

Gouvernement du Québec

O.C. 594-99, 26 May 1999

Public Curator Act
(R.S.Q., c. C-81)

Regulation
— **Amendments**

Regulation to amend the Regulation respecting the application of the Public Curator Act

WHEREAS several provisions of the Public Curator Act (R.S.Q., c. C-81), amended by Chapters 75 and 80 of the Statutes of 1997, confer upon the Government the power to make various regulations respecting the application of the Act;

WHEREAS the Regulation respecting the application of the Public Curator Act was made by Order in Council 361-90 dated 21 March 1990;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft Regulation to amend the Regulation respecting the application of the Public Curator Act was published on page 3744 of Part 2 of the *Gazette officielle du Québec* of 9 September 1998, with a notice that it could be made by the Government upon expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, upon recommendation of the Minister of Relations with the Citizens and Immigration;

THAT the Regulation to amend the Regulation respecting the application of the Public Curator Act, attached to this Order in Council, be made.

MICHEL NOËL DE TILLY,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the application of the Public Curator Act*

Public Curator Act
(R.S.Q., c. C-81, ss. 14, 24, 24.1, 26.1, 40, 41, 41.1, 54, 56 and s. 68, par. 4.1; 1997, c. 80, ss. 4, 8, 9, 11, 23, 24, 25, 29 and 39; 1997, c. 75, s. 44)

1. Section 1 of the Regulation respecting the application of the Public Curator Act is amended by substituting the following for the part preceding paragraph 1:

“**1.** For the application of section 14 of the Public Curator Act (R.S.Q., c. C-81), the director general of a health or social services institution shall forward the following information concerning a person of full age to the Public Curator:”

2. The following is substituted for section 2:

“**2.** In order to establish the Public Curator’s authority as regards provisional administration of the property described in section 24 of the Act, the Public Curator may require the following information and documents:

(1) for property described in paragraph 1 of section 24 of the Act: a sworn statement by a person who knew the absentee and was aware of his disappearance, indicating the circumstances and reasons for his departure if they are known, the date on which he ceased to appear at his domicile or residence and the fact that he has not been heard from since the date of his departure;

(2) for property described in paragraph 2 of section 24: a statement by the coroner indicating that he has in his custody property found on the body of an unknown person or on an unclaimed body;

(3) for property described in paragraph 3 of section 24: a copy of the notice of dissolution of a legal person as well as a certificate from the competent authority attesting that, to date, the legal person is still dissolved and, in the case of a legal person dissolved pursuant to the rules of the Civil Code, a statement from the designated liquidator or from another interested person attesting that the property has devolved to the State or indicating that liquidation of the legal person has not been completed, accompanied with the liquidator’s rendering of accounts;

* The Regulation respecting the application of the Public Curator Act, made by Order in Council 361-90 dated 21 March 1990 (1990, *G.O.* 2, 633), was amended only once by Order in Council 602-92 dated 15 April 1992 (1992, *G.O.* 2, 2524).

(4) for property described in paragraph 4 of section 24: a statement from a successor or other interested person indicating, in addition to the reasons justifying the involvement of the Public Curator, that the known successors have not yet exercised their option as regards the succession or that the heirs or a third person, designated in accordance with the testamentary provisions of the deceased or by the court, are unable to discharge the duty of liquidator of the succession;

(5) for property without an owner or lost or forgotten property described in paragraph 5 of section 24: a statement by an interested person who has personal knowledge of the facts related to such property, indicating the circumstances under which the property came to be without an owner or was lost or forgotten;

(6) for forfeited property described in paragraph 5 of section 24: an order, judgment or any other document attesting to the permanent forfeiture of the property;

(7) for property described in paragraph 7 of section 24: a statement from the director of a detention centre or the administrator of an institution, indicating the circumstances of the deposit or abandonment of the property, the departure or death of the depositor and the attempts to locate the depositor or to notify the heirs, accompanied with the certificate of death, if applicable, and a copy of any document concerning the depositor's identity and place of domicile;

(8) for property described in paragraph 8 of section 24: a statement from an interested person attesting that the administrator is incapable of performing that function, the reasons therefor and proof thereof and, if applicable, a copy of the act constituting the administration and the administrator's rendering of accounts;

(9) for property of a partnership described in paragraph 9 of section 24: a copy of the notice of dissolution of a partnership, an attestation from the Inspector General of Financial Institutions indicating that, to date, the partnership is still dissolved and a declaration from the designated liquidator or from another interested person attesting that the property has devolved to the State or indicating that liquidation of the partnership has not been completed, accompanied with the liquidator's rendering of accounts; and

(10) for property of a partnership described in paragraph 9 of section 24: a statement from an interested person indicating the termination of the association contract and the reasons therefor, and attesting that the property has devolved to the State, accompanied with, if applicable, the liquidator's rendering of accounts;

(11) for property described in paragraph 10 of section 24: a statement from an interested person who has personal knowledge of the facts related to such property indicating that, despite all attempts, it was impossible to identify or to find the owners or other assigns.”.

