

Draft Regulations

Draft Regulation

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

Regulation — Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation to amend the Regulation respecting the application of the Public Curator Act, the text of which appears below, may be made by the Government upon the expiry of 45 days following this publication.

The purpose of the draft Regulation is mainly to eliminate tariffing for services provided by the Public Curator in relation to the protection of a person and to the provisional administration of certain unclaimed property; its purpose is also to reduce the cost of other services provided by the Public Curator. The draft Regulation also proposes minor amendments concerning a lump-sum payment of a pension and the identification of an interested party that could possibly claim property transferred to the State.

The main purpose of all the amendments is to eliminate or reduce the financial obligations of persons represented and to reduce the financial obligations of other persons covered by the Act to amounts equivalent to cost price.

Further information may be obtained by contacting Luis Curras, Curateur public du Québec, 600, boulevard René-Lévesque Ouest, Montréal (Québec) H3B 4W9 by telephone at (514) 873-4074 or 1 800 363-9020 or by fax at (514) 873-5167.

Any interested person having comments to make on the matter is asked to send them in writing, before the expiry of the 45-day period, to Pierre Gabrièle, Public Curator, 600, boulevard René-Lévesque Ouest, Montréal (Québec) H3B 4W9.

ROBERT PERREAULT,
*Minister of Relations with the
Citizens and Immigration*

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

Public Curator Act
(R.S.Q., c. C-81, ss. 24.1, par. 9, 41, 2nd par., 55, 2nd par., 68, par. 7; 1997, c. 80)

1. The Regulation respecting the application of the Public Curator Act is amended in section 6.1

(1) by substituting the following for clause *a* of subparagraph 1 of the first paragraph:

“(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 each transfer or, as the debtor chooses, that sum plus the residual value of the pension on the date of the transfer; the residual value must be assessed on the basis of the hypotheses used to calculate the liabilities of the retired participant on a solvency basis;”;

(2) by substituting the following for clause *a* of subparagraph 3 of the first paragraph:

“(a) if the pension payments have begun, the sum of the payments owing but not paid and, if any, the interest accrued at the rate provided for in the contract up to the date of each transfer or, as the debtor chooses, that sum plus the residual value of the pension on the date of the transfer;”;

(3) by substituting the following for the second paragraph:

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

* 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 last amended by the Regulation made by Order in Council 594-99 dated 26 May 1999 (1999, *G.O.* 2, 1583). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 1999, updated to 1 September 1999.

2. The following is inserted after section 6.5:

“DIVISION II.3

PROVISIONAL ADMINISTRATION OF PROPERTY

6.6. For the purposes of paragraph 11 of section 24.1 of the Act, the following constitute unclaimed property: funds, securities and other property part of a registered education savings plan referred to in section 146.1 and seq. of the Income Tax Act (R.S.C. (1985), c. 1 (5th suppl.)) for which the interested party has made no claim, engaged in no transaction or given no instruction within three years following the expiry date of the registered education savings plan.”.

3. Section 8 is amended by striking out the words “the representation of persons,” after the words “which the Public Curator may charge for”.

4. The following is substituted for section 9:

“9. The Public Curator may charge, for the management of common trust funds whose portfolios are made up of fixed income investments maturing in less than two years, an amount corresponding to 0.75 % per year of the average assets under administration, payable monthly.

He may charge, for the management of all the other common trust funds, an amount corresponding to 2 % per year of the average assets under administration, payable monthly.”.

5. Schedule I.1 is amended by adding the words “including the date of birth and the social insurance number.” at the end of the second column of paragraph B.

6. The following is substituted for Schedule II:

“SCHEDULE II

(s. 8)

FEES OF THE PUBLIC CURATOR

CHAPTER I

GENERAL

1. The hourly rate that may be charged for a service provided by the Public Curator is based on the person who provided the service and is calculated according to the following scale:

— Director	\$134/hour
— Service Head	\$103/hour
— Physician	\$173/hour
— Legal adviser	\$113/hour

— Professional	\$86/hour
— Technician or investigator	\$57/hour
— Clerk or secretary	\$42/hour

2. The hourly rate provided for in section 1 and the fees established according to sections 3, 4, 9 to 23, 26 and 27 shall be indexed on 1 April of each year, according to the increase of the all-item Consumer Price Index for Canada, during the preceding year. The increase shall be calculated based on the ratio of the previous year’s index over the index for the year preceding that one. The index for one year shall be the average of the monthly indexes published by Statistics Canada.

