NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 5

(1996, chapter 4)

An Act to amend the Mining Duties Act

Introduced 17 April 1996
Passage in principle 1 May 1996
Passage 10 June 1996
Assented to 13 June 1996

Québec Official Publisher
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EXPLANATORY NOTE

This bill amends the Mining Duties Act to give effect to changes announced in the Budget Speech of 9 May 1995. The new measures include

– the introduction of a credit on duties for the cost of bringing an orebody into production;

– the introduction of an additional allowance for a northern mine;

– the clarification of the definition of mining operation;

– the harmonization of the vocabulary used in the Act with that of the Civil Code of Québec.

Bill 5

An Act to amend the Mining Duties Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Mining Duties Act (R.S.Q., chapter D-15), replaced by section 1 of chapter 47 of the statutes of 1994, is amended

(1) by inserting the word "advance," after the word "deduction," in the third line of the definition of "government assistance";

(2) by replacing the definition of "processing asset" by the following definition:

"'processing asset" means a depreciable asset of an operator, used in Québec, other than property used in the operation of a mine tailings site, that is

(1) the whole or a part of a building in which only processing is carried out by the operator;

(2) equipment used by the operator almost exclusively for processing; or

(3) property used by the operator to supply water or electricity to an ore processing plant;";

(3) by replacing the definition of "mining operation" by the following definition:

"'mining operation" means all work related to the various phases in the mineral development process, namely exploration, mineral deposit evaluation, mine development, the reclamation or rehabilitation of land situated in Québec, the extraction, processing, transportation, handling, storage and marketing of a mineral

substance extracted from Québec soil up to the time of its alienation or use by the operator, and the processing of mine tailings from Québec, but does not include work

(1) performed for others;

(2) relating to the extraction of a mineral substance the well head value of which is subject to the royalty referred to in section 204 of the Mining Act (chapter M-13.1);

(3) carried out after 17 October 1990 in respect of surface mineral substances as defined in section 1 of the Mining Act, or of mineral substances the rights in or over which have been surrendered to the owner of the soil under section 5 of that Act;";

(4) by replacing the definition of "amalgamation" by the following definition:

" "amalgamation" means a merger of several legal persons, hereinafter called "predecessor legal persons", which are replaced to form one legal person hereinafter referred to as the "new legal person", which is formed otherwise than by the acquisition of property of another legal person or by the distribution of property of another legal person being wound up;";

(5) by inserting, after the definition of "mining operation", the following definition:

" "northern mine" means a mine situated north of the fifty-fifth parallel of north latitude;";

(6) by inserting, after the definition of "processing asset", the following definition:

" "processing product" means a product, by-product or derivative obtained as a result of the processing of a mineral substance;";

(7) by adding, after the definition of "orebody", the following definition:

" "processing" means, with the exception of the primary crushing of a mineral substance and its transportation to an appropriate place for the purpose of processing, any activity involving the crushing, grinding, concentration, smelting or refining of a mineral substance as well as stockpiling activities prior thereto, and includes pelletization, the production of steel powder or steel billets, or any other activity prescribed by regulation;".

2. Section 6 of the said Act, replaced by section 6 of chapter 47 of the statutes of 1994, is again replaced by the following section:

"**6.** The gross value of the annual output for a fiscal year is the actual value of the mineral substances and, where applicable, of the processing products, derived from the operator's mining operation that are alienated or used by him, in the fiscal year, at the market price at the time of their alienation or use. However, the actual value of the mineral substances and processing products does not include a gain or loss resulting from a hedging or speculative transaction."

3. Section 7 of the said Act, amended by section 7 of chapter 47 of the statutes of 1994, is replaced by the following section:

"**7.** In case of doubt, the Minister may value the mineral substances and, where applicable, the processing products, alienated or used by an operator, and such valuation shall constitute the gross value of the annual output for the purposes of this Act."

4. Section 8 of the said Act, replaced by section 8 of chapter 47 of the statutes of 1994, is amended

(1) by replacing the words "*f* to *h*" in the seventh line of subparagraph *c* of paragraph 2 by the words "*f* to *h* and *j*";

(2) by replacing subparagraphs *d* to *h* of paragraph 2 by the following subparagraphs:

"(*d*) subject to sections 8.6 and 10, the amount deducted by the operator, for the fiscal year, as a depreciation allowance;

"(*e*) subject to section 16, the amount deducted by the operator, for the fiscal year, as an exploration, mineral deposit evaluation or mine development allowance;

"(*f*) subject to section 17, the amount deducted by the operator, for the fiscal year, as an investment allowance;

"(*g*) subject to section 19.1, the amount deducted by the operator, for the fiscal year, as an additional exploration allowance;

"(*h*) subject to section 21, the amount deducted by the operator, for the fiscal year, as a processing allowance;";

(3) by adding, after subparagraph *i* of paragraph 2, the following subparagraph:

"(*j*) subject to section 26.1, the amount deducted by the operator, for the fiscal year, as an additional allowance for a northern mine."

5. Section 19 of the said Act, replaced by section 18 of chapter 47 of the statutes of 1994, is again replaced by the following section:

"**19.** The allowance referred to in section 17 for a fiscal year shall not exceed 33 1/3% of the annual profit for that fiscal year, determined without reference to that allowance, the additional exploration allowance, the processing allowance and the additional allowance for a northern mine referred to in subparagraphs *f* to *h* and *j* of paragraph 2 of section 8."

