

THIRD SESSION

THIRTY-SECOND LEGISLATURE

# NATIONAL ASSEMBLY OF QUÉBEC

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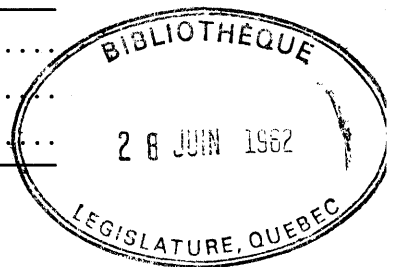
## Bill 79

**An Act to amend the Public Curatorship Act**

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First reading .....  
Second reading .....  
Third reading .....

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M. JACQUES PARIZEAU

Minister of Finance

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## EXPLANATORY NOTES

*The main object of this bill is to introduce changes into the Public Curatorship Act designed to allow the Public Curator greater self-management.*

*To that end, it proposes that henceforth the income of the Public Curator will include the interest on sums of money owned or inherited by persons unknown or untraceable, and of the fees he is entitled to charge for administering the property entrusted to him or under his supervision. It also provides that any excess of operating expenses over income will be charged against the fund made up of the income derived from the sums of money belonging to unknown or untraceable owners or heirs.*

*The bill proposes other amendments to simplify the administration of the Act, particularly, the updating of the amounts under which the Public Curator may, without judicial authorization, sell or transact in property belonging to incapable persons, and provision for an expert committee to advise the Public Curator on investments.*

## Bill 79

### An Act to amend the Public Curatorship Act

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

**1.** The Public Curatorship Act (R.S.Q., chapter C-80) is amended by replacing section 2 by the following sections:

**“2.** The Government shall appoint a person to act as Public Curator.

**“2.1** The term of office of the Public Curator is not over five years; he remains in office at the expiry of his term until he is reappointed or replaced.

**“2.2** The Government shall fix the remuneration and the other conditions of employment of the Public Curator.

**“2.3** The Assistant Public Curator and the other members of the personnel required for the carrying out of this Act are appointed and remunerated in accordance with the Civil Service Act (R.S.Q., chapter F-3.1).

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

**“2.4** The Assistant Public Curator shall assist the Public Curator in carrying out his duties and replace him when he is absent or temporarily incapacitated.”

**2.** Section 9 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) when the Public Curator receives a certificate from the director of professional services or a physician authorized by the director attesting, upon a written recommendation stating the reasons therefor from a psychiatrist who has examined the mental patient, that the patient is capable of administering his property;”.

**3.** Section 12 of the said Act is amended by replacing paragraph *e* by the following paragraph:

“(e) of sums of money intended to repay bonds, debentures or other similar loans, except those guaranteed or assumed by the Government, when those sums of money are not claimed within three years following their maturity;”.

**4.** The said Act is amended by inserting, after section 17, the following section:

**“17.1** 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.”

**5.** Section 24 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Nevertheless, the Public Curator may, without judicial authorization or formality,

(a) sell, through a broker and in accordance with the regulations and customs of the stock exchange, securities listed and traded on a recognized stock exchange;

(b) sell by agreement or at auction any moveable property belonging to a person under his administration the value of which does not exceed \$6 000.”

**6.** Section 25 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Nevertheless, the Public Curator may, without judicial authorization, sell by agreement any immovable the assessment of which for municipal purposes does not exceed \$10 000.”

**7.** The said Act is amended by inserting, after section 25, the following section:

**“25.1** The acquisition, by a member of the personnel of the Public Curator, of property subject to his administration is subject to the restrictions provided in the Civil Code on the acquisition, by curators, of the property subject to their administration.”

**8.** Section 26 of the said Act is replaced by the following section:

**“26.** The Public Curator shall not transact except with the authorization of a judge of the Superior Court; nevertheless, he may transact without judicial authorization when the value of the property which is the object of the transaction does not exceed \$2 500.”

**9.** The said Act is amended by inserting, after section 28, the following section:

**“28.1** Where the owners or heirs of property to which the public curator is the administrator are unknown or untraceable or have renounced it, the sums of money, exclusive of interest yielded thereby, derived from the property must be remitted to the Minister ten years after the termination of the administration of the property or upon the renunciation.

The Minister shall pay the sums into the consolidated revenue fund.”

**10.** Section 32 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“32.** The Public Curator may, upon motion and without consulting the family council, demand the removal of a tutor or curator on the grounds set out in the Civil Code or for contravention of section 31, or where the annual report of a tutor or curator or the inquiry held under section 21 gives serious cause to believe the property under tutorship or curatorship may be dissipated.”

**11.** The said Act is amended by inserting, after section 32, the following section:

**“32.1** Where curatorship is referred to the Public Curator by a judge or a prothonotary, the Curator has, in respect of the person and the property concerned, the powers and obligations of a tutor; however, he does not have custody of the person.”

**12.** The said Act is amended by inserting, after section 36, the following sections:

**“36.1** The Government, on the recommendation of the Minister of Finance, shall appoint a committee to advise the Public Curator on investment of the property under his administration.

**“36.2** 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.

**“36.3** The members of the committee receive no remuneration. However, they are entitled to reimbursement of justifiable expenses incurred in the discharge of their duties, and receive an attendance allowance fixed by the Government.

**“36.4** The Public Curator must make a report of his investment portfolio to the committee at least once each year.”

**13.** The said Act is amended by replacing Division v by the following:

“DIVISION V

“FINANCING

**“37.** The fiscal period of the Public Curator ends on 31 December every year.

**“38.** Every year, on the date prescribed by the Minister of Finance, the Public Curator shall transmit to him his budget estimates for the next fiscal period.

The budget estimates are subject to approval by the Conseil du trésor.

**“38.1** Every contract that may be charged to the budget of the Public Curator is subject to the regulations contemplated in section 49 of the Financial Administration Act (R.S.Q., chapter A-6).

**“38.2** The Public Curator is entitled to exact reimbursement of his expenses and payment of the fees fixed by regulation for the administration of property entrusted to him or the supervision of property placed under tutorship or curatorship.

**“38.3** Any excess of income over expenditures for a fiscal period is paid into the consolidated revenue fund.

Any operating deficit is charged against the fund constituted by the income derived from the sums referred to in section 28.1.”

**14.** Section 39 of the said Act is amended

(1) by inserting, after paragraph *e*, the following paragraphs:

“(e.1) to determine the income of the Public Curator in addition to that otherwise provided for by this Act;

“(e.2) to fix the date from which certain income fixed in accordance with paragraph *e.1* will be added to the other income of the Public Curator;”;

(2) by inserting, after paragraph *h*, the following paragraph:

“(h.1) to define the expression “after the termination of the administration of the property” contained in section 28.1;”;

(3) by adding, after paragraph *k*, the following paragraph:

“(l) to determine the form and content of the account that must be rendered by the Public Curator pursuant to sections 34 and 36.”

**15.** Section 42 of the said Act is amended by striking out the second paragraph.

**16.** The said Act is amended by inserting, after section 42, the following sections:

“**42.1** Every tutor or curator who contravenes section 31 or the regulations thereunder is guilty of an offence and liable, in addition to costs, to a fine of not over \$1 000.

“**42.2** Proceedings under this Act are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney General or a person generally or specially authorized by him for that purpose.”

**17.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (*insert here the reference to the chapter number of the Canada Act in the compilation of the Acts of the Parliament of the United Kingdom for 1982*).

**18.** This Act comes into force on the day of its sanction.