

1995, chapter 2
**AN ACT TO AMEND THE CODE OF CIVIL PROCEDURE
AND THE ACT RESPECTING MUNICIPAL COURTS**

Bill 41

Introduced by Mr Paul Bégin, Minister of Justice

Introduced 5 December 1994

Passage in principle 8 December 1994

Passage 26 January 1995

Assented to 30 January 1995

**Coming into force: 30 January 1995, except sections 1 and 2, paragraph 1 of section 3
and sections 4 to 7, 9 and 11 to 14, which will come into force on
16 March 1995**

Legislation amended:

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

Act respecting municipal courts (R.S.Q., chapter C-72.01)





CHAPTER 2

An Act to amend the Code of Civil Procedure and the Act respecting municipal courts

[Assented to 30 January 1995]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 26 of the Code of Civil Procedure (R.S.Q., chapter C-25), amended by section 176 of chapter 57 of the statutes of 1992, section 2 of chapter 30 of the statutes of 1993 and section 1 of chapter 72 of the statutes of 1993, is again amended by replacing the figure “\$15 000” at the end of subparagraph 1 of the first paragraph by the figure “\$20 000”.

2. Article 34 of the said Code, amended by section 180 of chapter 57 of the statutes of 1992, is again amended by replacing the figure “\$15 000” in subparagraphs 1, 2 and 3 of the first paragraph by the figure “\$30 000”.

3. Article 494 of the said Code, amended by section 285 of chapter 57 of the statutes of 1992 and section 6 of chapter 30 of the statutes of 1993, is again amended

(1) by inserting the words “or, in the case of an application for leave to appeal from a judgment ruling on a motion to quash a seizure before judgment, within 5 clear days of the date of judgment” after the word “judgment” in the second line of the third paragraph;

(2) by replacing the word and figure “paragraph 2” in the second line of the fifth paragraph by the words and figure “subparagraph 2 of the first paragraph”.

4. Article 501 of the said Code is amended by inserting, after the first paragraph, the following paragraph:

“The Court may dismiss a motion based on subparagraph 5 of the first paragraph without hearing the parties.”

5. Articles 503.1, 503.2 and 503.3 of the said Code, enacted by section 13 of chapter 30 of the statutes of 1993, are replaced by the following article:

“503.1 Where the factum is not served and filed within the time prescribed by article 503, the appeal is deemed abandoned unless an application for an extension is served and filed at the office of the court by the appellant before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.

Where the appellant has not, within the allotted time, filed and served his factum and no application for an extension, or motion under article 505.1, is pending, the clerk of the Court of Appeal shall record the default and issue a certificate stating that the appeal is abandoned with costs.”

6. Article 504.1 of the said Code is amended by replacing the word “sixty” in the first line by the word “ninety”.

7. Article 505 of the said Code, replaced by section 14 of chapter 30 of the statutes of 1993, is again replaced by the following articles:

“505. Where the respondent does not file his factum within the time prescribed by article 504.1, he is foreclosed from filing it unless an application for an extension is served and filed at the office of the court by him before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.

Where the respondent fails to file his factum within the allotted time, the Court may refuse to hear him. If the respondent makes an incidental appeal but does not act within the time allotted for the filing of his factum, the incidental appeal is deemed abandoned.

“505.1 A judge of the Court of Appeal may, on a motion filed before the expiry of the time prescribed by article 503 and with the consent of the appellant and the respondent, fix another time for the filing of their factums.”

8. The said Code is amended by inserting, after article 522, the following article:

“522.1 The Court of Appeal or one of its judges may, subject to the conditions the Court or the judge deems appropriate, order

suspension of the execution of a judgment of the Court, on a motion of a party who establishes his intention to apply for leave to appeal to the Supreme Court of Canada.”

9. Article 547 of the said Code, amended by section 295 of chapter 57 of the statutes of 1992, section 15 of chapter 30 of the statutes of 1993 and section 27 of chapter 28 of the statutes of 1994, is again amended by replacing the words “special reason” in the second and third lines of the second paragraph by the words “reason deemed sufficient in particular where the fact of bringing the case to appeal is likely to cause serious or irreparable injury”.

10. The French text of article 792 of the said Code, replaced by section 367 of chapter 57 of the statutes of 1992, is amended by replacing the word “arpenteur” in the second line of the first paragraph by the word “arpenteur-géomètre”.

c. C-72.01,
s. 28, am.

11. Section 28 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by replacing the figure “\$15 000” in subparagraph 3 of the first paragraph by the figure “\$30 000”.

Pending
cases

12. Section 1 and paragraph 1 of section 3 apply to cases pending in first instance on 16 March 1995, but not to judgments already rendered on that date in respect of which the time for appeal is not expired.

Pending
cases

13. Sections 2 and 11 have no effect in respect of cases pending before the Superior Court on 16 March 1995.

Appeal

14. Sections 5 to 7 do not apply to cases inscribed for appeal before 16 March 1995.

Coming into
force

15. This Act comes into force on 30 January 1995, except sections 1 and 2, paragraph 1 of section 3 and sections 4 to 7, 9 and 11 to 14, which will come into force on 16 March 1995.