



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 77

An Act to amend the Civil Code and the Registry Office Act

Introduction

Introduced by
Mr Herbert Marx
Minister of Justice

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EXPLANATORY NOTES

This bill proposes various amendments to certain legislative provisions concerning the administration of justice in order to remove needless constraints.

First, the Civil Code is amended so that tenders and deposits may in future be made not only in cash but also by certified cheque.

Another amendment to the Civil Code deals with the service and registration of judgments pronouncing the revocation, extinction or cancellation of registered real rights.

Finally, the bill amends the Registry Office Act to introduce a mechanism to provide for the temporary replacement of registrars and deputy registrars and to simplify the procedure concerning the oath required of these public officers before they enter office.

ACTS AMENDED BY THIS BILL:

- the Civil Code;
- the Registry Office Act (R.S.Q., chapter B-9).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 1056c of the Civil Code of Lower Canada, amended by section 10 of chapter 85 of the statutes of 1971, is again amended by replacing the words and figures “53 of the Revenue Department Act (Revised Statutes, 1964, chapter 66)” in the second paragraph by the words and figures “28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)”

2. Article 1163 of the said Code is amended by replacing paragraph 4 by the following paragraph:

“4. That, if it be of money, it be made in cash or by certified cheque;”.

3. Article 2153 of the said Code, replaced by section 39 of chapter 28 of the statutes of 1983, is again replaced by the following article:

“**2153.** The judgment declaring the nullity, extinction or dissolution of a registered right cannot be deposited for cancellation, unless it is accompanied with a certificate of the prothonotary that the delays allowed to appeal from such judgment have expired, without such appeal having taken place.

In the case of a judgment rendered by default, the certificate may be issued at the expiry of 30 days from the date of the judgment if there is not, on or after the date of its issue, an appeal from the judgment or presentation of a motion in rescission of judgment.

On deposit of the judgment accompanied with the certificate of the prothonotary, the registration of the right must be cancelled.”

4. Article 2154 of the said Code, amended by section 1 of chapter 91 of the statutes of 1931-32, by section 17 of chapter 85 of the statutes of 1971 and by section 40 of chapter 28 of the statutes of 1983, is again amended by replacing the second paragraph by the following paragraph:

“Nevertheless, a judgment entered on agreement of the parties is not served. A judgment rendered under article 805 of the Code of Civil Procedure or by default to appear need be served only if the judge so orders.”

5. Article 2159 of the said Code, replaced by section 18 of chapter 11 of the statutes of 1980 and amended by section 4 of chapter 58 of the statutes of 1982, is replaced by the following article:

“**2159.** The registrar is required to execute the prescriptions of this title and other related legislative provisions; he is required, in particular, to see to it that the documents presented to him are in conformity with the rules of registration.”

6. The Registry Office Act (R.S.Q., chapter B-9) is amended by inserting, after section 5, the following section:

“**5.1** The Minister of Justice shall appoint, by order, for each registry office, a registrar who shall be entrusted with the keeping of that office.

The Minister of Justice may, as circumstances require, entrust the keeping of more than one registry office to the same registrar.

Each registrar is, *ex officio* and as long as he remains in office, a deputy registrar for any registry office other than that for which he was appointed.”

7. Section 6 of the said Act is amended by replacing the third paragraph by the following paragraphs:

“Each registrar is, *ex officio* and as long as he remains in office, a deputy registrar for any registry office other than that for which he was appointed.

The Minister of Justice or any officer of his department designated by him in writing may, as circumstances require, appoint deputy registrars for such time as he fixes from among the personnel of the

registry offices. The instrument of appointment may limit their powers and functions and specify the conditions governing their exercise.”

8. Section 30 of the said Act is replaced by the following section:

“**30.** Every registrar and every deputy registrar shall, upon his appointment, make before a judge of the Superior Court, the prothonotary of the district in which the registry office for which he is appointed is located or before an officer designated in writing by the Minister of Justice, the following oath:

“I, (*name in full*), swear that I will faithfully, without partiality, honestly and to the best of my ability and knowledge perform all the duties of the office of (*registrar or deputy registrar*) and that I will so exercise all the powers thereof.”

The oath shall be filed at the office of the branch of the justice department responsible for registry offices. An officer designated in writing by the Minister of Justice shall issue, on demand, a certified copy of the oath.”

9. Forms 1 and 2 of the said Act are repealed.

10. This Act comes into force on (*insert here the date of assent to this Act*).