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# NATIONAL ASSEMBLY OF QUÉBEC

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FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 18  
(2020, chapter 11)

**An Act to amend the Civil Code,  
the Code of Civil Procedure, the Public  
Curator Act and various provisions as  
regards the protection of persons**

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Introduced 10 April 2019  
Passed in principle 26 September 2019  
Passed 2 June 2020  
Assented to 3 June 2020

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## EXPLANATORY NOTES

*The main thrust of this Act is to propose a revision of the legislative provisions relating to the protection of incapable persons.*

*Two forms of protective supervision for persons of full age, namely curatorships and adviserships, are abolished.*

*Under the proposed changes to tutorship to a person of full age, the court must, in all cases, determine whether the rules concerning the capacity of a person of full age under tutorship need to be amended or clarified in light of the person's faculties. The court is authorized to reduce the number of persons to be called to a meeting of relatives, persons connected by marriage or a civil union, or friends, and to appoint two tutors to the person when these are the father and mother of the person of full age, and the rules governing the replacement of tutors are relaxed. The time limits for the medical and psychosocial reassessment of a person of full age must be determined taking into account the nature of his or her incapacity, the extent of his or her needs and the other circumstances of his or her condition. No longer needing representation is added to the reasons for which release from tutorship to a person of full age may be granted.*

*A person of full age who, by reason of a difficulty, wishes to receive assistance in caring for himself or herself, administering his or her patrimony and, in general, exercising his or her civil rights, may apply to have a person recognized by the Public Curator as his or her assistant. The assistant to the person of full age, whose recognition is registered in a public register, may act as an intermediary between that person and third persons.*

*Temporary representation of an incapable person of full age is established. It allows the court to authorize a person to perform a specific act in the name of a person of full age if it is shown that the latter's incapacity is such that he or she needs to be temporarily represented for the performance of that act. In such a case, the resulting incapacity is temporary and pertains only to the act the representative has been authorized to perform by the court. The court sets the terms and conditions of exercise of the powers conferred on the temporary representative.*

*The Act amends the rules relating to protection mandates. It clarifies certain effects of such a mandate, lists certain elements it may contain and imposes new obligations on the mandatary. It also specifies criteria to be considered when homologating or performing a mandate, the elements that are to guide the mandatary in ensuring the mandator's moral and material well-being, and the remedies available if the mandate is not being faithfully performed by the mandatary.*

*The Act includes amendments relating to tutorship to minors. It provides that the Public Curator must be given at least 15 days' notice before the transmission of property or the payment of an indemnity to a minor. It allows the Public Curator to determine the kind of security required and its object if these have not been determined within the prescribed time. It furthermore clarifies the rules applicable to the remuneration of a dative tutor, and establishes that a tutor to property is entitled to be party to judicial proceedings.*

*The quorum requirement for the meeting to be called to establish a tutorship council is replaced by an obligation to call a minimum number of relatives, persons connected by marriage or a civil union, or friends to the meeting.*

*In addition, the threshold specified in certain articles of the Civil Code and the Code of Civil Procedure in connection with tutorship to minors and tutorship to persons of full age is increased from \$25,000 to \$40,000.*

*Finally, a number of consequential amendments and transitional measures are included.*

**LEGISLATION AMENDED BY THIS ACT:**

- Civil Code of Québec;
- Workers' Compensation Act (chapter A-3);
- Act respecting industrial accidents and occupational diseases (chapter A-3.001);
- Act respecting legal aid and the provision of certain other legal services (chapter A-14);
- Land Surveyors Act (chapter A-23);

- Automobile Insurance Act (chapter A-25);
- Insurers Act (chapter A-32.1);
- Act respecting the Barreau du Québec (chapter B-1);
- Building Act (chapter B-1.1);
- Unclaimed Property Act (chapter B-5.1);
- Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4);
- Code of Civil Procedure (chapter C-25.01);
- Professional Code (chapter C-26);
- Companies Act (chapter C-38);
- Act respecting financial services cooperatives (chapter C-67.3);
- Real Estate Brokerage Act (chapter C-73.2);
- Public Curator Act (chapter C-81);
- Act respecting deposits with the Bureau général de dépôts pour le Québec (chapter D-5.1);
- Act respecting the distribution of financial products and services (chapter D-9.2);
- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Act respecting school elections to elect certain members of the boards of directors of English-language school service centres (chapter E-2.3);
- Election Act (chapter E-3.3);
- Money-Services Businesses Act (chapter E-12.000001);
- Act respecting fabriques (chapter F-1);
- Taxation Act (chapter I-3);
- Deposit Institutions and Deposit Protection Act (chapter I-13.2.2);

- Derivatives Act (chapter I-14.01);
- Act respecting the Montréal Museum of Fine Arts (chapter M-42);
- Notaries Act (chapter N-3);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Pharmacy Act (chapter P-10);
- Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001);
- Act respecting the collection of certain debts (chapter R-2.2);
- Act respecting the Régie du logement (chapter R-8.1);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (chapter S-5);
- Trust Companies and Savings Companies Act (chapter S-29.02);
- Business Corporations Act (chapter S-31.1);
- Professional Syndicates Act (chapter S-40);
- Act respecting the Québec sales tax (chapter T-0.1);
- Securities Act (chapter V-1.1);
- Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23).

**REGULATIONS AMENDED BY THIS ACT:**

- Regulation respecting the register of personal and movable real rights (chapter CCQ, r. 8);
- Regulation respecting savings products (chapter A-6.001, r. 9);
- Regulation respecting legal aid (chapter A-14, r. 2);

- Regulation respecting the reimbursement of certain expenses (chapter A-25, r. 14);
- Regulation respecting the terms and conditions for the issuance of health insurance cards and the transmittal of statements of fees and claims (chapter A-29, r. 7.2);
- Regulation respecting the training, skill and knowledge evaluation, accreditation and discipline of stenographers (chapter B-1, r. 13);
- Regulation respecting the conditions for the certification of notaries as regards the institution or review of protective supervision and protection mandates (chapter C-25.01, r. 0.2);
- Regulation respecting the issue of broker's and agency licences (chapter C-73.2, r. 3);
- Regulation respecting the application of the Public Curator Act (chapter C-81, r. 1);
- Code of ethics of the Chambre de la sécurité financière (chapter D-9.2, r. 3);
- Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15);
- Regulation respecting the preservation, use or destruction of the records, books and registers of a pharmacist who ceases to practise (chapter P-10, r. 13);
- Règlement sur l'exercice de la pharmacie en société (chapter P-10, r. 16, French only);
- Organization and Management of Institutions Regulation (chapter S-5, r. 5);
- Regulation under the Act respecting the Québec correctional system (chapter S-40.1, r. 1).

## Bill 18

### AN ACT TO AMEND THE CIVIL CODE, THE CODE OF CIVIL PROCEDURE, THE PUBLIC CURATOR ACT AND VARIOUS PROVISIONS AS REGARDS THE PROTECTION OF PERSONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### CIVIL CODE OF QUÉBEC

- 1.** Article 4 of the Civil Code of Québec is amended by striking out “or assistance” in the second paragraph.
- 2.** Article 29 of the Code is amended by replacing “protective supervision of the person of full age” in the first paragraph by “tutorship to a person of full age, or obtaining homologation of a protection mandate, for him”.
- 3.** Article 81 of the Code is amended
  - (1) by striking out “; the domicile of a person under curatorship is that of the curator”;
  - (2) by adding the following paragraph at the end:

“Where the father and mother exercise the tutorship but have no common domicile, the domicile of the person of full age is that of the parent the court designates.”
- 4.** Article 87 of the Code is amended by replacing “, adapted as required, apply” in the second paragraph by “, except those set out in article 217, apply, adapted as required,”.
- 5.** Article 154 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age, homologating a protection mandate or authorizing temporary representation of an incapable person of full age”.
- 6.** Article 184 of the Code is amended by adding the following paragraph at the end:

“Such remuneration and, where applicable, the terms and conditions for its renewal by the tutorship council may be fixed by the court when instituting the tutorship or subsequently.”

**7.** Article 188 of the Code is amended by striking out “, but the tutor to the person represents the minor in judicial proceedings regarding that property” in the first paragraph.

**8.** Article 209 of the Code is amended by replacing “\$25,000” by “\$40,000”.

**9.** Article 213 of the Code is amended

(1) by replacing “\$25,000” in the first paragraph by “\$40,000”;

(2) by replacing “or to maintain the property in good order or safeguard its value” in the second paragraph by “, to maintain the property in good order or to safeguard the value of his patrimony”.