6. Section 19.3 of the said Act, enacted by section 19 of chapter 47 of the statutes of 1994, is replaced by the following section:

"**19.3** The annual ceiling on exploration expenses for a fiscal year is the amount corresponding to the annual profit for that fiscal year computed without reference to the additional exploration allowance, the processing allowance and the additional allowance for a northern mine referred to in subparagraphs *g*, *h* and *j* of paragraph 2 of section 8."

7. Section 21 of the said Act, replaced by section 22 of chapter 47 of the statutes of 1994, is amended by replacing paragraph 2 by the following paragraph:

"(2) an amount that is 65% of the annual profit, for that fiscal year, determined before deduction of the processing allowance and the additional allowance for a northern mine referred to in subparagraphs *h* and *j* of paragraph 2 of section 8."

8. The said Act is amended by inserting, after Division V of Chapter III, the following:

"DIVISION V.1

"ADDITIONAL ALLOWANCE FOR A NORTHERN MINE

"**26.1** The amount that an operator may deduct as an additional allowance for a northern mine in computing his annual profit for a particular fiscal year, under subparagraph *j* of paragraph 2 of section 8, shall not exceed the lesser of the following amounts:

(1) the operator's annual profit, for the particular fiscal year, determined without reference to subparagraph *j* of paragraph 2 of section 8;

(2) the cumulative northern mine expenses at the end of the particular fiscal year.

Notwithstanding the first paragraph, where the particular fiscal year ends after the ninth fiscal year following the fiscal year during which the operator begins processing ore from the northern mine, the operator may not deduct any amount for the particular fiscal year under subparagraph *j* of paragraph 2 of section 8.

"**26.2** Cumulative northern mine expenses, at any time, are the amount by which

(1) the aggregate of all amounts each of which is 166 2/3% of the capital cost to the northern mine operator of each asset situated in Québec that is used immediately before that time in processing ore from the mine, and that is acquired after 9 May 1995 and before that time,

exceeds

(2) the aggregate of all amounts each of which is an amount granted to the operator, for a fiscal year ending before that time, as an additional allowance for a northern mine under subparagraph *j* of paragraph 2 of section 8.

"**26.3** For the purposes of sections 26.1 and 26.2, where an operator, hereinafter called the "new operator", obtains as a result of a distribution or acquires, at a particular time, an asset situated in Québec that is used in processing ore from a northern mine of a particular operator, and where such operator has deducted an amount under subparagraph *j* of paragraph 2 of section 8,

(1) each fiscal year ending after the fiscal year during which the particular operator begins processing ore from the northern mine and before the particular time is deemed to be a fiscal year of the new operator, and the new operator is deemed to have begun processing ore from the northern mine at the same time as the particular operator began processing ore;

(2) the capital cost of the asset to the particular operator, immediately before the particular time, is deemed to be, at the particular time, the capital cost of that asset to the new operator;

(3) the part of each of the amounts that may reasonably be considered to relate to the asset distributed to or acquired by the new operator, and that is deducted by the particular operator under

subparagraph *j* of paragraph 2 of section 8 for a fiscal year ending before the particular time as an additional allowance for a northern mine, is deemed to be an amount granted for that fiscal year to the new operator under the said subparagraph *j*."

9. The said Act is amended by inserting, after Division II of Chapter V, the following:

"DIVISION II.1

"CREDIT ON DUTIES FOR THE COST OF BRINGING AN OREBODY INTO PRODUCTION

"**32.2** In this division,

"plan to bring an orebody into production" means a plan submitted by a qualified operator, describing all the property and work necessary to bring an orebody situated in Québec into production;

"prior ministerial approval" means a written confirmation by the Minister, sent to a qualified operator not later than 13 June 2001 subject to the availability of sums appropriated for the purposes of this division, that the operator's plan to bring an orebody into production and the related feasibility study have been found to be consistent with the objectives of this division, following examination of the plan and study and of any additional study or information considered necessary by the Minister for granting his approval;

"qualified expense" means the cost of a qualified operator's property that is a road, a building, or equipment other than service property, and that is property

(1) described in the operator's plan to bring an orebody into production that has received prior ministerial approval;

(2) acquired and used by the operator after the prior ministerial approval and before the third fiscal year following the fiscal year during which the operator has received, as a result of a qualified investment, the sums necessary to finance the work and property described in the operator's plan to bring an orebody into production;

(3) used by the operator in the exploitation of the orebody that has been brought into production, and that is in regular use for a period of 730 consecutive days beginning on the day after the day on which its utilization begins or, if exploitation of the orebody ceases for economic reasons, for such shorter period as is reasonable in the circumstances;

"qualified investment" means the acquisition of a qualified security issued by a qualified operator by a qualified investor as first purchaser if, as a result of such acquisition, the investor does not exercise control over more than 50% of the voting rights attached to the operator's outstanding securities;

"qualified investor" means a specified financial institution within the meaning of section 1 of the Taxation Act (chapter I-3) or an institution or body incorporated under one of the following Acts:

(1) the Act respecting the Caisse de dépôt et placement du Québec (chapter C-2);

(2) the Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) (chapter F-3.2.1);

(3) the Supplemental Pension Plans Act (chapter R-15.1);

(4) the Act to establish Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (1995, chapter 48);

"qualified operator" means an operator who is a legal person if, during the fiscal year preceding the fiscal year during which prior ministerial approval is granted to the operator or, in the event of the operator's first fiscal year, at the beginning of the operator's first fiscal year,

(1) the aggregate of the assets of the operator and of a legal person related to the operator, or the aggregate of the net shareholders' equity and the net shareholders' equity of a legal person related to the operator, as shown in the financial statements presented to the shareholders, is less than $50,000,000 or $40,000,000, respectively;

(2) the operator's activities are principally carried on in Québec or the operator's head office is in Québec;

"qualified security" means a security recognized as such in the trade, the rights attached to which do not include the right to redeem the security less than four years after its issue, but does not include an instrument evidencing a loan of money other than an unsecured bond that is convertible into a security that is a share.