3. The following is substituted for section 3:

“**3.** In order to establish the Public Curator's authority as regards property that devolves to the State, the Public Curator may require the following information and documents from any interested person who has personal knowledge of the facts:

(1) a statement indicating that the deceased had no spouse or relatives within the degrees of succession, or that all known successors have renounced the succession and that no other successor is known or has laid claim to the succession;

(2) a certified true copy of the renunciations of the succession by known successors;

(3) any document attesting to the refusal by a person appointed liquidator of a succession to discharge his duty, or his later renunciation, if applicable;

(4) a true copy of the death certificate of the deceased and, if applicable, his marriage contract and his will, or, failing that, a declaration pertaining to legal devolution of the succession.”.

4. Section 4 is revoked.

5. The following is substituted for section 6:

“**6.** The account that the Public Curator must file under section 41 of the Act shall include the balance sheet established at the beginning and the end of the period of administration, a statement of receipts and disbursements and all the information required to establish the balance.

In the cases referred to in the second paragraph of section 41, the rendering of account shall be effected by filing the account in the Public Curator's record. From that moment, the account shall be at the disposal of the Minister of Finance. The sums of money remaining upon termination of the administration shall be transferred to the Minister, to the financial institution he designates, within five days of the rendering of account.”.

6. The following headings and sections are inserted after section 6:

“DIVISION II.1
TRANSFER AND STATEMENT OF UNCLAIMED
PROPERTY

6.1 Amounts payable under a pension or retirement contract or plan within the meaning of paragraph 9 of section 24.1 of the Act shall correspond to:

(1) in the case of a retirement plan established by the Supplemental Pension Plans Act (R.S.Q., c. R-15.1),

(a) if the pension payments have begun, the sum of the payments owing but not paid, with interest accrued at the rate of return of the retirement fund up to the date of transfer;

(b) in other cases, the value of the benefits accrued under that plan which, on the date of transfer, could have been transferred into a locked-in retirement account within the meaning of section 29 of the Regulation respecting supplemental pension plans, made by Order in Council 1158-90 dated 8 August 1990, as it reads at the time of its application, without consideration of the restrictions and prohibitions in section 99 of the Supplemental Pension Plans Act;

(2) in the case of a plan administered by the Commission administrative des régimes de retraite et d'assurance and given the entitlement to reinstatement provided for in section 147.0.6 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the contributions made with the interest accrued, if applicable, to the date of transfer; calculation of the contributions and, where applicable, of the interest payable to the Public Curator for a recipient, is made on the date of their transfer to the Public Curator, in accordance with sections 58 and 59 of the Act respecting the Government and Public Employees Retirement Plan, adapted as required;

(3) in the case of an annuity:

(a) if the pension payments have begun, the sum of the payments owing but not paid, with interest accrued at the rate of interest provided for in section 6.5 up to the date of transfer;

(b) in other cases, the value on the date of transfer, of the accrued benefits up to the date of the contract;

(4) in the case of any other contract or plan, the value on the date of transfer of the benefits accrued under the contract or plan.

The values referred to in clause b of subparagraphs 1 and 3, and subparagraph 4 of the first paragraph shall be established without regard as to whether or not the benefits or pension credits are unclaimed property.

In case of a claim made to the Public Curator for sums referred to in clause b of subparagraphs 1 and 3, and subparagraph 4 of the first paragraph that were transferred and initially came from a pension plan governed by the Supplemental Pension Plans Act, the rules applicable to a locked-in pension account under section 29 of the Regulation respecting supplemental pension plans also apply to the payment of the balance of the sum transferred, adapted as required.

6.2 The yearly period during which a debtor or holder of unclaimed property must transfer the property to the Public Curator, under section 26.1 of the Act, and file the related statement is the first quarter that follows the end of the year in which the property became unclaimed property or, if the debtor or holder carries on a business or is a legal person, in the first quarter following the end of the fiscal year in which it became unclaimed property.

The property shall be transferred and the statement filed by registered mail.

For the purposes of this section, the fiscal year for categories of debtors and holders listed below is deemed to end on the following dates:

— dealers with an unrestricted practice, within the meaning of the Securities Act (R.S.Q., c. V-1.1), on 28 February each year;

— mutual fund dealers, within the meaning of the Securities Act, on 31 July of each year.

The Public Curator and any debtor or holder may agree upon a date deemed to be the end of the fiscal year for the purposes of this section.

6.3 The statement that debtors or holders of unclaimed property must file with the Public Curator containing the description of the property and the other information necessary to determine the identity of the assigns, their place of domicile, and the nature and the origin of their rights, shall be prepared in the form prescribed in Schedule I.1.

6.4 Any interest owing by a debtor or holder of unclaimed property is payable upon transfer of the property to the Public Curator.

DIVISION II.2**RATE OF INTEREST PAYABLE TO ASSIGNS**

6.5 The rate of interest payable to an assign pursuant to the second paragraph of section 41.1 of the Act shall be the rate applicable to the interim investment units held in regular accounts at Placements Québec, determined by the Minister of Finance in accordance with section 69.0.2 of the Financial Administration Act (R.S.Q., c. A-6).

The interest payable shall be calculated by taking into account any variation in the rate applicable to the units from the date on which the sums are transferred to the Minister of Finance to the date on which payment is made to the assign.”.

