

1982, chapter 46

## AN ACT TO AMEND THE PUBLIC CURATORSHIP ACT

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### **Bill No. 79**

Introduced by Mr Jacques Parizeau, Minister of Finance

First reading: 21 June 1982

Second reading: 16 November 1982

Third reading: 16 December 1982

**Assented to: 16 December 1982**

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**Coming into force: 16 December 1982**

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### **Act amended:**

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



## CHAPTER 46

### An Act to amend the Public Curatorship Act

*[Assented to 16 December 1982]*

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

R.S.Q., c.  
C-80, s. 2,  
replaced,  
ss. 2.1-2.4,  
added.  
Public  
Curator.

**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.

Term of  
office.

**“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.

Remunera-  
tion.

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

Assistant  
and  
personnel.

**“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).

Powers.

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.

Assistant  
Public  
Curator.

**“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.”

R.S.Q., c.  
C-80, s. 5,  
replaced.

**2.** Section 5 of the said Act is replaced by the following section:

Audit.           **"5.** 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 Auditor General may, however, appoint another auditor to audit such books and accounts of the Curator as relate to the property administered by him.

Report.           The report of the Auditor General and, as the case may be, the report of the appointed auditor shall accompany the annual report of the Public Curator.

Fees.            The fees of any auditor appointed by the Auditor General shall be paid out of the revenues of the Public Curator."

R.S.Q., c.  
C-80, s. 9,  
am.           **3.** 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;"

R.S.Q., c.  
C-80, s.  
12, am.       **4.** Section 12 of the said Act is amended by replacing paragraph *e* by the following paragraph:

"(e) of sums of money intended to pay interest and to repay bonds, notes, debentures or other evidences of indebtedness except those issued or assumed by the Government when those sums of money are not claimed within three years following their maturity;"

R.S.Q., c.  
C-80, s.  
17.1,  
added.       **5.** The said Act is amended by inserting, after section 17, the following section:

Agree-  
ments.       **"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."

R.S.Q., c.  
C-80, s.  
24, am.       **6.** Section 24 of the said Act is amended by replacing the second paragraph by the following paragraph:

Without  
authoriza-  
tion.        **"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."

R.S.Q., c.  
C-80, s.  
25, am.

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

Without  
authoriza-  
tion.

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

R.S.Q., c.  
C-80, s.  
25.1,  
added.

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

Acquisition  
by person-  
nel of the  
Public  
Curator.

**“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.”

R.S.Q., c.  
C-80, s.  
26,  
replaced.

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

Transac-  
tion.

**“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.”

R.S.Q., c.  
C-80, s.  
28.1,  
added.

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

Unknown  
owners.

**“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.

Notice.

The Minister shall pay the sums into the consolidated revenue fund after notice published in the *Gazette officielle du Québec* as determined by regulation.”

R.S.Q., c.  
C-80, s.  
32, am.

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

Removal  
of tutor or  
curator.

**“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.”

R.S.Q., c.  
C-80, s.  
32.1,  
added.

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

Referral of  
curator-  
ship.

**“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.”

R.S.Q., c.  
C-80, ss.  
36.1-36.4,  
added.

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

Advisory  
committee.

**“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.

Members.

**“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.

Remunera-  
tion.

**“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.

Report.

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

R.S.Q., c.  
C-80, ss.  
37, 38,  
replaced,  
ss.  
38.1-38.3,  
added.

**14.** The said Act is amended by replacing Division V by the following:

#### “DIVISION V

#### “FINANCING

Fiscal  
period.

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

Budget  
estimates.

**“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.

Approval.

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

Regula-  
tions  
governing  
contracts.

**“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).

Reimburse-  
ment of  
expenses.

**“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.

Surplus.

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

Deficit.

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

R.S.Q., c.  
C-80, s.  
39, am.

**15.** 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.”

R.S.Q., c.  
C-80, s.  
42, am.

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

R.S.Q., c.  
C-80, ss.  
42.1, 42.2,  
added.

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

Offence  
and  
penalty.

**“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.

Proceed-  
ings.

**“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.”

Exception.

**18.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming  
into force.

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