**10.** Article 214 of the Code is amended by replacing “\$25,000” in the first paragraph by “\$40,000”.

**11.** Article 217 of the Code is replaced by the following article:

**“217.** Where the property is worth more than \$40,000, the liquidator of a succession which devolves or is bequeathed to a minor and the donor of property if the donee is a minor and, in any case, any person who pays an indemnity for the benefit of a minor, shall notify the Public Curator and state the value of the property or the amount of the indemnity, as the case may be, at least 15 days before its transmission or payment.

The 15-day notice period prescribed in the first paragraph does not apply to the payment of an indemnity the object of which is to make good on the obligation of support that lies on parents with respect to their child.”

**12.** Article 221 of the Code is amended by replacing “\$25,000” in the second paragraph by “\$40,000”.

**13.** Article 226 of the Code is amended

(1) by replacing “, persons connected by marriage or a civil union and friends of the minor” in the second paragraph by “of the minor and persons connected to him by marriage or a civil union, and his friends”;

(2) by replacing the third paragraph by the following paragraph:

“At least five persons representing, so far as possible, the maternal and paternal lines shall be called to the meeting. The meeting shall be held regardless of the number of persons participating in it. It may be held by a technological means.”

**14.** Article 227 of the Code is amended by replacing “attend” by “participate in”.



**15.** The Code is amended by inserting the following article after article 233:

**“233.1.** Where two or more tutors are appointed for a minor and a disagreement arises between them, the tutorship council facilitates its settlement. Failing agreement between the tutors, the court decides, on the application of any interested person, including the Public Curator.”

**16.** Article 242 of the Code is amended, in the first paragraph,

(1) by replacing “\$25,000” by “\$40,000”;

(2) by adding the following sentence at the end: “If they have not been determined within six months after the institution of tutorship, they may be determined by the Public Curator.”

**17.** The heading of Chapter III before article 256 of the Code is amended by replacing “PROTECTIVE SUPERVISION OF” by “TUTORSHIP TO”.

**18.** Article 256 of the Code is amended

(1) by replacing “Protective supervision of a person of full age is established” in the first paragraph by “Tutorship to a person of full age is established” and by replacing “ils sont destinés” in that paragraph in the French text by “elle est destinée”;

(2) by replacing “protective supervision” and “protection” in the second paragraph by “the tutorship” and “tutorship”, respectively.

**19.** Article 257 of the Code is amended, in the first paragraph,

(1) by replacing “protective supervision” and “protected person of full age” by “tutorship to a person of full age” and “person of full age under tutorship”, respectively;

(2) by inserting “, taking into account his wishes and preferences” after “autonomy”.

**20.** Article 258 of the Code is amended

(1) by striking out “or curator” and “, or an adviser to assist,” in the first paragraph;

(2) by striking out “or an adviser” in the second paragraph.

**21.** Article 259 of the Code is repealed.

**22.** Article 260 of the Code is amended

(1) in the first paragraph,

(a) by replacing “curator or the tutor to a protected person of full age” by “tutor to a person of full age”;

(b) by inserting “, unless the court decides otherwise” after “maintenance”;

(c) by replacing “protected person” by “person of full age”;

(2) in the second paragraph,

(a) by replacing “protected person of full age” by “person of full age”;

(b) by replacing “protected person, obtain his advice where necessary, and keep him informed of the decisions made in his regard” by “person of full age, involve him in the decisions made in his regard and keep him informed of those decisions”.

**23.** Article 261 of the Code is amended by striking out “curatorship or”, “protected” and “curator or”.

**24.** Article 262 of the Code is repealed.

**25.** Article 263 of the Code is amended

(1) in the first paragraph,

(a) by striking out “protected” and “or curator”;

(b) by inserting “ensuring the” after “responsible for”;

(2) by striking out “or curator” in the second paragraph.

**26.** Article 264 of the Code is amended, in the first paragraph,

(1) by striking out “or curator”, “protected” and “or curatorship”;

(2) by inserting “of full age” after “to the person”.

**27.** Article 265 of the Code is amended by striking out “protected”.

**28.** Article 266 of the Code is amended, in the first paragraph,

(1) by inserting “, except those set out in article 217,” after “minors”;

(2) by striking out “and curatorship”.

**29.** Article 267 of the Code is replaced by the following article:

**“267.** Where the person who applies for the institution or review of tutorship to a person of full age, including the Public Curator, shows that it is impossible to call five persons to the meeting of relatives, persons connected by marriage or a civil union, or friends, the court may reduce the number of persons to be called.

The court may also exempt the person from calling a meeting of relatives, persons connected by marriage or a civil union, or friends if it is shown that sufficient effort has been made to call the meeting, but that such effort has been in vain.”

**30.** The heading of Division II before article 268 of the Code is amended by replacing “OF PROTECTIVE SUPERVISION” by “OF TUTORSHIP TO PERSONS OF FULL AGE”.

**31.** Article 268 of the Code is replaced by the following article:

**“268.** The court institutes tutorship if it is established that the person of full age is incapable of caring for himself or of administering his property, and needs to be represented in the exercise of his civil rights.

The court then appoints a tutor to the person and to property, or a tutor either to the person or to property. It may also appoint a replacement tutor.

The court is not bound by the application. It may establish a tutorship the nature, terms and conditions of which are different from those applied for or authorize temporary representation of the incapable person of full age.”

**32.** The Code is amended by inserting the following article after article 268:

**“268.1.** The court may appoint two tutors to the person when these are the father and mother of the person of full age.

Either parent may give the other the mandate to represent him in the performance of acts pertaining to the exercise of tutorship.

Such a mandate is presumed with regard to third persons in good faith.”

**33.** Article 269 of the Code is amended by replacing “protective supervision” by “tutorship”.

**34.** Article 270 of the Code is amended

(1) by striking out “assisted or” and “assistance or” in the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“Such a report includes the medical and psychosocial assessments resulting from an examination of the person of full age; it deals with the nature of his incapacity, his faculties, his environment, the extent of his needs and the other circumstances of his condition, the advisability of instituting tutorship for him as well as the time limits for medical and psychosocial reassessments. It also sets out the names, if known, of the persons qualified to apply for the institution of tutorship.”

**35.** Article 271 of the Code is amended by replacing “protective supervision of” in the first paragraph by “tutorship to”.

**36.** Article 272 of the Code is amended, in the second paragraph,

(1) by replacing “protective supervision” by “tutorship to a person of full age”, and by replacing “au majeur” in the French text by “à celui-ci”;

(2) by inserting “the personal” after “ensure”.

**37.** Article 273 of the Code is amended by replacing “protective supervision may” and “protective supervision is” in the second paragraph by “tutorship to a person of full age may” and “such tutorship is”, respectively.

**38.** Article 274 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age”.

**39.** Article 275 of the Code is amended

(1) by striking out “if the form of protective supervision is a tutorship,” in the first paragraph;

(2) by striking out all occurrences of “protected”.

**40.** Article 276 of the Code is amended

(1) in the first paragraph,

(a) by replacing “to institute protective supervision”, “in a protection mandate but” and “institution of protective supervision” by “for the institution of tutorship to a person of full age”, “, including those expressed in a protection mandate” and “institution of tutorship”, respectively;

(b) by inserting “and preferences” after “wishes”;

(2) in the second paragraph,

(a) by replacing “form of protective supervision and as to” by “nature, terms and conditions of the tutorship as well as on”;

(b) by striking out “or assist”.

**41.** Article 277 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age”.

**42.** Article 278 of the Code is replaced by the following article:

**“278.** When instituting the tutorship, the court determines the time limits for periodic reassessment of the person of full age.

The time limits for reassessment may not exceed five years. A longer time limit may however be set for the medical reassessment, without exceeding 10 years, when it is clear that the situation of the person of full age will remain unchanged. Those time limits are determined taking into account the recommendations made in the medical and psychosocial assessment reports concerning the person of full age, the nature of his incapacity, the extent of his needs and the other circumstances of his condition.

The tutor is bound to see to it that the person of full age undergoes the assessments within the fixed time limits. The person of full age may, at any time, apply to be reassessed.”

**43.** The Code is amended by inserting the following article after article 278:

**“278.1.** Where the medical or psychosocial assessor becomes aware that the situation of the person of full age has changed sufficiently to justify modifying or terminating the tutorship, the assessor attests to that fact in a report, indicating any modifications he considers appropriate. The assessor transmits the report to the person of full age, to the tutor and to the executive director of a health or social services institution providing care or services to the person of full age or, failing that, the executive director of a health or social services institution that has jurisdiction in the territory in which the person of full age resides. The director then obtains the report of the other assessor, transmits a copy of it to the person of full age and to the tutor, and files a copy of both reports in the office of the court.

