose provided for by law, disclose or allow the disclosure of such information to a person not legally entitled thereto or allow examination of or access to a document containing such information by such a person.

Trans-  
mission of  
information **76.** The Minister shall transmit to the Minister of Income Security all necessary information for the application of the Act respecting income security (R.S.Q., chapter S-3.1.1) in respect of a creditor of support.

Trans-  
mission of  
information Such information shall be transmitted in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

Minister  
responsible **77.** The Minister of Revenue is responsible for the administration of this Act.

Civil  
proceeding **78.** Any civil proceeding under this Act by or against the Minister shall, notwithstanding any inconsistent provision, be instituted in the name of the Deputy Minister of Revenue.

Penal  
proceeding Any penal proceeding for an offence under this Act may be instituted by the Deputy Minister of Revenue.

Provisions  
applicable Sections 72.4 and 77 of the Act respecting the Ministère du Revenu, adapted as required, shall apply to any such civil or penal proceeding.

Inalien-  
ability,  
unseizability **79.** A security furnished to the Minister or a sum of money to be paid or returned by the Minister under this Act is inalienable and unseizable.

## CHAPTER XI

### AMENDING AND REPEALING PROVISIONS

#### CODE OF CIVIL PROCEDURE

c. C-25,  
Book IV,  
Title II,  
Chap. I,  
Sect. IV,  
repealed

**80.** Section 14 of Chapter I of Title II of Book IV of the Code of Civil Procedure (R.S.Q., chapter C-25) is repealed.

c. C-25,  
a. 589, am.

**81.** Article 589 of the said Code is amended by replacing the second paragraph by the following paragraph :

“However, where the Minister of Revenue acts as seizing creditor pursuant to the Act to facilitate the payment of support (1995, chapter 18), no advance of money may be demanded by the seizing officer.”

c. C-25,  
a. 641.1, am.

**82.** Article 641.1 of the said Code is amended by replacing the words “If there” in the first line of the second paragraph by the words “Except if the Minister of Revenue is acting in the capacity of claimant or seizing creditor pursuant to the Act to facilitate the payment of support, if there”.

c. C-25,  
a. 643, am.

**83.** Article 643 of the said Code is amended by inserting the word “, date” after the word “nature” in the first line of the second paragraph.

c. C-25,  
a. 659.0.1,  
added

**84.** The said Code is amended by inserting, after article 659, the following article:

“**659.0.1** No debtor of support subject to the Act to facilitate the payment of support may avail himself of this subsection, except if he already has availed himself of the provisions of this subsection by the time he becomes subject to the said Act.”

c. C-25,  
Book IV,  
Title II,  
Chap. IV,  
Sect. IV.1,  
repealed

**85.** Section IV.1 of Chapter IV of Title II of Book IV of the said Code is repealed.

c. C-25,  
a. 659.11,  
added

**86.** The said Code is amended by inserting, after article 659.10, the following article:

“**659.11** This section shall not apply where the Minister of Revenue is acting as seizing creditor pursuant to the Act to facilitate the payment of support.”

c. C-25,  
a. 661.1,  
repealed

**87.** Article 661.1 of the said Code is repealed.

c. C-25,  
a. 662, am.

**88.** Article 662 of the said Code is amended by striking out the second paragraph.

c. C-25,  
aa. 827.5,  
827.6,  
added

**89.** The said Code is amended by inserting, after article 827.4, the following articles:

“**827.5** Every application relating to an obligation of support must be accompanied with a sworn statement by each party, and each such statement must contain the information prescribed by regulation. If a creditor is a minor, the statement must be made by the person acting for the minor.

The statements shall be kept at the office of the court, and are confidential. If the court does not award support, the statements are destroyed.

**“327.6** As soon as a judgment awarding support or a judgment revising such a judgment is rendered, the clerk of the court shall enter in the register of support payments the relevant information contained in the judgment and in the sworn statements and shall transmit the statements, together with a copy of the judgment, to the Minister of Revenue.

The information entered in the register of support payments is confidential.”

## TAXATION ACT

c. 1-3,  
s. 313, am.

**90.** Section 313 of the Taxation Act (R.S.Q., chapter I-3), amended by section 140 of chapter 22 of the statutes of 1994, is again amended by adding, after the first paragraph, the following paragraph:

Mainte-  
nance  
payments

“Where the amount referred to in the first paragraph or any part of that amount is paid by the Minister under the Act to facilitate the payment of support (1995, chapter 18) otherwise than out of the sums collected from the debtor of support, the amount or any part of the amount, once paid, is deemed, for the purposes of paragraphs *a* to *b.1* of section 312, to have been received by the taxpayer under the decree, order or judgment.”

c. 1-3,  
s. 336, am.

