
Regulations and other acts

Gouvernement du Québec

O.C. 30-2009, 14 January 2009

Civil Code of Québec
(1991, c. 64)

Register of personal and movable real rights — Amendment

Regulation to amend the Regulation respecting the register of personal and movable real rights

WHEREAS article 2683 of the Civil Code of Québec provides that, except where he or she operates an enterprise and the hypothec is charged on the property of that enterprise, a natural person may grant a movable hypothec without delivery only on road vehicles or other movable property determined by regulation and subject to the conditions determined by regulation;

WHEREAS section 15.02 of the Regulation respecting the register of personal and movable real rights, made by Order in Council 1594-93 dated 17 November 1993 and its subsequent amendments, determines the property on which a natural person who does not operate an enterprise may grant a movable hypothec without delivery pursuant to article 2683 of the Civil Code;

WHEREAS it is appropriate to add to the movable property already determined by section 15.02 of the Regulation all incorporeal property, particularly property that constitutes a form of investment within the meaning of the Securities Act (R.S.Q., c. V-1.1), securities and security entitlements referred to in the Act respecting the transfer of securities and the establishment of security entitlements (2008, c. 20) and derivatives within the meaning of the Derivatives Act (2008, c. 24);

WHEREAS it is also expedient to add to that property precious property within the meaning of the Taxation Act (R.S.Q., c. I-3);

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be made without having been published as provided in section 8 of that Act, if the authority making it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 18 of that Act, a regulation may come into force on the date of its publication in the *Gazette officielle du Québec* where the authority that has made it is of the opinion that the urgency of the situation requires it;

WHEREAS, under sections 13 and 18 of that Act, the reason justifying the absence of prior publication and immediate coming into force must be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstances justifies the absence of prior publication and such coming into force of the Regulation to amend the Regulation respecting the register of personal and movable real rights attached to this Order in Council:

— as of 1 January 2009, because of amendments made to the Civil Code by the Act respecting the transfer of securities and the establishment of security entitlements, natural persons who do not operate an enterprise will not be able to grant a hypothec on the securities and security entitlements referred to in that Act unless they are among the movable property determined by the Regulation respecting the register of personal and movable real rights;

— until those securities and security entitlements are among the movable property, the impossibility of hypothecating them could lead to an increase in credit costs prejudicial to those persons, particularly in the current economic context;

WHEREAS it is expedient to make the Regulation to amend the Regulation respecting the register of personal and movable real rights;

IT IS ORDERED, therefore, on the recommendation of the Minister of Justice:

THAT the Regulation to amend the Regulation respecting the register of personal and movable real rights, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting the register of personal and movable real rights*

Civil Code of Québec
(1991, c. 64, arts. 2683 and 3024)

1. The Regulation respecting the register of personal and movable real rights is amended by replacing section 15.02 by the following:

“**15.02.** The property on which a natural person who does not operate an enterprise may grant a movable hypothec without delivery pursuant to article 2683 of the Civil Code is

(1) the property listed in section 15.01;

(2) precious property within the meaning of the Taxation Act (R.S.Q., c. I-3);

(3) incorporeal property, particularly property that constitutes a form of investment within the meaning of the Securities Act (R.S.Q., c. V-1.1), securities and security entitlements referred to in the Act respecting the transfer of securities and the establishment of security entitlements (2008, c. 20), derivatives referred to in the Derivatives Act (2008, c. 24), claims, rights arising from an insurance contract and intellectual property rights, excluding in all cases property constituting a registered retirement savings plan, a registered retirement income fund, a registered education savings plan or a registered disability savings plan within the meaning of the Taxation Act.”.

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

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* The Regulation respecting the register of personal and movable real rights, made by Order in Council 1594-93 dated 17 November 1993 (1993, *G.O.* 2, 6215), was last amended by the regulation made by Order in Council 972-99 dated 25 August 1999 (1999, *G.O.* 2, 2835). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2008, updated to 1 September 2008.