Where the medical or psychosocial assessor considers that the time limit for the reassessment of the person of full age should be modified, the assessor attests to that fact in a report, indicating the time limit he considers appropriate. He transmits the report to the person of full age and the tutor. The tutor shall then file a copy of the report concerned in the office of the court.”

**44.** Article 279 of the Code is amended by replacing “that justified protective supervision” and “assessment” by “or need for representation that justified tutorship to a person of full age” and “assessments”, respectively.

**45.** Article 280 of the Code is replaced by the following article:

**“280.** On the filing of the report or reports on the review of a tutorship to a person of full age, the clerk notifies the person of full age, the tutor and the persons qualified to intervene in the application for the institution of tutorship. If no objection is made within 30 days after the date of the notice, release from or the modification of the tutorship takes effect by operation of law. An attestation is drawn up by the clerk and transmitted without delay to the person of full age, to his tutor, to the tutorship council and to the Public Curator.

Those rules also apply to the review of a time limit for the medical or psychosocial reassessment of a person of full age, on the filing of the relevant report.”

**46.** Division III of Chapter III of Title Four of Book One of the Code, comprising articles 281 to 284, is repealed.

**47.** The Code is amended by striking out the following before article 285:

**“DIVISION IV**

**“TUTORSHIP TO PERSONS OF FULL AGE”.**

**48.** Article 285 of the Code is repealed.

**49.** The Code is amended by inserting the following before article 286:

**“DIVISION IV**

**“CERTAIN MODALITIES OF TUTORSHIP TO PERSONS OF FULL AGE”.**

**50.** Article 288 of the Code is replaced by the following article:

**“288.** When instituting the tutorship or subsequently, the court determines whether the rules concerning the capacity of the person of full age under tutorship need to be modified or clarified in light of his faculties. To do so, it takes into consideration the medical and psychosocial assessment reports and, as the case may be, the advice of the tutorship council or of the persons who may be called upon to form the tutorship council. It also takes into account, so far as possible, the opinion of the person of full age.

The court then indicates, where applicable, the acts the person under tutorship may perform himself, alone or with the assistance of the tutor, or those he may not perform without being represented.”

**51.** The Code is amended by inserting the following article after article 289:

**“289.1.** The tutor, before contracting a significant loan in relation to the patrimony of the person of full age, offering property as security, alienating important family property, an immovable or an enterprise, or demanding the definitive partition of immovables held by the person of full age in undivided co-ownership, shall obtain the authorization of the tutorship council or, if the property or security is worth more than \$40,000, of the court, which seeks the advice of the tutorship council.

The tutorship council or the court does not allow the loan to be contracted, or property to be alienated by onerous title or offered as security, except where that is necessary to ensure the education and maintenance of the person of full age, to pay his debts, to maintain the property in good order or to safeguard the value of his patrimony, or where that is the wish of the person of full age and he is not at risk of suffering serious injury therefrom. The authorization then indicates the amount and conditions of the loan and the property that may be alienated or offered as security, and sets forth the conditions under which it may be done.”

**52.** Division V of Chapter III of Title Four of Book One of the Code, comprising articles 291 to 294, is repealed.

**53.** The heading of Division VI before article 295 of the Code is replaced by the following heading:

“REPLACEMENT OF TUTOR AND END OF TUTORSHIP TO A PERSON OF FULL AGE”.

**54.** Article 295 of the Code is amended

(1) in the first paragraph,

(a) by replacing “Protective supervision” by “Tutorship to a person of full age”;

(b) by striking out “protected”;

(2) in the second paragraph,

(a) by replacing “Protective supervision” by “It”;

(b) by inserting “or of the need for representation” at the end.

**55.** Article 296 of the Code is amended

(1) by striking out “protected” and “or curator”;

(2) by replacing “the release of protective supervision” by “being released from tutorship”.

**56.** The Code is amended by inserting the following articles after article 296:

**“296.1.** A tutor may renounce his office only if a replacement tutor accepts the office.

If no replacement tutor accepts the office, the tutor may, for a serious reason, apply to the court to be relieved of his duties, provided his application is not made at an inopportune moment and notice of it has been given to the tutorship council.

**“296.2.** The replacement tutor who accepts the office shall file the acceptance in the office of the court. The clerk notifies the person of full age, the original tutor and the persons qualified to intervene in the application for the institution of tutorship of the filing of the acceptance. If no objection is made within 30 days after the date of the notice, the replacement of the tutor takes effect by operation of law. An attestation is drawn up by the clerk and transmitted without delay to the person of full age, to his new tutor, to the tutor the latter is replacing, to the tutorship council and to the Public Curator.”

**57.** Article 297 of the Code is replaced by the following article:

**“297.** A vacancy in the office of tutor does not terminate tutorship to a person of full age.

The replacement tutor may accept the office. Failing that, the tutorship council shall initiate the appointment of a new tutor; any interested person, including the Public Curator, may also initiate such an appointment.”

**58.** The Code is amended by inserting the following chapters after article 297:

#### **“CHAPTER IV**

#### **“TEMPORARY REPRESENTATION OF INCAPABLE PERSONS OF FULL AGE**

**“297.1.** The court may authorize a person to perform a specific act in the name of a person of full age if it is established that the incapacity of the person of full age is such that he needs to be temporarily represented for the performance of that act.

The incapacity resulting from representation is temporary and pertains only to the performance of that act. It is established solely in favour of the person of full age.



**“297.2.** The spouse of a person of full age, his close relatives and persons closely connected to him by marriage or a civil union, any person who shows a special interest in him, or any other interested person, including the mandatory designated by him or the Public Curator, may apply for temporary representation of the person of full age or be designated as representatives. The person of full age himself may also apply to be so represented.

**“297.3.** Where the court examines an application for temporary representation, it takes into consideration the medical and psychosocial assessments resulting from the examination of the person of full age.

The court shall give to the person of full age an opportunity to be heard, personally or through a representative where required by his state of health, on the merits of the application and as to the person who will represent him.

**“297.4.** The court fixes the terms and conditions of exercise of the powers conferred on the temporary representative.

The court may, in particular, order the temporary representative to render an account to the spouse or a close relative of the person of full age or to a person who shows a special interest in him or, if there are no such persons, to the Public Curator.

**“297.5.** The court may authorize the temporary representative to contract a loan, to alienate property by onerous title or to offer property as security only where that is necessary to ensure the education and maintenance of the person of full age, to pay his debts, to maintain the property in good order or to safeguard the value of his patrimony, or where that is the wish of the person of full age and he is not at risk of suffering serious injury therefrom.

The authorization then indicates the amount and conditions of the loan and the property that may be alienated or offered as security, and sets forth the conditions under which it may be done.

**“297.6.** Every decision relating to the designation of a temporary representative and the performance of the specific act shall be made in the interest of the person of full age, respect his rights and safeguard his autonomy, taking into account his wishes and preferences.

The person of full age shall, so far as possible, participate in the decisions made in his regard and be informed without delay of those decisions.

**“297.7.** An act performed alone by a person of full age for which he was required to be represented may not be annulled or the resulting obligations reduced, unless he suffers injury therefrom.

**“297.8.** The rules relating to the office of tutor and to the replacement of a tutor to a minor apply, adapted as required, to a temporary representative.

**“297.9.** Temporary representation ends when the specific act has been performed. The temporary representative then notifies the person of full age and the Public Curator in writing.

It also ends, by operation of law, as soon as a tutorship is instituted or a protection mandate homologated for the person of full age.

## “CHAPTER V

### “ASSISTANTS TO PERSONS OF FULL AGE

#### “DIVISION I

##### “GENERAL PROVISIONS

**“297.10.** A person of full age who, by reason of a difficulty, wishes to be assisted in caring for himself, administering his patrimony and, in general, exercising his civil rights, may apply to the Public Curator to have a person who accepts to assist him, in particular in his decision-making, recognized by the Public Curator.

The recognition of the assistant is entered in a public register.

**“297.11.** An assistant is authorized to act as an intermediary between the assisted person of full age and any third person, including a person bound by law to professional secrecy. The assistant is presumed to act with the consent of the person of full age.

The assistant may communicate and receive information in the name of, and communicate the decisions made by, the person of full age.

A third person may not refuse that the assistant act as such.

**“297.12.** An assistant shall act with prudence and diligence. He undertakes, by acceptance of his office, to advocate for the wishes and preferences of the person of full age in dealing with third persons.