"**32.3** The department shall pay, to a qualified operator, the amount determined under section 32.4 as an advance on the credit on duties for the cost of bringing an orebody into production if the operator

(1) has submitted a plan to bring an orebody into production, supported by a feasibility study prepared by a person who is not related to the operator;

(2) has submitted, with his plan to bring an orebody into production, a prescribed form, duly completed;

(3) has obtained the capital from a qualified investment within six months from the date of the prior ministerial approval, or within such longer period as the Minister considers reasonable.

"**32.4** The amount paid under section 32.3 to a qualified operator as an advance on the credit on duties for the cost of bringing an orebody into production is the lesser of the following amounts:

(1) 12% of the aggregate of all amounts each of which is the estimated cost of a property that is a road, a building, or equipment, other than service property, described in the operator's plan to bring an orebody into production;

(2) 12% of the capital from the qualified investment;

(3) $3,000,000.

"**32.5** The Minister shall determine, after the fourth fiscal year following the fiscal year during which a qualified operator has received an amount under section 32.3, the amount of the credit on duties for the cost of bringing an orebody into production to which the operator is entitled, which is the lesser of the following amounts:

(1) 12% of the aggregate of all amounts each of which is a qualified expense of the operator;

(2) 12% of the capital from the qualified investment;

(3) $3,000,000.

"**32.6** A qualified operator must reimburse any amount by which the amount received as an advance, under section 32.3, exceeds the lesser of the following amounts:

(1) the amount determined under section 32.5;

(2) zero, if, during the period beginning after the day preceding the date of the prior ministerial approval and ending before the fifth fiscal year following the fiscal year during which the operator has received an amount under section 32.3,

(*a*) the operator has made a substantial disbursement in favour of his shareholders, a legal person related to him, the qualified investor or the shareholders of the qualified investor that effected the qualified investment, or in favour of persons related to such shareholders, qualified investor or qualified operator, except a disbursement previously authorized by the Minister;

(*b*) the operator has purchased by agreement or redeemed a qualified security issued by him as part of the qualified investment;

(*c*) the operator did not adhere to the plan to bring an orebody into production;

(*d*) the operator's interest in a property referred to in the definition of "qualified expense" in section 32.2 is less than 30%;

(*e*) the qualified investor controls more than 50% of the voting rights attached to the outstanding securities of the operator;

(*f*) a legal person that does not otherwise qualify as a qualified operator acquires control of the operator;

(3) zero, if the operator obtained prior ministerial approval on the basis of false or deceiving information that misled the Minister."

10. The said Act is amended by inserting, after section 43, the following section:

"**43.0.1** The Minister may re-determine the credit on duties for the cost of bringing an orebody into production and make a reassessment

(1) at any time, if the operator who obtained, under section 32.3, an advance on the credit on duties for the cost of bringing an orebody into production

(*a*) has made a misrepresentation that is attributable to negligence or wilful default or has committed any fraud in supplying any information required under Division II.1 of Chapter V; or

(*b*) has filed a waiver with the Minister using the form prescribed by the Minister;

(2) within four years from the day of mailing of the statement determining, in accordance with section 32.5, the amount of the credit on duties for the cost of bringing an orebody into production, in all other cases."

11. The said Act, amended by chapter 47 of the statutes of 1994, is again amended

(1) by replacing the word "corporation", wherever it appears in sections 16.4 to 16.6, paragraphs *a* and *b* of section 18.1, sections 19.5 to 19.7, section 35.2, paragraphs 1 to 7 of section 35.3, sections 46.0.4 to 46.0.6, and section 92, by the words "legal person";

(2) by replacing the word "corporations", wherever it appears in section 35.2 and in that part of paragraph 1 of section 35.3 preceding subparagraph *a*, by the words "legal persons".

12. Section 37 of the said Act, amended by section 40 of chapter 47 of the statutes of 1994, is again amended by striking out the words "trustee in bankruptcy, assignee, liquidator, curator, tutor, sequestrator and every agent or other" in the first and second lines.

13. Section 67 of the said Act is amended by inserting the words "or in which his establishment is situated" after the word "resides" in the second line.

14. Section 71 of the said Act, amended by section 59 of chapter 47 of the statutes of 1994, is again amended by replacing the words "place of business, his residence" in the second and third lines by the words "residence, at his establishment".

15. Section 83 of the said Act, amended by section 63 of chapter 47 of the statutes of 1994, is again amended

(1) by replacing the words "court of competent jurisdiction" in the first line of the first paragraph by the words "competent court";

(2) by replacing the words "the prothonotary or the clerk, as the case may be," in the second and third lines of the first paragraph by the words "the clerk";

(3) by replacing the words "Her Majesty in right of Québec" in the fourth line of the first paragraph by the words "the Attorney General".

16. Paragraphs 2, 3, 6 and 7 of section 1 and sections 2 and 3 apply to a fiscal year ending after 12 May 1994.

17. Paragraph 5 of section 1, paragraphs 1 and 3 of section 4 and sections 5 to 8 apply to a fiscal year beginning after 9 May 1995.

18. This Act comes into force on 13 June 1996.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 7
(1996, chapter 5)

An Act to amend the Code of Civil Procedure, the Act respecting the Régie du logement, the Jurors Act and other legislative provisions

Introduced 25 April 1996
Passage in principle 2 May 1996
Passage 12 June 1996
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EXPLANATORY NOTES

This bill proposes to amend the Code of Civil Procedure principally to establish a simplified procedure by way of a declaration to govern all proceedings in which the amount claimed or the value of the object of the dispute does not exceed $50,000.