7. The following is substituted for section 7:

“**7.** The following information shall be entered on the registers prescribed in section 54 of the Act:

- (1) for the register of tutorship to minors:
 - (a) the file number of the Public Curator;
 - (b) the surname and given names of the tutor or tutors;
 - (c) the provision in a will, a statement or a judgment, if applicable, appointing the tutor or tutors;
 - (d) the surname and given names of the minor;
- (2) for the register of tutorship and curatorships to persons of full age:
 - (a) the file number of the Public Curator;
 - (b) the surname and given names of the tutor or tutors or the curator or curators;
 - (c) the type of protective supervision;
 - (d) the date and number of the judgment of appointment of the tutor or tutors or the curator or curators;
 - (e) the surname and given names of the person of full age;
 - (f) any change in the protective supervision and the date of such change;
- (3) for the register of property under provisional administration:

(a) the file number of the Public Curator, and the date on which the administration began;

(b) the type of provisional administration;

(c) the name and address of the debtor or holder who has transferred the property to the Public Curator;

(d) except for the cases stipulated in section 26.2 of the Act, the identity of the owner or owners or other known assigns, as regards the property administered, their last address and, if unknown, an indication as to the origin of the property;

(e) a brief description of the property, if the owner or assign is unknown;

(4) for the register of homologated mandates in anticipation of the mandator’s incapacity:

(a) the file number of the Public Curator;

(b) the surname and given names of the mandator;

(c) the surname and given names of the mandatar;

(d) the date of the mandate;

(e) the type of mandate and its scope;

(f) the date and number of the judgment of homologation;

(g) the date of the end of the mandate, if stipulated;

(h) the date and number of the judgment of revocation of the mandate, where applicable.”.

8. The following section is inserted after section 7:

“**7.1** The information given on the register of property under the provisional administration of the Public Curator relating to property the administration of which ceases as provided for in the second paragraph of section 40 of the Act, shall be kept on that register until the expiry of one of the following periods:

(1) ten years from the date of the transfer, where the total amount transferred to the Minister of Finance is less than \$500;

(2) ten years from the date the succession was opened or from the date the heir’s right arises, if it is known, where the total amount transferred to the Minister of Finance is equal to or more than \$500 and the sums come from a succession or a liquidation of property from a succession;

(3) in all other cases, thirty years from the date of transfer to the Minister of Finance of the sums administered by the Public Curator or originating from the liquidation of the property under his administration.”.

9. The following is substituted for section 9:

“**9.** For the calculation of the fees to which the Public Curator is entitled pursuant to section 56 of the Act, the maximum percentage of the average assets of the joint portfolios under the management of the Public Curator shall be as follows:

(1) for the management of portfolios the total assets of which are made up of fixed income investments maturing in less than one year: 1.25 % yearly;

(2) for the management of portfolios the total assets of which are made up of fixed income investments a portion of which will mature in more than one year: 2 % yearly;

(3) for the management of portfolios a portion of which may be invested in common shares: 2.5 % yearly.

The fees are calculated according to the average assets of the reference period of each joint portfolio, in proportion to the yearly percentage.”.

10. The following is substituted for section 10:

“**10.** The period of reference for the establishment of the average assets under management shall be within the quarter in which the fees are calculated.”.

11. Sections 11 and 12 are revoked.

12. This Regulation comes into force on 1 July 1999.

SCHEDULE I.1

(s. 6.3)

STATEMENT CONCERNING UNCLAIMED PROPERTY

(A) DECLARATION OF DEBTOR OR HOLDER OF UNCLAIMED PROPERTY

NAME: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

PERIOD COVERED BY THIS STATEMENT:

from _____ to _____

I, the undersigned, _____, acting on my own behalf or, as the case may be, as a duly authorized representative of the institution, business or other organization, identified above, declare that:

(1) as a debtor or holder of unclaimed property, I am hereby filing the statement prescribed under the Public Curator Act with a description of all the property held that has become unclaimed property within the meaning of the Act in the period indicated above;

(2) a written notice as prescribed by section 26 of the Public Curator Act was given to the assigns for each unclaimed property described in this statement, except for the cases where reasons recognized by the Act or the regulation thereunder are relied on and indicated with respect to that property under the title “Other necessary or applicable information” below; and

(3) all the facts in this statement are accurate.

SIGNED at _____, on _____, 19____

(Signature)

(B) DESCRIPTION OF UNCLAIMED PROPERTY AND RELATED INFORMATION

Description of unclaimed property	Identity and domicile of assigns	Nature and origin of right of right	Documents filed	Value of property	Interest payable (s. 26.4 P.C.A.)	Other necessary or applicable information
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Gouvernement du Québec

O.C. 596-99, 26 May 1999

An Act respecting income security (R.S.Q., c. S-3.1.1)

**Income security
— Amendments**

Regulation to amend the Regulation respecting income security

WHEREAS in accordance with section 91 of the Act respecting income security (R.S.Q., c. S-3.1.1), the Government made the Regulation respecting income security by Order in Council 922-89 dated 14 June 1989;

WHEREAS it is expedient to amend the Regulation;