In addition, he undertakes to respect the privacy of the person of full age. Thus, he may gather, use or communicate information concerning the person of full age only with the person’s consent and only to the extent necessary to perform the duties of his office.

**“297.13.** An assisted person of full age retains his full capacity to exercise his civil rights.

The assistant may not sign in the name of the person of full age and does not intervene in the acts for which he assists the person of full age.

**“297.14.** Every natural person capable of fully exercising his civil rights and able to assume the office may be recognized as an assistant.

**“297.15.** An assistant may not act in a situation where his personal interest is in conflict with that of the assisted person of full age.

**“297.16.** A person of full age may apply for the recognition of one or two assistants. If there are two assistants, they are not bound to act jointly, unless the person of full age decides otherwise.

**“297.17.** An assistant is not entitled to any remuneration.

However, the assisted person of full age reimburses the assistant for any reasonable expenses the latter has incurred in exercising the duties of his office.

**“297.18.** An assistant shall inform the Public Curator of his activities, on the Public Curator’s request.

## **“DIVISION II**

### **“RECOGNITION OF ASSISTANTS TO PERSONS OF FULL AGE**

**“297.19.** An application for the recognition of an assistant to a person of full age is filed with the Public Curator by the person of full age himself, jointly with any proposed assistant.

It may also be filed with the Public Curator through an advocate or notary certified to do so by his professional order.

**“297.20.** The application shall be accompanied by a summary description of the patrimony of the person of full age.

**“297.21.** The Public Curator, advocate or notary ensures, out of the presence of any proposed assistant, that the person of full age understands the scope of his application and is able to express his wishes and preferences. He also meets the person of full age in the presence of any proposed assistant.

Such meetings may be held by a technological means.

**“297.22.** The Public Curator verifies the judicial record of the proposed assistant.

**“297.23.** The Public Curator, advocate or notary notifies the application to at least two persons, either from the family of the person of full age or from among persons who show a special interest in him, excluding any proposed assistant. He notifies them, at the same time, of their right to object within 30 days after the date of the notice.

He is exempt from that obligation if sufficient effort has been made to notify the application but such effort has been in vain.

**“297.24.** On completing his operations, the advocate or notary draws up minutes and conclusions.

The minutes must identify the person of full age and any proposed assistant, and provide a detailed account of the operations carried out and the documents submitted. The minutes must also provide an account of any testimony taken and any representations or objections received from an interested person.

The advocate or notary promptly sends the application and the minutes and conclusions to the Public Curator, together with the documents supporting the conclusions. The Public Curator is not bound by the conclusions of the advocate or notary.

**“297.25.** The Public Curator recognizes the proposed assistant, except in the following cases:

(1) he has serious doubt that the person of full age understands the scope of the application;

(2) he has serious doubt that the person of full age is able to express his wishes and preferences;

(3) an element gives serious reason to fear that the person of full age will suffer injury owing to the proposed assistant’s recognition; or

(4) an interested person objects to the proposed assistant’s recognition for any of those reasons.

The Public Curator may refuse to recognize the proposed assistant if the latter has failed to fulfil his obligations as an assistant in the past.

The Public Curator notifies the person of full age and the proposed assistant of his decision. In the case of a refusal, the person of full age may apply to the court within 30 days of the notice to have the decision reviewed.

### **“DIVISION III**

#### **“END OF RECOGNITION OF ASSISTANTS TO PERSONS OF FULL AGE**

**“297.26.** The recognition of an assistant ends on the expiry of three years, or before if the person of full age so requests.

It also ends when the Public Curator is informed that the assistant has ceased to act. The same applies when the Public Curator is informed

(1) that a tutorship has been instituted or a protection mandate homologated for the assisted person of full age or the assistant; or

(2) that a temporary representative has been designated for the assistant.

The assistant, tutor, mandatary or temporary representative shall so inform the Public Curator, who then deletes the entry from the register and so informs the person of full age and the assistant.

**“297.27.** The Public Curator may terminate the recognition of an assistant where an element gives serious reason to fear that the person of full age will suffer injury owing to such recognition.

The Public Curator notifies the person of full age and the assistant of his decision. The person of full age may apply to the court within 30 days of the notice to have the decision reviewed.”

**59.** Article 304 of the Code is amended

(1) by replacing “exercise tutorship or curatorship” in the first paragraph by “act as tutors, mandataries or temporary representatives”;

(2) by replacing “or curator to property,” in the second paragraph by “, mandatary or temporary representative to property,”.

**60.** Article 327 of the Code is amended

(1) by replacing “under tutorship or curatorship” in the first paragraph by “under tutorship or under a protection mandate”;

(2) by replacing “under tutorship” in the second paragraph by “under tutorship or under a protection mandate”.

**61.** Article 436 of the Code is amended

(1) in the first paragraph,

(a) by replacing “under tutorship or provided with an adviser” and “or adviser; the tutor” by “under tutorship or under a protection mandate” and “or mandatary; the tutor or mandatary”, respectively;

(b) by inserting “, if applicable,” after “by the court”;

(2) by replacing “adviser” in the second paragraph by “mandatary”.

**62.** Article 445 of the Code is amended by replacing “the other spouse’s being provided with a tutor or curator” in the second paragraph by “tutorship being instituted or a protection mandate homologated for the other spouse”.

**63.** Article 583.3 of the Code is amended

(1) by replacing “, tutor or curator” by “or tutor”;

(2) by replacing “has shown” by “shows”.

**64.** Article 638 of the Code is amended

(1) in the first paragraph,

(a) by replacing “protected person of full age” in the introductory clause by “person of full age under tutorship or under a protection mandate” ;

(b) by striking out “or curatorship” in subparagraph 1;

(c) by striking out “or person of full age who requires assistance” and “or his adviser” in subparagraph 2;

(d) by inserting the following subparagraph after subparagraph 2:

“(3) in the case of a person of full age under a protection mandate, by the mandatary.”;

(2) by replacing the second paragraph by the following paragraph:

“In no case is the minor, the person of full age under tutorship or under a protection mandate or the absentee liable for the payment of debts of the succession in excess of the value of the property he takes.”

**65.** Article 709 of the Code is amended by inserting “or after a protection mandate has been homologated for him” after “tutorship”.

**66.** Article 710 of the Code is repealed.

**67.** Article 711 of the Code is amended

(1) by replacing “, curator or adviser” by “or mandatary”;

(2) by striking out “or assists”.

**68.** The Code is amended by inserting the following article after article 785:

**“785.1.** If the sole heir is a minor or a person of full age under tutorship or under a protection mandate, unless otherwise provided by a testamentary provision, his representative designates a liquidator other than himself and may provide the mode of the liquidator’s replacement.

The same rule applies if such an heir and his representative are the two sole heirs.”

**69.** Article 1318 of the Code is amended by replacing “protected person of full age” by “person of full age under tutorship or under a protection mandate”.

**70.** Article 1355 of the Code is amended

(1) by replacing the first paragraph by the following paragraph:

“The duties of an administrator terminate upon his death, resignation or replacement, his becoming bankrupt, or tutorship to a person of full age being instituted or a protection mandate homologated for him.”;

(2) by replacing “is placed under protective supervision” in the second paragraph by “tutorship to a person of full age is instituted or a protection mandate homologated for him”.

**71.** Article 1361 of the Code is amended

(1) in the first paragraph,

(a) by replacing “his being placed under protective supervision” and “the death or of the institution of protective supervision” by “tutorship to a person of full age being instituted or a protection mandate homologated for him” and “the event”, respectively;

(b) by replacing “curator” by “mandatary”;

(2) by replacing “curator” in the second paragraph by “mandatary”.

**72.** Article 1392 of the Code is amended by replacing “protective supervision with respect to either of them” in the second paragraph by “tutorship to a person of full age or the homologation of a protection mandate for either of them”.

**73.** Article 1405 of the Code is amended by replacing “protected persons of full age” by “persons of full age under tutorship or under a protection mandate”.

**74.** Article 1406 of the Code is amended by replacing “protected person of full age” in the second paragraph by “person of full age under tutorship or under a protection mandate”.

**75.** Article 1461 of the Code is amended by replacing “curator” by “mandatary”.

**76.** Article 1484 of the Code is amended by replacing “or curator” in the first paragraph by “, mandatary or temporary representative”.

**77.** Article 1706 of the Code is replaced by the following article:

**1706.** Minors and persons of full age under tutorship or under a protection mandate are bound to make restitution of prestations only to the extent of the enrichment they retain from them; proof of such enrichment is borne by the person claiming restitution.