Under the bill, the simplified procedure would also govern the recovery of a claim, irrespective of the amount involved, where the matter concerns

(a) the sale price of movable property;

(b) the price in a contract for services or of enterprise, a contract of leasing or a contract of carriage;

(c) claims related to a contract of employment, of lease, of deposit or of loan of money;

(d) the remuneration of a mandatary, a surety or an office holder for services rendered;

(e) bills of exchange, cheques, promissory notes or acknowledgements of debt;

(f) taxes, rates and assessments imposed by or under any law of Québec.

Moreover, the general rules governing the institution of proceedings by way of a motion contained in articles 762 to 773 of the Code of Civil Procedure would apply to a greater number of judicial proceedings, and in particular to proceedings in respect of rights and obligations under a lease and of the divided co-ownership of an immovable and to suits for slander.

The bill proposes that the general rules governing the institution of proceedings by way of a motion also apply to certain proceedings

under particular statutes, for instance to proceedings to contest school board elections or to quash by-laws, resolutions or other proceedings in the municipal sector.

In addition, the bill abolishes the writ of summons, which commences proceedings in first instance, and replaces it by a notice accompanying the declaration. The bill proposes to empower the courts to split proceedings in matters of civil liability and determine the liability before determining the quantum of damages to compensate the plaintiff for the injury suffered.

Other measures contained in the bill tighten certain rules of the Code of Civil Procedure, in particular as regards forced intervention, peremption of suit, seizure before judgment, sale under judicial authority and revocation of judgment in matters of small claims.

Lastly, the bill replaces the right to appeal pleno jure *from decisions of the Régie du logement by a right to appeal on leave, and changes the mode of service under the Jurors Act from the use of certified or registered mail to the use of ordinary mail. The bill also contains consequential amendments.*

LEGISLATION AMENDED BY THIS BILL:

– Cities and Towns Act (R.S.Q., chapter C-19);

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

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting school elections (R.S.Q., chapter E-2.3);

– Act respecting municipal taxation (R.S.Q., chapter F-2.1);

– Jurors Act (R.S.Q., chapter J-2);

– Act respecting the Régie du logement (R.S.Q., chapter R-8.1);

– Loan and Investment Societies Act (R.S.Q., chapter S-30).

Bill 7

An Act to amend the Code of Civil Procedure, the Act respecting the Régie du logement, the Jurors Act and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Article 32 of the Code of Civil Procedure (R.S.Q., chapter C-25) is repealed.

2. Article 35 of the said Code is amended by replacing the words "Saving the right of evocation provided for in article 32, and subject" in the first line by the word "Subject".

3. Article 39 of the said Code is replaced by the following article:

"**39.** Where in a district there is no judge or the judge is unable to act, the matters provided for in articles 211, 485, 489, 733, 734.0.1, 734.1, 753 and 834.1 may be presented to a judge of another district by any means of communication available to the judge."

4. The said Code is amended by inserting, after article 93, the following article:

"**93.1** Where a provision of this Code requires that the parties' proof be adduced by means of affidavits sufficiently detailed to establish all the facts necessary to support their pretentions, such affidavits may contain only relevant evidence that the affiant may swear to and that has not already been alleged and sworn to in the motion and the accompanying affidavit ."

5. Article 94.5 of the said Code is amended by adding, at the end, the following: "He shall have 10 days to appear if the action is introduced according to the simplified procedure provided for in Title VIII of Book II."

6. The heading of Section I of Chapter I of Title I of Book II of the said Code and articles 110 to 114 of the said Code are replaced by the following:

"SECTION I

"DECLARATION

"**110.** Unless otherwise provided, every judicial proceeding is introduced by a declaration.

"**111.** The declaration is prepared and signed by the plaintiff or his attorney.

The declaration must state the name, domicile and place of residence of the plaintiff and the name and last known place of residence of the defendant. It must also indicate in what capacity a party is named in the declaration if not in his personal capacity.

The object and causes of the proceeding must be stated in the declaration.

"**112.** The plaintiff prepares an original and at least two copies of his declaration and notice. On request and after payment of the court costs, the original is numbered by the clerk; the copies are certified true by the plaintiff or his attorney, and one copy is filed in the office of the court, opening the court record.

The attorney must enter his name, address, telephone number and fax number, if any, on the original and on all the copies.

"**113.** In case of emergency, the original of the declaration may be filed with the clerk outside office hours even on a non-juridical day, provided that the court costs are paid forthwith to the clerk, or to the person designated by him under the third paragraph of article 44, who must as soon as possible affix the seal to the copy left with him for the court record, after having entered thereon the date of payment and amount of the costs.

"**114.** The clerk, upon proof that the original of a declaration has been lost or destroyed, may certify a copy to replace the original."

7. Article 115 of the said Code is amended by replacing the word "writ" in the second line of the third paragraph by the word "declaration", and by replacing, in the French text, the word "signifié" in the third line of the third paragraph by the word "signifiée".

8. Article 117 of the said Code, amended by section 4 of chapter 28 of the statutes of 1994, is again amended

(1) by striking out the first paragraph;

(2) by striking out the words "writ or" in the third line of the second paragraph;

(3) by replacing the word "writ" in the last line of the second paragraph by the word "declaration".

9. Articles 119 and 119.1 of the said Code are replaced by the following article:

"**119.** The declaration must be accompanied with a notice to the defendant to appear within the time indicated to answer to the demand. The time limit is 10 days except where otherwise provided in this Code.

