



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 61

(1996, chapter 64)

**An Act to amend the Act respecting the
Ministère de la Justice and other legislative
provisions concerning the management and
disposition of proceeds of crime**

**Introduced 7 November 1996
Passage in principle 14 November 1996
Passage 20 December 1996
Assented to 23 December 1996**

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EXPLANATORY NOTES

The purpose of this bill is to provide a legislative framework for the management of property seized, restrained or forfeited pursuant to the Criminal Code and other federal legislation of a similar nature, in particular as part of efforts to curb profits from criminal activities and drug trafficking.

The Attorney General becomes responsible for the custody and administration of such property or of the fines in lieu of such property, as well as for the disposition of such property where it is forfeited to the State or deemed to be property without an owner and appropriated by the State.

The bill also provides for the sharing of the net proceeds from the disposition of such property between the Fonds d'aide aux victimes d'actes criminels, the community organizations active in crime prevention, municipal bodies, the Minister of Public Security if a police force was involved in the operations leading to the confiscation of the property or the imposition of the fines and the Minister of Justice in his capacity as Attorney General. The bill also provides that any balance remaining will be paid into the consolidated revenue fund.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2);
- Public Curator Act (R.S.Q., chapter C-81);
- Act respecting the Ministère de la Justice (R.S.Q., chapter M-19);
- Act respecting the Service des achats du gouvernement (R.S.Q., chapter S-4).

Bill 61

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DE LA JUSTICE AND OTHER LEGISLATIVE PROVISIONS CONCERNING THE MANAGEMENT AND DISPOSITION OF PROCEEDS OF CRIME

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting the Ministère de la Justice (R.S.Q., chapter M-19) is amended by inserting, after section 32.10, the following division :

“DIVISION III.2

“MANAGEMENT AND DISPOSITION OF PROPERTY SEIZED, RESTRAINED OR FORFEITED PURSUANT TO FEDERAL LEGISLATION

“**32.11.** This division applies to property seized, restrained or forfeited pursuant to the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27), the Narcotic Control Act (Revised Statutes of Canada, 1985, chapter N-1) or the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19) or pursuant to any rule of law in connection with any offence under the said Code or the said Acts and in respect of which the proceedings are conducted by the Attorney General.

“**32.12.** The Attorney General is responsible for the custody and management of seized property where, on his application, the property has been entrusted to him by a justice of the peace or competent legal authority in accordance with the law.

The Attorney General is also responsible for the custody and management of property seized pursuant to section 462.32 of the Criminal Code of which he has taken control.

“**32.13.** The Attorney General is responsible for the custody and management of property restrained pursuant to a restraint order which, on his application, has been entrusted to him by the competent legal authority.

“**32.14.** The Attorney General is responsible for the custody and management of property forfeited to the State and of fines corresponding to the value of the property.

“32.15. Property which, under section 43 of the Food and Drugs Act or section 15 of the Narcotic Control Act, is remitted to the Attorney General so that he may dispose of it is deemed to be property without an owner and is appropriated by the State and managed by the Attorney General who has custody thereof.

“32.16. The Attorney General shall, as regards the management of forfeited property and property referred to in section 32.15, act as if he were charged with the full administration of the property and may dispose of the property without authorization or formality.

“32.17. The Attorney General may entrust the General Purchasing Director designated under the Act respecting the Service des achats du gouvernement (chapter S-4) or any other person he designates with the mandate to manage the property of which he has custody and with the responsibility for disposing of forfeited property and property referred to in section 32.15.

“32.18. The Attorney General may, on the conditions fixed by the Government, make a short-term loan to the consolidated revenue fund of any part of the sums under his custody or management. Any loan made to the consolidated revenue fund is repayable out of the fund.

“32.19. The proceeds of forfeited property, of fines corresponding to the value of the property and of property referred to in section 32.15 shall, subject to the provisions of section 32.20, be paid into the consolidated revenue fund on the dates and to the extent determined by the Government.

“32.20. The Government may, in the circumstances and in the proportions it determines, allow the property referred to in section 32.19 to be shared in whole or in part with one or more of the following bodies or organizations:

- (1) the Fonds d'aide aux victimes d'actes criminels;
- (2) the municipal entities whose law enforcement agencies participated in the investigations that led to the forfeiture of the property or to the imposition of fines;
- (3) community organizations having crime prevention, particularly among young people, as their primary object;
- (4) the Ministère de la Sécurité publique where the Sûreté du Québec participated in the investigations that led to the forfeiture of the property or to the imposition of fines;
- (5) the Ministère de la Justice.

The Attorney General shall, where applicable, pay into the Fonds d'aide aux victimes d'actes criminels or to the organizations referred to in

subparagraphs 2 and 3 of the first paragraph the sums allotted according to the shares determined. In addition, the Attorney General shall pay the sums allotted to the Ministère de la Sécurité publique and to the Ministère de la Justice as well as any unshared balance remaining into the consolidated revenue fund.

“32.21. The sums allotted to the Ministère de la Sécurité publique and to the Ministère de la Justice under section 32.20 constitute, for all intents, an appropriation for the fiscal year in which they are paid into the consolidated revenue fund and are used by the departments for the purposes of crime prevention, detection and control.

“32.22. The Minister shall report on all proceeds of property referred to in section 32.19 and on the sharing of proceeds pursuant to section 32.20 in the annual report tabled by the Minister in the National Assembly.”

2. Section 12 of the Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2) is amended by replacing the words “and the sums paid into it by the Minister out of the sums contemplated in section 13” in the second and third lines of paragraph 1 by the words “, the sums paid by the Minister out of the sums referred to in section 13 and all other sums paid pursuant to an Act”.

3. Section 24 of the Public Curator Act (R.S.Q., chapter C-81) is amended by adding the following at the end of subparagraph 8 of the first paragraph: “, except property referred to in Division III.2 of the Act respecting the Ministère de la Justice (chapter M-19)”.

4. The Act respecting the Service des achats du gouvernement (R.S.Q., chapter S-4) is amended by inserting, after section 4.1, the following section:

“4.2. Where so mandated by the Attorney General, the Director shall manage and, as the case may be, dispose of property referred to in section 32.17 of the Act respecting the Ministère de la Justice.

The Director shall deliver the net proceeds from the disposed property to the Attorney General.”

5. This Act comes into force on 23 December 1996.