They may, however, be bound to make full restitution where restitution has become impossible through their intentional or gross fault.”

**78.** Article 1813 of the Code is amended

(1) by replacing “protected person of full age” and “curator” by “person of full age under tutorship or under a protection mandate” and “mandatary”, respectively;

(2) by inserting “the stipulations in the protection mandate and” after “subject to”.

**79.** Article 1814 of the Code is amended, in the second paragraph,

(1) by replacing “curator” and “protected person of full age” by “mandatary” and “person of full age under tutorship or under a protection mandate”, respectively;

(2) by inserting “or mandatary” after “a tutor”.

**80.** Article 1815 of the Code is repealed.

**81.** Article 2159 of the Code is amended by replacing “protective supervision” in the second paragraph by “tutorship to a person of full age or under a protection mandate”.

**82.** Article 2166 of the Code is amended

(1) by adding the following sentence at the end of the first paragraph: “It may not be made jointly by two or more persons.”;

(2) by inserting “, ascertained by medical and psychosocial assessment reports,” after “incapacity” in the second paragraph.

**83.** The Code is amended by inserting the following article after article 2166:

**“2166.1.** A mandate may, in particular, state the wishes of the mandator with respect to his care or to his living environment. However, the wishes expressed with respect to medical care in advance medical directives prevail over any conflicting wishes stated in the mandate.

The mandate may also state the mandator’s wish to be periodically subject to medical and psychosocial assessments, and set the time limits within which the mandator will be reassessed.



The mandate must indicate the person to whom the mandatary shall render an account and the intervals at which the mandatary shall do so, which may not exceed three years. If the person to whom the mandatary shall render an account has not been designated or where the person designated to receive the account is unable to act, the court may designate another person to receive it. The Public Curator may be designated to receive the account both by the mandator and by the court.”

**84.** The Code is amended by inserting the following articles after article 2167.1:

**“2167.2.** Every decision relating to the homologation or performance of a protection mandate shall be made in the interest of the mandator, respect his rights and safeguard his autonomy, taking into account his wishes and preferences.

The mandator shall, so far as possible and without delay, be informed of the decision.

**“2167.3.** To ensure the moral and material well-being of the mandator, the mandatary takes into account his condition, his needs and his faculties as well as the other circumstances of his situation.

So far as possible, the mandatary shall maintain a personal relationship with the mandator, involve him in the decisions made in his regard and keep him informed of those decisions.

**“2167.4.** The mandatary shall, within 60 days after the mandate is homologated, make an inventory of the property to be administered and transmit a copy of it to the person designated to receive the account.

The rules for administration of the property of others set out in articles 1326 to 1329 apply to the inventory, subject to any stipulations regarding it in the mandate.

**“2167.5.** A mandatary who continues the administration of another mandatary after the rendering of account is exempt from making an inventory, subject to the stipulations in the mandate.”

**85.** Article 2169 of the Code is amended

(1) in the first paragraph,

(a) by replacing “protective supervision may be instituted” by “tutorship to a person of full age may be instituted” and by replacing “leur” in the French text by “lui”;

(b) by striking out both occurrences of “or curator”;

(2) by striking out both occurrences of “or curator” in the second paragraph.

**86.** Article 2170 of the Code is amended by adding the following paragraph at the end:

“Acts performed alone by the mandator after the homologation of the mandate that are incompatible with its stipulations may not be annulled or the resulting obligations reduced, unless he suffers injury therefrom.”

**87.** Article 2173 of the Code is amended

(1) by replacing “assessment” in the first paragraph by “assessments”;

(2) by inserting the following paragraph after the first paragraph:

“The mandator or the mandatary may also request medical and psychosocial assessments to assess the capacity of the mandator. If the assessors conclude that the mandator has again become capable, they shall send a copy of their assessment reports to the mandator and the mandatary and file a copy in the office of the court.”;

(3) in the last paragraph,

(a) by replacing “protective supervision” by “tutorship to a person of full age”;

(b) by inserting “after the date of the notice” after “30 days”.

**88.** Article 2174 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age”.

**89.** The Code is amended by inserting the following articles after article 2174:

**“2174.1.** The replacement mandatary is bound to give notice of his taking office to the Public Curator.

**“2174.2.** The replacement mandatary may, if the mandate is not being faithfully performed or for any other serious reason, apply to the court to have it replace the initial mandatary and order the rendering of an account by the latter.”

**90.** Article 2175 of the Code is amended by replacing “protective supervision” in the second paragraph by “tutorship to a person of full age or the homologation of a protection mandate”.

**91.** Article 2177 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age”.

**92.** The Code is amended by inserting the following article after article 2182:

**“2182.1.** In the case of a protection mandate, the mandatary is bound to give notice of the mandator’s death to the Public Curator.”

**93.** Article 2183 of the Code is amended, in the first paragraph,

(1) by replacing “his being placed under protective supervision” and “, tutor or curator” by “tutorship to a person of full age being instituted for him” and “or tutor”, respectively;

(2) by adding the following sentence at the end: “The same rule applies upon the homologation of a protection mandate for the mandatary.”

**94.** Article 2226 of the Code is amended by replacing “being placed under protective supervision” by “tutorship to a person of full age being instituted or a protection mandate homologated for him”.

**95.** Article 2258 of the Code is amended by replacing “his being placed under protective supervision” in the second paragraph by “tutorship to a person of full age being instituted or a protection mandate homologated for him”.

**96.** Article 2282 of the Code is amended by replacing “protective supervision” by “tutorship to a person of full age or under a protection mandate”.

**97.** Article 2630 of the Code is amended by replacing “protective supervision” in the second paragraph by “tutorship or under a protection mandate”.

**98.** Article 2905 of the Code is amended by replacing “under curatorship or tutorship”, both occurrences of “they” and both occurrences of “their” in the second paragraph by “under tutorship or under a protection mandate”, “he” and “his”, respectively.

**99.** Article 2935 of the Code is amended by replacing “protected person” by “person under tutorship to a person of full age or under a protection mandate”.

**100.** Article 2964 of the Code is amended by replacing “protected person” by “person under tutorship to a person of full age or under a protection mandate”.

**101.** Article 3085 of the Code is amended

(1) by replacing “Protective supervision of persons of full age” in the first paragraph by “The legal regime intended to ensure the protection of incapable persons of full age”;

- (2) in the second paragraph,
- (a) by replacing both occurrences of “a protected” by “an incapable”;
- (b) by striking out both occurrences of “or a curator”.

#### CODE OF CIVIL PROCEDURE

**102.** Article 44 of the Code of Civil Procedure (chapter C-25.01) is amended by replacing “under protective supervision” in the third paragraph by “under tutorship or under a protection mandate”.

**103.** Article 303 of the Code is amended, in the first paragraph,

- (1) by replacing subparagraph 4 by the following subparagraph:

“(4) tutorship to an absentee, to a minor or to a person of full age, the emancipation of a minor, a protection mandate or temporary representation of an incapable person of full age;”;

- (2) by replacing “the protective supervision of a person of full age,” in subparagraph 5 by “tutorship to a person of full age, a protection mandate, temporary representation of an incapable person of full age;”.

**104.** Article 305 of the Code is amended by inserting “, taking into account the person’s wishes and preferences” at the end.

**105.** Article 312 of the Code is amended by replacing “and, to the protective supervision of a person of full age” and “a tutor or curator,” in the first paragraph by “and to tutorship to a person of full age,” and “a tutor, as well as applications relating”, respectively.

**106.** Article 313 of the Code is amended by replacing “for a minor or of protective supervision for a person of full age” in the second paragraph by “to a minor or to a person of full age”.

**107.** Article 315 of the Code is amended by replacing “protective supervision” and “the assessments required” in the first paragraph by “tutorship to a person of full age” and “the assessment reports required”, respectively.

**108.** Article 320 of the Code is amended

- (1) in the first paragraph,

- (a) by replacing “or the protective supervision of or a protection mandate for a person of full age” by “, tutorship to a person of full age or a protection mandate”;

- (b) by striking out “or curator”;

(2) by adding the following sentence at the end of the second paragraph: “An attestation is drawn up by the clerk and sent without delay to the tutor, to the minor, to the members of the tutorship council, and to the Public Curator.”

**109.** Article 336 of the Code is amended by replacing “or to a minor, protective supervision or a protection mandate” and “\$25,000” in the second paragraph by “, to a minor or to a person of full age, concerning a protection mandate or assistance to a person of full age or authorizing temporary representation of an incapable person of full age” and “\$40,000”, respectively.