The notice must be set out in easily legible type, and contain the text appearing in Schedule I."

10. Article 123 of the said Code is amended by replacing the word "writ" in the first line of the first paragraph by the word "declaration".

11. Article 139 of the said Code is amended

(1) by replacing the words "writ of summons" in the first line of the first paragraph by the word "declaration";

(2) by striking out the words "writ and" in the fourth line of the first paragraph;

(3) by replacing the words "writ of summons" in the third line of the fifth paragraph by the word "declaration".

12. Article 143 of the said Code is amended

(1) by replacing the words "writ of summons" in the first and second lines by the word "declaration";

(2) by replacing the words "a delay fixed, under penalty of the nullity of the writ" in the second and third lines by the words "the time fixed under pain of annulment of the declaration".

13. The heading of Chapter II of Title I of Book II of the said Code, amended by section 5 of chapter 28 of the statutes of 1994, is replaced by the following heading:

"CHAPTER II

"FILING OF DECLARATION".

14. Article 148 of the said Code is amended

(1) by striking out the words "writ and" in the second line of the first paragraph, and by replacing the word "their" in the same line by the word "its";

(2) by striking out the words "writ and" in the second line of the second paragraph, and by replacing the word "their" in the third line of the same paragraph by the word "its".

15. The heading of Chapter II of Title II of Book II of the said Code and articles 155 to 158 of the said Code are repealed.

16. Article 161 of the said Code is amended by striking out the words "or, if there has been a motion in evocation, from the date of the judgment thereon" in the third and fourth lines of the first paragraph.

17. Article 162 of the said Code is amended by striking out the words "or, if there has been a demand for evocation, the date of the judgment thereon" in the second and third lines of paragraph 1.

18. Article 173 of the said Code is amended by striking out the words "or, if there has been a demand for evocation, from the date of the judgment thereon" in the third and fourth lines.

19. Article 199 of the said Code is amended by replacing the word "writ" in the first line by the word "declaration".

20. Article 206 of the said Code is amended by striking out the words "the writ of summons and" in the second line.

21. Article 207 of the said Code is amended by striking out the words "the writ and" in the second line.

22. Article 217 of the said Code is amended by striking out the words "attached to the writ of summons" in the first line of the second paragraph.

23. Article 222 of the said Code is amended by adding, at the end, the following paragraph:

"The plaintiff in the principal action or any other party has an interest to make any useful application to ensure that the action in warranty does not cause undue delay in the principal action."

24. Article 265 of the said Code is replaced by the following article:

"**265.** Any proceeding will be declared perempted, upon the application of the defendant, six months after the last useful written proceeding is filed."

25. Article 269 of the said Code is amended by replacing the word "year" in the second line of the first paragraph by the words "six months".

26. The said Code is amended by inserting, after Chapter XI of Title IV of Book II, the following chapter:

"CHAPTER XII

"SPLIT PROCEEDINGS IN MATTERS OF CIVIL LIABILITY

"**273.1** In matters of civil liability, the court may, by way of exception and on the application of a party, split the proceedings in order to determine liability before determining the quantum of damages necessary to compensate the injury suffered, if any.

The court takes into account, in particular, the relative complexity of the proof with respect to liability and the quantum of damages.

"**273.2** No appeal lies from the judgment on an application for split proceedings; an immediate appeal lies from the judgment on liability only where the judgment terminates the proceedings."

27. Article 297 of the said Code is replaced by the following article:

"**297.** The bailiff who served the summons cannot testify to any facts or admissions which came to his knowledge after his being charged with service of the summons, except in relation to the service itself."

28. The heading of Subsection 1 of Section I of Chapter I.1 of Title V of Book II of the said Code is amended by striking out the words "writ or".

29. Article 331.2 of the said Code is amended by striking out the words "writ or" in the first line of the first paragraph.

30. Article 331.8 of the said Code is amended by striking out the words "writ or" in the first line of the first paragraph.

31. Article 406 of the said Code is amended by replacing the words "a writ, obtained in the same manner as a writ of summons" in the second line by the words "an order of the clerk, obtained upon oral request" and by replacing the word "writ" in the fourth line by the word "order".

32. Article 408 of the said Code is amended by replacing the word "writ" in the second line of the first paragraph by the word "order".

33. Article 437.1 of the said Code is amended by inserting, after the word "judge" in the first line of the first paragraph, the words "or the judge designated by him".

34. The heading of Title VI of Book II of the said Code is amended by replacing, in the French text, the word "ADJUDICATION" by the word "DÉCISION".

35. The heading of Chapter I of Title VI of Book II of the said Code is amended by replacing, in the French text, the word "ADJUDICATION" by the word "DÉCISION".

36. Article 448 of the said Code is amended by replacing the words "it for the decision of the court" in the third line by the words "the dispute to the court for decision", and by replacing the word "factum" in the fourth line by the word "motion".

37. Article 449 of the said Code is replaced by the following article:

"**449.** The motion must be accompanied by an affidavit of each of the parties stating that the dispute is real and that the facts which give rise to it are true."

38. Article 450 of the said Code is replaced by the following article:

"**450.** The rules of Title II of Book V concerning certain proceedings relating to persons and property, adapted as required, apply to an application for a decision on a question of law."

39. Article 451 of the said Code is replaced by the following article:

"**451.** A judgment rendered under this chapter has the same effects and is subject to the same remedies as any other final judgment."