**91.** Section 336 of the said Act, amended by section 95 of chapter 15 of the statutes of 1993, section 29 of chapter 64 of the statutes of 1993, section 143 of chapter 22 of the statutes of 1994 and section 38 of chapter 1 of the statutes of 1995, is again amended by adding, after subsection 2, the following subsection:

Mainte-  
nance  
payments

“(2.1) Where a decree, order or judgment referred to in any of subparagraphs *a* to *b* of paragraph 1, or any variation thereof, provides for the periodic payment of an amount by a taxpayer to a person who is the taxpayer’s spouse or former spouse or, where the amount is paid under an order made by a competent tribunal in accordance with the laws of a province, an individual of the opposite sex who is the father or mother of a child of the taxpayer, or for the benefit of the person or a child in the custody of the person or both the person and that child, the amount or any part of the amount is paid by the Minister under the Act to facilitate the payment of support (1995, chapter 18) otherwise than out of the sums collected from the taxpayer and, in a particular taxation year, the taxpayer reimburses to the Minister all or part of the amount paid by the Minister, the amount reimbursed is deemed, for the purposes of the said subparagraphs *a* to *b*, to have been paid in that year under the decree, order or judgment.”

c. I-3,  
s. 1016, am. **92.** Section 1016 of the said Act is amended by adding the following paragraph:

Determina-  
tion of  
lesser  
amount “The Minister shall determine such a lesser amount where the amount paid to the taxpayer is subject to a deduction under the Act to facilitate the payment of support (1995, chapter 18) and the amount so deducted is deductible under section 334.”

## ACT RESPECTING THE MINISTÈRE DU REVENU

c. M-31, s. 2,  
am. **93.** Section 2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting the words “, the Act to facilitate the payment of support (1995, chapter 18)” after the word “laws” in the second line of the second paragraph.

c. M-31,  
s. 18.1,  
replaced **94.** Section 18.1 of the said Act is replaced by the following section:

Amount  
deemed  
received “**18.1** Where an amount is deducted or withheld in accordance with the terms of a fiscal law or the Act to facilitate the payment of support, that amount is deemed to have been received by the beneficiary of the payment from which the said deduction or withholding was made.”

## ACT RESPECTING LABOUR STANDARDS

c. N-1.1,  
s. 122, am. **95.** Section 122 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

“(3.1) on the ground that such employee is a debtor of support subject to the Act to facilitate the payment of support (1995, chapter 18);”.

## ACT RESPECTING INCOME SECURITY

c. S-3.1.1,  
s. 39, am. **96.** Section 39 of the Act respecting income security (R.S.Q., chapter S-3.1.1) is amended by replacing the second paragraph by the following paragraph:

Notification  
to Minister “To exercise such subrogation, the Minister shall notify the Minister of Revenue and provide to him the information required for the purposes of the Act to facilitate the payment of support (1995, chapter 18).”

## CHAPTER XII

## TRANSITIONAL AND FINAL PROVISIONS

Applica-  
bility

**97.** The provisions of this Act apply to juridical situations in which the collector of support payments is charged, under articles 659.1 and 659.2 of the Code of Civil Procedure, with compulsory execution of a judgment awarding support against the debtor's property, as and when the Minister of Revenue takes charge of the collection of the support payments.

Transfer of  
powers to  
Minister

To that effect, the powers of the collector of support payments are transferred to the Minister of Revenue who shall continue proceedings in accordance with the rules contained in this Act.

Trans-  
mission of  
information  
to Minister

**98.** For the purposes of section 97, the collector of support payments shall, as soon as possible, transmit to the Minister of Revenue all necessary information and documents for the execution of each judgment awarding support.

Entry in  
register

The collector shall first enter all pertinent information in the register of support payments.

Applica-  
bility

**99.** The provisions of this Act apply to any person who is a debtor of support before 1 December 1995, and to the creditor of support,

(1) on the application of the creditor, where a support payment is not made when due, in which case the debtor may avail himself of section 60;

(2) on the joint application of the parties.

Applica-  
tions

Such applications shall be addressed to the clerk of the court in the district in which the judgment awarding support was rendered or of the court in the district in which the creditor resides and shall be accompanied with the information and documents prescribed by regulation. The clerk shall enter all pertinent information in the register of support payments and shall notify such information and transmit such documents to the Minister of Revenue.

Reference

**100.** Unless the context indicates otherwise, in any other Act and in any regulation, by-law, order in council, ministerial order, proclamation, judgment, order, contract, agreement, accord or other document, a reference to the collector of support payments is a reference to the Minister of Revenue.

Report           **101.** The Minister of Revenue shall, not later than 1 December 2000, submit to the Government a report concerning the carrying out of this Act.

Report           The report shall be tabled before the National Assembly by the Minister within 15 days if the Assembly is sitting or, if it is not sitting, within 15 days after resumption.

Coming into  
force           **102.** This Act comes into force on the date or dates to be fixed by the Government.