**110.** Article 394 of the Code is amended

(1) by replacing the first paragraph by the following paragraph:

“An application pertaining to any of the following must be notified to the Public Curator together with the exhibits in support of it:

- (1) tutorship to a person of full age;
- (2) tutorship to an absentee;
- (3) temporary representation of an incapable person of full age;
- (4) assistance to a person of full age;
- (5) a protection mandate, except an application for a judicial authorization;
- (6) tutorship to a minor, except an application relating to suppletive tutorship where the value of the minor’s property does not exceed \$40,000; or
- (7) the emancipation of a minor.”;

(2) by inserting the following paragraph after the first paragraph:

“In any such case, the proceeding is stayed until proof of notification is received by the court office.”

**111.** Article 395 of the Code is amended

- (1) by inserting “to” after “a minor or”;
- (2) by striking out “or the curator”.

**112.** Article 404 of the Code is amended

(1) by replacing “protective supervision for a person of full age” in the first paragraph by “tutorship to a person of full age or temporary representation of an incapable person of full age”;

(2) by replacing “substitute” in the second paragraph by “replacement”.

**113.** Article 406 of the Code is amended

(1) by replacing “of protective supervision” and “such supervision” by “of tutorship to a person of full age” and “such tutorship”, respectively;

(2) by striking out “assist or”.

**114.** Article 536 of the Code is amended by replacing “curator” in the first paragraph by “temporary representative”.

**115.** Article 660 of the Code is amended by replacing “curator” in subparagraph 3 of the first paragraph by “temporary representative”.

PUBLIC CURATOR ACT

**116.** Section 1 of the Public Curator Act (chapter C-81) is amended

(1) by adding the following sentence at the end: “It shall also appoint an Assistant Public Curator, where required and after consulting with the Public Curator.”;

(2) by adding the following paragraphs at the end:

“The Public Curator’s mission is mainly to see that incapable persons are protected. The Public Curator shall exercise his functions in their interest and in such a manner as to respect their rights and safeguard their autonomy, taking into account their wishes and preferences. He is also responsible for recognizing assistants to persons of full age and for seeing to the protection of the patrimony of minors.

The Public Curator shall inform persons who are assisted or represented, persons designated to represent incapable persons of full age, tutors to minors and assistants to persons of full age of the rules concerning them. He shall raise public awareness of the issues relating to incapacity and shall inform the public about means for protecting incapable persons.”

**117.** Section 2 of the Act is replaced by the following section:

**“2.** The Public Curator is appointed for a five-year term. The Assistant Public Curator is appointed for a term of not over five years. At the expiry of their term, they shall remain in office until they are reappointed or replaced.”

**118.** Section 3 of the Act is amended

(1) by replacing “Public Curator may” in the first paragraph by “Public Curator and the Assistant Public Curator may” and “ses” in that paragraph in the French text by “leurs”;

(2) by replacing “The Public Curator cannot be dismissed” in the second paragraph by “They cannot be dismissed”.

**119.** Section 4 of the Act is amended by inserting “and of the Assistant Public Curator” at the end.

**120.** Section 5 of the Act is replaced by the following section:

“**5.** The Public Curator and the Assistant Public Curator shall attend exclusively to their duties of office and shall hold no other function, office or employment without the authorization of the Government.”

**121.** Section 6 of the Act is amended

(1) in the first paragraph,

(a) by replacing the introductory clause by the following introductory clause:

“**6.** The Public Curator and the Assistant Public Curator shall, before taking office, make an oath as follows:”;

(b) by replacing “Public Curator” in the oath by “Public Curator (or the Assistant Public Curator)”;

(2) by replacing “Public Curator shall carry out” in the second paragraph by “Public Curator and the Assistant Public Curator shall carry out”.

**122.** Section 7 of the Act is amended by replacing the first paragraph by the following paragraphs:

“The Public Curator shall define the functions of the Assistant Public Curator. If the Public Curator is absent or unable to act or if the office of Public Curator is vacant, the Assistant Public Curator shall replace him.

If the Assistant Public Curator is absent or unable to act, the Public Curator shall designate, in writing, one or more persons from his personnel to replace the Assistant Public Curator.

The designation shall be published in the *Gazette officielle du Québec* but shall take effect upon the signing by the Public Curator of the instrument evidencing it.”

**123.** Section 7.1 of the Act is amended by inserting “or by the Assistant Public Curator” after “signed by the Public Curator”.

**124.** Section 8 of the Act is amended, in the first paragraph,

(1) by replacing “the office of the Public Curator is vacant or the Public Curator is unable to act” by “the offices of Public Curator and Assistant Public Curator are vacant or the Public Curator and the Assistant Public Curator are unable to act”;

(2) by replacing “to carry on the duties of Public Curator for the time being” by “to temporarily exercise the function of Public Curator”.

**125.** Section 12 of the Act is amended, in the second paragraph,

(1) by striking out “and curatorships” in subparagraph 1;

(2) by replacing “, curatorships” in subparagraph 2 by “, temporary representation of incapable persons of full age”;

(3) by striking out “or curatorship”, “under protective supervision” and “or a curator” in subparagraph 3;

(4) by adding the following subparagraphs at the end:

“(4) recognition of assistants to persons of full age;

“(5) examination of the accounts rendered by certain mandataries under article 2166.1 of the Civil Code.”

**126.** The Act is amended by inserting the following section after section 12:

**“12.1.** The Public Curator, the Assistant Public Curator, members of the Public Curator’s personnel and persons referred to in section 11 may not be prosecuted for anything done in good faith in the exercise of the functions assigned to them with respect to the recognition of assistants to persons of full age.”

**127.** The heading of Division II before section 13 of the Act is amended by striking out “PERTAINING TO PROTECTIVE SUPERVISION”.

**128.** Section 13 of the Act is replaced by the following section:

**“13.** The Public Curator may intervene in any proceedings pertaining to

(1) tutorship to a person of full age;

(2) tutorship to an absentee;

(3) temporary representation of an incapable person of full age;

(4) assistance to a person of full age;



- (5) a protection mandate;
- (6) the integrity of a person of full age who is incapable of giving consent and who is not provided with a tutor or mandatary;
- (7) tutorship to a minor;
- (8) the emancipation of a minor.”

**129.** Section 14 of the Act is amended

- (1) by replacing “, within a reasonable time, any appropriate measure including the calling of a meeting of relatives, persons connected by marriage or a civil union and friends of the person of full age” by “any appropriate measure within a reasonable time, including calling a meeting of relatives, persons connected by marriage or a civil union, or friends”;
- (2) by replacing both occurrences of “protective supervision” by “tutorship to a person of full age”;
- (3) by striking out “assist or”.

**130.** The Act is amended by inserting the following sections after section 14:

**“14.1.** When acting under section 14, the Public Curator may, to take into account the wishes expressed by the person of full age in a protection mandate, obtain a copy of it from any notary or lawyer who is its depositary.

This section applies notwithstanding section 64 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

**“14.2.** The Public Curator shall report to the Commission des droits de la personne et des droits de la jeunesse any situation that may be a case of exploitation within the meaning of section 48 of the Charter of human rights and freedoms (chapter C-12) necessitating the intervention of that Commission.”

**131.** Section 15 of the Act is amended

- (1) by striking out “or curatorship” and “or a curator” in the first paragraph;
- (2) in the second paragraph,
  - (a) by striking out “or curator”;
  - (b) by replacing “and friends” and “disabled” by “, or friends” and “incapable”, respectively.

**132.** The Act is amended by inserting the following section after section 15:

**“16.** In exercising tutorship to a person of full age, the Public Curator shall establish a representation plan, which he is to review periodically.

The Public Curator shall communicate the representation plan to the person of full age.”

**133.** Section 17 of the Act is amended

(1) by striking out “or curatorship”;

(2) by replacing “, obtain his opinion, where applicable, and keep him informed of the decisions taken in his regard” by “, involve him in the decisions made in his regard and keep him informed of those decisions”.

**134.** Section 17.1 of the Act is amended by replacing “on the protection and representation of incapable or protected persons” by “on matters under the Public Curator’s jurisdiction”.

**135.** Section 17.2 of the Act is amended by striking out “on protection and representation of incapable or protected persons” in the first paragraph.

**136.** Section 18 of the Act is amended by replacing “curator, tutor or adviser” by “tutor”.

**137.** Section 19 of the Act is amended

(1) by striking out “or curator” in the first paragraph;

(2) by inserting “or that the person does not need to be so represented in accordance with those laws. However, the court may grant the application if sufficient effort has been made to provide such proof, but such effort has been in vain” at the end of the second paragraph.