40. The said Code is amended by inserting, after article 481, the following Title:

"TITLE VIII

"SIMPLIFIED PROCEDURE BY WAY OF A DECLARATION

"CHAPTER I

"GENERAL PROVISIONS

"**481.1** Unless otherwise provided, the special rules contained in this Title apply to all proceedings in which the amount claimed or the value of the object of the dispute is equal to or less than $50,000, excluding the interest accrued up to the date of the introduction of the proceeding and the indemnity referred to in article 1619 of the Civil Code of Québec.

These special rules also apply to the recovery of a claim, irrespective of the amount in issue, in any matter concerning

(*a*) the sale price of movable property;

(*b*) the price in a contract for services or of enterprise, other than a contract pertaining to an immovable work, if the value of the object of the dispute is more than $50,000, or in a contract of leasing or a contract of carriage;

(*c*) claims related to a contract of employment, of lease, of deposit or of loan of money;

(*d*) the remuneration of a mandatary, a surety or an office holder for services rendered;

(*e*) bills of exchange, cheques, promissory notes or acknowledgements of debt;

(*f*) taxes, rates and assessments imposed by or under any law of Québec.

"**481.2** Either party to a proceeding introduced according to the provisions of this Title may request that the contestation and the proof and hearing be governed by the general rules of the ordinary procedure in first instance.

The court, on a motion, may order that the proceedings be continued according to the ordinary procedure if the complexity of the matter or special circumstances warrant it, or if there is a high risk that continuing the proceedings according to the simplified procedure would cause serious injury to one of the parties.

"**481.3** Except as provided in this Title, such proceedings are governed by the general rules applicable to other proceedings under the provisions of Book II as they relate to the ordinary procedure in courts of first instance.

"CHAPTER II

"INTRODUCTION OF PROCEEDING

"**481.4** A proceeding is introduced by a declaration prepared and signed by the plaintiff or his attorney; the content of the declaration, including the description of the parties, must conform to the provisions of articles 110 to 119.

The heading of the declaration must indicate that the proceeding is introduced according to the simplified procedure.

Copies of the exhibits presented in support of the demand, including expert reports, are attached to the declaration and served with it; any other exhibit a party wished to refer to at the hearing must be communicated and filed in the record in accordance with the provisions of Chapter I.1 of Title V of Book II.

"**481.5** The plaintiff is required to file the original of the declaration and proof of its service in the office of the court within 30 days of the service.

"**481.6** The defendant must appear within 10 days after service of the declaration, by filing in the office of the court a written appearance signed by him or by his attorney.

“CHAPTER III

“CONTESTATION

“**481.7** Within 10 days after expiry of the time for appearance, the defendant must present together any demand for security, dilatory or declinatory exception or exception to dismiss the action which he intends to urge against the declaration.

The defendant must file his defence within 10 days of the judgment on such demand and preliminary exception; no appeal lies from such decisions, unless they terminate the proceedings or pertain to a question of jurisdiction.

“**481.8** At any stage of the proceedings, special proceedings relating to production of evidence provided for in Chapter III of Title V of Book II must take place within the time limit prescribed in article 481.11, on pain of foreclosure.

“**481.9** In all cases, the defendant must file his defence within 90 days after service of the declaration and notice.

“**481.10** Issue is joined by the demand and the defence as well as the answer, if any.

A cross demand forms part of the defence and is subject to the same rules as the principal demand, unless the court decides that the proceeding is one which must be continued according to the general rules of the ordinary procedure in first instance.

“CHAPTER IV

“INSCRIPTION

“**481.11** Inscription for proof and hearing must be effected not later than 180 days after service of the declaration and notice. Failing inscription within that time, the plaintiff is deemed to have discontinued his suit. Such time limit is imperative; it can be extended only if the party shows that it was impossible for him to act.

The clerk must refuse to receive or file in the record any inscription after expiry of such time limit.

“**481.12** In the event of failure to appear or to plead to the merits within the time fixed, the case is inscribed forthwith for judgment by the clerk, or for proof and hearing before the court or the special clerk in accordance with articles 193, 194 and 195.

"**481.13** As soon as issue is joined, inscription for proof and hearing before the court is effected forthwith by one of the parties and notice of such inscription must be served on the other parties.

"CHAPTER V

"PROOF AND HEARING

"**481.14** The clerk, in cooperation with the chief justice or chief judge, keeps a roll for proceedings introduced according to the simplified procedure by way of a declaration.

Where the rules of practice provide for the issue of a certificate of readiness, a declaration of inscription on the roll for hearing must be filed not later than 30 days after the inscription for proof and hearing. The party to whom the declaration of inscription on the roll is served has 30 days in which to serve and file a declaration of inscription on the roll to the same effect, on pain of foreclosure.

The time within which exhibits must be communicated under article 331.8 is reduced from 60 to 30 days.

"**481.15** The clerk fixes forthwith a date for proof and hearing in accordance with the rules of practice or according to the instructions of the chief justice or chief judge; he gives notice to the parties at least 30 days before the date fixed for the hearing.

"**481.16** The time limit prescribed in article 465 for rendering judgment after the matter has been taken under advisement is reduced to four months.

The clerk must forward to the chief justice or chief judge a list of the matters that have been under advisement for more than three months.

"**481.17** The Government establishes, by regulation, a tariff of court costs that may prescribe different costs from those presently in force according to the class of action, or that may provide that court costs are established as a percentage of the amount involved in the proceeding."

41. Article 553.2 of the said Code is amended by adding the words "other than a legal hypothec securing a claim arising out of a judgment" at the end of subparagraph 1 of the first paragraph.

42. Article 696 of the said Code is amended by inserting the words "legal hypothec securing the" after the words "affect the" in the first line of the second paragraph.

43. Article 724 of the said Code is amended by replacing the words "registered or certified" in the first line of the second paragraph by the word "ordinary".