Those rates and fees, indexed in the prescribed manner shall be reduced to the nearest dollar where they contain a fraction of a dollar less than \$0.50; they shall be increased to the nearest dollar where they contain a fraction of a dollar equal to or greater than \$0.50. The variations in the indexed hourly rate and fees shall be published by the Public Curator in Part I of the Gazette officielle du Québec.

3. For the publication of a notice at the registry office stating that the Public Curator is acting as the administrator of an immovable: \$37 per notice.

4. Except with respect to unclaimed property referred to in section 24.1 of the Act: \$5 for the preparation of any notice, call for tenders or other document that must be posted in a public place or published in a newspaper in order to establish the capacity of the Public Curator.

5. For the management of income property: 5 % of the gross income from the rental.

6. For the direct sale of vacant land: 10 % of the sale price and for the direct sale of another immovable: 5 % of the price.

7. Any activity not expressly identified in this Schedule, except those related to the protection of persons or to unclaimed property referred to in section 24.1 of the Act, must be charged the hourly rate provided for in section 1.

CHAPTER II

MANAGEMENT OF PROPERTY BELONGING TO PERSONS REPRESENTED

8. For all services related to the collection of information for the inventory of the property of the person represented, the fees shall correspond to the hourly rate charged for a technician or an investigator, in accordance with section 1, subject however, to a minimum charge of \$25 per service.

9. For the receipt of an amount of money, a negotiable instrument or another payment order related to a non-capital transaction: \$5, except with respect to income security and the old age pension.

10. For the receipt of an amount of money, a negotiable instrument or another payment order related to a capital transaction: \$10.

11. For a disbursement related to a non-capital transaction: \$5, except in the case of basic expenses related to the person.

CHAPTER III PROVISIONAL ADMINISTRATION AND UNCLAIMED PROPERTY

12. For services related to the opening of a file related to unclaimed successions under articles 696 to 702 of the Civil Code of Québec, including the successions covered by paragraph 4 of section 24 of the Public Curator Act: \$117.

13. For services related to the opening of a file for the unclaimed succession of a person who was under protective supervision, under articles 256 to 267 of the Civil Code of Québec: \$38.

14. For services related to the opening of a file respecting dissolved legal persons or a file referred to in paragraph 10 of section 24 of the Act: \$25.

15. For the research on and receipt of an amount of money, a negotiable instrument or another payment order: \$9, except if it concerns property referred to in section 24.1 of the Act or if it concerns the alienation of property sold by the Public Curator.

16. For the approval of a claim from a creditor in a succession: \$37 per claim.

17. For the preparation of a notice of closure of the inventory of an unclaimed succession in accordance with article 795 of the Civil Code of Québec: \$37 per succession.

18. For the preparation of a notice at the end of the liquidation of an unclaimed succession under article 700 of the Civil Code of Québec and for the preparation of a notice of closure of an account for an unclaimed succession under article 822 of the Civil Code of Québec: \$45 per succession.

19. For the activities required to obtain homologation by the court of a payment proposal for the creditors of an unclaimed succession in accordance with article 811 of the Civil Code of Québec: \$59 per homologation.

20. For the activities required to obtain authorization of the court in accordance with section 37 of the Public Curator Act: \$59 per authorization.

21. For the activities required to close a file for an unclaimed succession or a succession referred to in paragraph 4 of section 24 of the Act: \$25 per succession.

22. For the provisional administration of an unclaimed motor vehicle entrusted to the Public Curator under sections 209.11 to 209.16 of the Highway Safety Code (R.S.Q., c. C-24.2): \$200 per vehicle.

23. For the sale of motor vehicles abandoned on public roads and entrusted to the provisional administration of the Public Curator under sections 380 to 394 of the Highway Safety Code: \$100 per vehicle.

24. For the direct sale of movable property or vehicles, with the exception of motor vehicles whose administration is entrusted to the Public Curator under the Highway Safety Code: 15 % of the gross proceeds of the sale of each movable property or vehicle.

25. For the provisional administration of unclaimed property referred to in section 24.1 of the Act and subsequently transferred to an interested party or to a succession: 10 % of the amount transferred, without exceeding \$200, per unclaimed property.

CHAPTER IV PRIVATE TUTORS AND CURATORS

26. In cases where the assets and income of a minor are entirely frozen upon instituting protective supervision: \$25 at the time of the freeze.

27. To locate the legal representative of a person represented: \$25 per investigation.

28. To obtain and audit the annual reports, the highest of the following rates:

(1) 25 % of the hourly rate charged for a technician or investigator as provided for in section 1, if the audit is automatic and causes no rejection or correction;

(2) 50 % of the rate for a sight review of the audit that causes no rejection or correction;

(3) 100 % of the rate if the audit includes content.”.

7. This Regulation comes into force on 1 April 2000.