**138.** Section 20 of the Act is amended

(1) in the first paragraph,

(a) by striking out “and curatorships” and “or curator who so requires”;

(b) by replacing “any tutor” and “of fulfilling his obligations” by “tutors” and “in which they are to fulfil their obligations”, respectively;

(2) in the second paragraph,

(a) by replacing “two months” by “60 days”;

(b) by striking out “and curators” and “or curatorship”;

(c) by replacing “entrusted to their administration” by “entrusted to their management”;

(d) by replacing “annual report of their administration” by “annual account of their management”;

(e) by replacing “disability” and “it” by “the incapacity” and “such an assessment”, respectively;

(f) by replacing “rendering of accounts” by “final account”.

**139.** The Act is amended by inserting the following section after section 20:

**“20.1.** Notwithstanding the provisions of the Civil Code and this Act, the Public Curator may, where circumstances warrant it and on the conditions he determines,

(1) authorize the tutor to mingle his property with that of his spouse to whom he is tutor;

(2) authorize the tutor to render an account otherwise than by sending an annual account of his management;

(3) exempt the tutor to a minor from establishing a tutorship council.”

**140.** Section 21 of the Act is amended

(1) by replacing “serious ground to believe” and “damage” by “serious reason to fear” and “injury”, respectively;

(2) by striking out both occurrences of “or curator”.

**141.** Section 22 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

“The Public Curator may apply for the replacement of a tutor on the grounds set out in the Civil Code or where the annual management account of the tutor or an inquiry held by the Public Curator gives serious reason to fear that the person represented may suffer injury by reason of the tutor failing to perform his duties, or performing them improperly.”;

(2) by inserting the following paragraph after the first paragraph:

“Where a protection mandate is not being faithfully performed or for any other serious reason, the Public Curator may also apply for the revocation of the mandate or communicate to the replacement mandatary the necessary information so that the latter may apply to replace the initial mandatary. In the latter case, the replacement mandatary must first attest under oath that he intends to file such an application.”;

- (3) in the last paragraph,
- (a) by striking out “or curatorship”;
- (b) by replacing “disabled” by “incapable”.

**142.** Section 27 of the Act is amended, in the first paragraph,

(1) by replacing “protective supervision” by “tutorship, temporary representation or assistance”;

(2) by replacing “person who is unable whose care or the administration of whose property have been entrusted” by “incapable person whose care or the administration of whose property has been entrusted”.

**143.** Section 28 of the Act is amended, in the first paragraph,

(1) by replacing “the record of the case of a person who is unable” by “the relevant record for an incapable person”;

(2) by replacing “protected person” by “person under tutorship or under a protection mandate”.

**144.** Section 29 of the Act is amended by replacing the second paragraph by the following paragraph:

“The inventory shall be made by a private writing. If circumstances permit, it shall be made in the presence of witnesses.”

**145.** Section 34 of the Act is amended

(1) by replacing the second sentence of the first paragraph by the following sentence: “However, where such a person fails or is unable to act, the authorization of the court is required to alienate property whose value exceeds \$40,000 by onerous title or to charge property with a hypothec exceeding that value.”;

(2) by inserting the following paragraph after the first paragraph:

“In addition to the grounds set out in article 1305 of the Civil Code, authorization to alienate property by onerous title or to charge property with a hypothec may also be given where the act is necessary to ensure the education and maintenance of the person represented or to preserve the value of his patrimony. Such authorization may also be given where that is the wish of the person of full age and there is no risk that the person of full age will suffer serious injury as a result.”;

(3) by striking out “or curatorship” in the last paragraph.

**146.** Section 36 of the Act is amended by replacing “\$5,000” by “the greater of \$15,000 and the amount corresponding to 15% of the value of the property that is being partitioned or of the value in dispute that is being transacted”.

**147.** Section 42 of the Act is amended by striking out “, by registered mail,” in the first paragraph.

**148.** Section 52 of the Act is amended

(1) by striking out “or their successors or heirs” in subparagraph 2 of the first paragraph;

(2) by replacing the second paragraph by the following paragraph:

“Nevertheless, at the request of an interested person, the Public Curator may certify that a person is a minor, under tutorship, under a protection mandate or under temporary representation and indicate the name of the tutor, mandatary or representative. The Public Curator may also certify that a person is recognized as an assistant to a specified person of full age.”

**149.** Section 53 of the Act is amended by replacing “damage” by “harm”.

**150.** The Act is amended by inserting the following section after section 53:

**“53.1** The liquidator of the succession, the beneficiary of life insurance or of a death benefit or the heir or successor of the person who was represented by the Public Curator or whose property was administered by the Public Curator has the right to obtain information contained in the file of the deceased person to the extent that the information affects his interests or rights as liquidator, beneficiary, heir or successor.”

**151.** Section 54 of the Act is amended by replacing the first paragraph by the following paragraph:

“The Public Curator shall keep a register of tutorships to minors, a register of tutorships to persons of full age, a register of assistants to persons of full age, a register of homologated protection mandates and a register of authorizations for temporary representation of incapable persons of full age.”

**152.** Section 67 of the Act is amended by replacing “30 June” in the first paragraph by “31 October”.

**153.** Section 68 of the Act is amended

(1) by striking out “and curators” in paragraph 3;

(2) by inserting the following paragraphs after paragraph 3:

“(3.1) determine the form and content of the medical and psychosocial assessment reports necessary for tutorship to a person of full age;

“(3.2) determine the form and content of the medical and psychosocial assessment reports necessary for the temporary representation of an incapable person of full age;

“(3.3) determine the form and content of the documents necessary for the recognition of an assistant to a person of full age and the manner in which they are to be transmitted;

“(3.4) determine the conditions an advocate or notary must meet to be certified to perform the operations preliminary to the recognition of an assistant to a person of full age;”;

(3) by inserting “and the rules for consulting the registers” after “the registers” in paragraph 6;

(4) by striking out “, curatorships” in paragraph 7.

**154.** The Act is amended by inserting the following section after section 204:

“**205.** The amount specified in section 34, in articles 209, 213, 214, 217, 221, 242 and 289.1 of the Civil Code and in articles 336 and 394 of the Code of Civil Procedure is indexed on 1 April (*insert the year that is ten years after the date of coming into force of section 8 of the Act to amend the Civil Code, the Code of Civil Procedure, the Public Curator Act and various provisions as regards the protection of persons*), and every ten years after that, according to the variation in the average Consumer Price Index for the five preceding years, based on the index established for the whole of Québec by Statistics Canada. The amount computed based on that index is rounded off to the nearest multiple of \$5,000. The Public Curator shall publish the results of the indexing in the *Gazette officielle du Québec*.”

#### ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

**155.** Section 47 of the Act respecting elections and referendums in municipalities (chapter E-2.2) is amended by replacing the introductory clause by the following introductory clause:

“**47.** Every person who is of full age and a Canadian citizen, who is neither disqualified from voting under section 53 nor disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code and who meets one of the following two conditions is an elector of a municipality:”.

**156.** Section 137 of the Act is amended by replacing “under curatorship” in subparagraph 2 of the third paragraph by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**157.** Section 137.2 of the Act is amended by replacing “under curatorship” by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**158.** Section 518 of the Act is amended by replacing “under curatorship” in the second paragraph by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**159.** Section 528 of the Act is amended by replacing “under curatorship nor disqualified from voting under section 524” in the second paragraph by “disqualified from voting under section 524 nor disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

#### ACT RESPECTING SCHOOL ELECTIONS TO ELECT CERTAIN MEMBERS OF THE BOARDS OF DIRECTORS OF ENGLISH-LANGUAGE SCHOOL SERVICE CENTRES

**160.** Section 12 of the Act respecting school elections to elect certain members of the boards of directors of English-language school service centres (chapter E-2.3) is amended by replacing “under curatorship” in paragraph 4 by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**161.** Section 58.8 of the Act is amended by replacing “that the person in respect of whom the application for striking off is made is under curatorship or is deceased” in subparagraph 2 of the third paragraph by “that the person in respect of whom the application for striking off is made is disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code or is deceased”.

**162.** Section 58.10 of the Act is amended by replacing “under curatorship” by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

#### ELECTION ACT

**163.** Section 1 of the Election Act (chapter E-3.3) is amended by replacing “under curatorship” in subparagraph 4 of the first paragraph by “disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**164.** Section 40.7.1 of the Act is amended by replacing “in whose favour curatorship is instituted” by “who is disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code”.