44. Article 738 of the said Code is amended by replacing the second paragraph by the following paragraph:

"The demand is presented to a judge who quashes the seizure if the allegations contained in the affidavit are insufficient. In the opposite case, the judge refers the motion to the court and, if expedient, revises the extent of the seizure and makes any other useful order for safeguarding the rights of the parties."

45. Article 753.1 of the said Code is amended

(1) by replacing the words "writ has been issued" in the second line of the first paragraph by the words "declaration has been filed in the office of the court";

(2) by striking out the words "the writ and" in the first line of the second paragraph;

(3) by replacing the words "writ if the writ has not been issued" in the first and second lines of the third paragraph by the words "declaration if the declaration has not been filed", and by replacing the words "without the writ" in the third line of the same paragraph by the words "without the declaration";

(4) by striking out the words "the writ and" in the third line of the third paragraph.

46. Article 756 of the said Code is amended by replacing the words "writ of summons" in the second line by the word "declaration".

47. Article 762 of the said Code is amended

(1) by adding the words ", including suits for slander" at the end of subparagraph *b* of the second paragraph;

(2) by adding, at the end of the second paragraph, the following subparagraph:

"(*f*) applications relating to rights and obligations resulting from a lease."

48. Article 763 of the said Code, amended by section 29 of chapter 28 of the statutes of 1994, is again amended by replacing the words "writ of summons" in the second paragraph by the word "declaration".

49. Article 809 of the said Code is amended by replacing the words "are introduced by writ of summons; other applications relating to the partition of a succession or of other undivided property and those" in the first, second and third lines of the first paragraph by the words ", other applications relating to the partition of a succession or of other undivided property and applications".

50. Article 812 of the said Code is replaced by the following article:

"**812.** All applications relating to the divided co-ownership of an immovable are introduced by way of a motion."

51. Article 813 of the said Code is amended by replacing the words "writs of summons" in the fourth line of the second paragraph by the word "declarations".

52. Article 813.6 of the said Code is amended

(1) by replacing the words ", where such is the case, state together a motion in evocation and the" in the first and second lines of the first paragraph by the words "present together any";

(2) by replacing the words "such motion and" in the first and second lines of the second paragraph by the word "the".

53. Article 829 of the said Code is amended by striking out the words "; in that case, the clerk may issue the writ of summons only upon the filing of the authorization" in the second and third lines of the second paragraph.

54. Article 832 of the said Code is amended by replacing the words "writ of summons" in the second paragraph by the words "a declaration".

55. Article 900 of the said Code is amended by adding the following sentence at the end of the second paragraph: "A sale under judicial authority is considered voluntary for the purposes of article 1758."

56. Article 910 of the said Code is amended

(1) by adding the words ", if any" after the word "clerk" in the second line of the first paragraph;

(2) by striking out the second paragraph.

57. The said Code is amended by inserting, after Section III of Chapter X of Book VI, the following section:

"SECTION IV

"SPECIAL RULES GOVERNING SALES UNDER JUDICIAL AUTHORITY

"**910.1** The person designated by the court to proceed with a sale under judicial authority prepares a scheme of collocation in accordance with articles 712 to 723. The person must notify the proposed scheme to the debtor, to the creditors whose names appear on the statement certified by the registrar and to the municipality and school board concerned.

"**910.2** The designated person, on his own initiative or at the request of an interested person, may correct the proposed scheme of collocation upon determining that it contains an error. In that case, notification is repeated, and the time for contesting the proposed scheme begins to run anew from the date of such notification.

Any interested person may, by motion, contest the proposed scheme of collocation and ask that the court determine to whom the proceeds of the sale must be distributed. Such a remedy may be exercised within 15 days after the date of notification of the proposed scheme. The motion must be served on the person having prepared the proposed scheme, on the debtor and on every creditor whose name appears in the proposed scheme.

"**910.3** If there has been no contestation within 30 days after notification of the proposed scheme of collocation, the person having prepared the proposed scheme must distribute the proceeds of the sale as provided in the proposed scheme.

Until the distribution, the proceeds of the sale must be conserved as provided in article 1341 of the Civil Code of Québec."

58. Article 965 of the said Code is amended by inserting the words "or the special clerk, as the case may be," after the word "judge" in the first line of the first paragraph.

59. Article 983 of the said Code is amended by replacing the words "from which the writ was issued" in the sixth line of the first paragraph by the words "where the declaration was filed".

60. Article 984.1 of the said Code is amended by replacing the words "from which the writ was issued" in the fourth line of the first paragraph by the words "where the declaration was filed".

61. Article 987 of the said Code is replaced by the following article:

"**987.** A motion in revocation must be made in writing and be supported by an affidavit; it must be filed in the office of the court within 10 days of knowledge of the judgment.

Upon inspection of the motion, the judge or the clerk decides whether it is admissible; if he decides to admit it, compulsory execution is suspended, and the clerk gives notice to the person who obtained the judgment, in accordance with the procedure governing service of a copy of the motion, and indicates the date on which the motion will be referred to court for a decision on the merits, regarding both the motion in revocation and the dispute itself."

62. Schedule 1 to Book X of the said Code is replaced by the following schedule:

"*Schedule 1 (Articles 119 and 813.5)*

"NOTICE TO DEFENDANT

TAKE NOTICE that the plaintiff has filed this action in the office of the ..... (*Name of court*) of the judicial district of ..... .

To contest the plaintiff's allegations, you must first appear by filling out an appearance form at the office of the Court House of ..... . You may mandate a lawyer to represent you and act in your name.

(Proper box to be checked off by plaintiff or plaintiff's attorney.)

☐ Civil matters

If you wish to contest the plaintiff's allegations, you must first appear at the office of the court within the following time limit: ..... .

Thereafter, you may contest the plaintiff's allegations within the legal time limits.

☐ Family matters

If you wish to contest the plaintiff's allegations, you must do so within the same time limit within which you must appear, which is: ..... .

You will be given no extension beyond the time given for appearing.

TAKE FURTHER NOTICE that if you fail to appear or to contest the plaintiff's allegations within the time limit(s) fixed, the plaintiff may obtain a judgment in default against you. Moreover, if you do not appear, the plaintiff will not be required to inform you of any further proceedings."

63. Section 82 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1), amended by section 20 of the Act to amend the Code of Civil Procedure and the Act respecting the Régie du logement (1995, chapter 39), is again amended by replacing the words "for appeal" in the second line of the first paragraph by the words "to apply for leave to appeal".

64. Section 91 of the said Act is amended

(1) by inserting, at the beginning, the following paragraph:

"**91.** An appeal lies, on leave of a judge of the Court of Québec, from decisions of the Régie du logement when the matter at issue is one which ought to be submitted to the Court of Québec.";

(2) by replacing the words that precede paragraph 1 by the following words: "However, no appeal lies from decisions of the board concerning an application";

(3) by replacing the words "article 1656 of the Civil Code of Lower Canada" in the first and second lines of paragraph 4 by the words "articles 1907 and 1908 of the Civil Code of Québec".

65. Section 92 of the said Act is replaced by the following section:

"**92.** The application for leave to appeal must be made at the office of the Court of Québec of the place where the dwelling is situated, and is presented by motion accompanied with a copy of the decision and of the documents of the contestation, if they are not reproduced in the decision.

The motion together with a notice of presentation must be served on the adverse party and filed in the office of the court within 30 days after the date of the decision. The motion must state the conclusions sought, and contain a brief statement by the applicant of the grounds he intends to rely on.

If the application is granted, the judgment authorizing the appeal shall serve as an inscription in appeal. The clerk of the Court of Québec shall transmit a copy of this judgment without delay to the board and to the parties and their attorneys.

The respondent may bring an appeal or an incidental appeal in the same manner and within the same time limit."

66. Section 93 of the said Act is replaced by the following section:

"**93.** Such time limit is imperative and its expiry entails forfeiture of the right of appeal.

However, if a party dies before the expiry of the time limit and without having brought an appeal, the time allowed to apply for leave to appeal does not run against the party's legal representatives until the date on which the decision is served on them in accordance with article 133 of the Code of Civil Procedure (chapter C-25).

The time allowed to apply for leave to appeal begins to run against a party condemned in default only once the time for applying for revocation of the decision has expired."

67. Section 94 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

"An application for leave to appeal does not suspend execution of the decision. However, where the decision of the board entails the eviction of the lessee or of the occupants, a motion may be filed with a judge of the Court of Québec for the suspension of execution of the decision if the applicant shows that execution would cause him serious prejudice and that he has filed an application for leave to appeal."

68. Section 95 of the said Act is repealed.

69. Section 98 of the said Act is amended by replacing the words "the application again" in the first line by the words "evidence and representations only in relation to matters authorized by the leave to appeal,".

70. Section 26 of the Jurors Act (R.S.Q., chapter J-2) is replaced by the following sections:

"**26.** A prospective juror is summoned by means of a summons sent to his last known residential or business address by ordinary mail or, if he may be reached in this manner, by fax machine or other electronic means.

"**26.1** A judge before whom a prospective juror is called to appear who finds that the prospective juror has failed to appear before him or has left the place of the hearing without having been released from the obligation of remaining in attendance may order that a new summons be served on the prospective juror by a peace officer or a bailiff or by registered mail, certified mail or priority post."

71. Section 31 of the said Act is replaced by the following section:

"**31.** The sheriff shall rule on an application under section 29 and communicate his decision as soon as possible to the person concerned by the means he considers most appropriate."

72. Section 32 of the said Act is amended by striking out the words "or 31" in the second line.

73. Article 690 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended

(1) by replacing the words "an ordinary action, and the proceedings are the same as in summary matters" in the first and second lines of the first paragraph by the words "motion according to the special rules of articles 763 to 773 of the Code of Civil Procedure";

(2) by striking out the words "for the writ of summons" in the second line of the third paragraph.

74. Section 397 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 146 of chapter 2 of the statutes of 1996, is again amended by replacing the words "petition presented in his name" in the first line by the words "motion presented according to the particular rules of articles 763 to 773 of the Code of Civil Procedure (chapter C-25)".

75. Section 178 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by replacing the words "way of a writ to which is attached, to stand in lieu of a declaration," in the first and second lines by the words "service of".

76. Section 179 of the said Act is amended by replacing the words "ordinary rules" in the first line by the words "rules of Chapter I of Title II of Book V".

77. Section 171 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by replacing the words "an action or" in the first and second lines of the first paragraph by the word "a".

78. Section 6 of the Loan and Investment Societies Act (R.S.Q., chapter S-30) is amended

(1) by replacing the word "process" in the second line of the second paragraph by the words "any written proceeding";

(2) by replacing the word "process" in the fourth line of the said paragraph by the words "any written proceeding".

79. Proceedings in progress on 31 December 1996 remain governed by the ordinary procedure.

However, a party may request that a proceeding in progress on 1 January 1997 be continued, by declaration, according to the simplified procedure. The judge or clerk, after having ascertained the consent of the parties, shall grant the request provided no inscription has been filed in the record.

80. This Act comes into force on 1 January 1997.