**165.** Section 40.10.1 of the Act is amended

- (1) by replacing “death or of institution of curatorship and” by “death,”;
- (2) by inserting “and the name of any person who is disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code” after “Referendum Act (chapter C-64.1)”.

**166.** Section 40.12.15 of the Act is amended by replacing “that the person is under curatorship or is dead” by “that the person concerned is disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code or is deceased”.

**167.** Section 210 of the Act is amended by replacing “that the person whose removal is requested is under curatorship or is dead” in the first paragraph by “that the person whose removal is requested is disqualified from voting as a result of a judgment rendered under article 288 of the Civil Code or is deceased”.

## PROVISIONS AMENDING VARIOUS ACTS

## WORKERS’ COMPENSATION ACT

**168.** Section 35 of the Workers’ Compensation Act (chapter A-3) is amended

- (1) in subsection 4,
  - (a) by replacing “to their curator and, failing those persons” by “mandatary or, if they do not have one”;
  - (b) by striking out “or a curator, as the case may be”;
- (2) in subsection 5,
  - (a) by replacing “, as the case may be, to their tutor or curator and, failing a tutor or a curator” by “to their tutor or mandatary if they have one or, if they do not”;
  - (b) by striking out “or a curator, as the case may be”.

## ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

**169.** Section 141 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) is amended

- (1) in the first paragraph,
  - (a) by replacing “curator” by “mandatary”;



(b) by striking out “or a curator, as the case may be”;

(2) by inserting “, except a payment to a mandatary” at the end of the second paragraph.

#### ACT RESPECTING LEGAL AID AND THE PROVISION OF CERTAIN OTHER LEGAL SERVICES

**170.** Section 4.7 of the Act respecting legal aid and the provision of certain other legal services (chapter A-14) is amended by replacing “, protective supervision of a person of full age or a protection mandate” in paragraph 3 by “or to a person of full age, a protection mandate or temporary representation of an incapable person of full age”.

#### LAND SURVEYORS ACT

**171.** Section 58 of the Land Surveyors Act (chapter A-23) is amended, in subsection 1,

(1) by replacing “tutorship or curatorship” by “a tutorship or the homologation of a protection mandate for him”;

(2) by replacing “curator” by “mandatary”.

#### AUTOMOBILE INSURANCE ACT

**172.** Section 83.27 of the Automobile Insurance Act (chapter A-25) is amended

(1) in the first paragraph,

(a) by replacing “or curator” by “or mandatary”;

(b) by striking out “or of a curator, as the case may be”;

(2) by inserting “, except a payment to a mandatary” at the end of the second paragraph.

#### INSURERS ACT

**173.** Section 118 of the Insurers Act (chapter A-32.1) is amended by replacing “the institution of protective supervision” by “tutorship to a person of full age being instituted or a protection mandate homologated”.

## ACT RESPECTING THE BARREAU DU QUÉBEC

**174.** Section 69.1 of the Act respecting the Barreau du Québec (chapter B-1) is amended

(1) by replacing “by the court of tutorship or curatorship” in the first paragraph by “of tutorship or the homologation of a protection mandate”;

(2) by replacing “the protective supervision” in the third paragraph by “the tutorship or the protection mandate”.

**175.** Section 122 of the Act is amended by replacing paragraph *c* of subsection 1 by the following paragraph:

“(c) he is under tutorship or under a protection mandate;”.

**176.** Section 128 of the Act is amended by adding the following paragraph at the end of subsection 2:

“(f) to perform the operations preliminary to the Public Curator’s recognition of an assistant to a person of full age.”

## BUILDING ACT

**177.** Section 69 of the Building Act (chapter B-1.1) is amended by replacing “the tutor or adviser to a person of full age” in the second paragraph by “the tutor to or mandatary of an incapable person of full age”.

## UNCLAIMED PROPERTY ACT

**178.** Section 2 of the Unclaimed Property Act (chapter B-5.1) is amended by replacing “under tutorship or curatorship” in subparagraph 8 of the first paragraph by “under tutorship or under a protection mandate;”.

## CHARTER OF VILLE DE MONTRÉAL, METROPOLIS OF QUÉBEC

**179.** Section 145 of Schedule C to the Charter of Ville de Montréal, metropolis of Québec (chapter C-11.4) is amended by replacing “under protective supervision” in the first paragraph by “under tutorship or under a protection mandate”.

## PROFESSIONAL CODE

**180.** Section 37.1 of the Professional Code (chapter C-26) is amended by replacing “with regard to the protective supervision of a person of full age or with regard to” in subparagraph *f* of paragraph 1.1.1 by “for the purposes of tutorship to a person of full age or”.

## COMPANIES ACT

**181.** Section 140 of the Companies Act (chapter C-38) is amended by replacing “curator” and “under tutorship or curatorship” by “mandatary” and “under tutorship or under a protection mandate”, respectively.

**182.** Section 141 of the Act is amended by replacing “curator,” by “mandatary,”.

**183.** Section 179 of the Act is amended by replacing “, curator” in paragraph 2 by “, mandatary”.

## ACT RESPECTING FINANCIAL SERVICES COOPERATIVES

**184.** Section 8 of the Act respecting financial services cooperatives (chapter C-67.3) is amended by replacing “under protective supervision or a person totally or partially deprived of the exercise of civil rights” in paragraph 2 by “under tutorship or under a protection mandate”.

## REAL ESTATE BROKERAGE ACT

**185.** Section 37 of the Real Estate Brokerage Act (chapter C-73.2) is amended by replacing paragraph 4 by the following paragraph:

“(4) if the applicant is under tutorship or under a protection mandate.”

**186.** Section 38 of the Act is amended by replacing paragraph 4 by the following paragraph:

“(4) is under tutorship or under a protection mandate.”

## ACT RESPECTING DEPOSITS WITH THE BUREAU GÉNÉRAL DE DÉPÔTS POUR LE QUÉBEC

**187.** Section 2 of the Act respecting deposits with the Bureau général de dépôts pour le Québec (chapter D-5.1) is amended by replacing “a curator” in the second paragraph by “a mandatary of an incapable person of full age”.

## ACT RESPECTING THE DISTRIBUTION OF FINANCIAL PRODUCTS AND SERVICES

**188.** Section 218 of the Act respecting the distribution of financial products and services (chapter D-9.2) is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) the certificate holder is under tutorship or under a protection mandate;”.

**189.** Section 219 of the Act is amended by replacing paragraph 3 by the following paragraph:

“(3) where the applicant is under tutorship or under a protection mandate;”.

#### MONEY-SERVICES BUSINESSES ACT

**190.** Section 5 of the Money-Services Businesses Act (chapter E-12.000001) is amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

“(2) not be under tutorship or under a protection mandate;”.

**191.** Section 14 of the Act is amended by replacing paragraph 2 by the following paragraph:

“(2) is under tutorship or under a protection mandate;”.

#### ACT RESPECTING FABRIQUES

**192.** Section 39 of the Act respecting fabriques (chapter F-1) is amended by replacing paragraph *b* by the following paragraph:

“(b) if tutorship is instituted or a protection mandate homologated for him;”.

#### TAXATION ACT

**193.** Section 1049.12 of the Taxation Act (chapter I-3) is amended by replacing “or under tutorship or curatorship,” by “, under tutorship or under a protection mandate”.

**194.** Section 1049.12.1 of the Act is amended by replacing “or under tutorship or curatorship,” by “, under tutorship or under a protection mandate”.

#### DEPOSIT INSTITUTIONS AND DEPOSIT PROTECTION ACT

**195.** Section 28.62 of the Deposit Institutions and Deposit Protection Act (chapter I-13.2.2) is amended by replacing “the institution of protective supervision” by “tutorship to a person of full age being instituted or a protection mandate homologated”.

#### DERIVATIVES ACT

**196.** Section 80.1 of the Derivatives Act (chapter I-14.01) is amended by replacing paragraph 3 by the following paragraph:

“(3) the representative, chief compliance officer or ultimate designated person is under tutorship or under a protection mandate; or”.

## ACT RESPECTING THE MONTRÉAL MUSEUM OF FINE ARTS

**197.** Section 6.2 of the Act respecting the Montréal Museum of Fine Arts (chapter M-42) is amended by replacing “under tutorship or curatorship” in paragraph 2 by “under tutorship or under a protection mandate”.

## NOTARIES ACT

**198.** Section 15 of the Notaries Act (chapter N-3) is amended by adding the following paragraph at the end:

“(8) perform the operations preliminary to the Public Curator’s recognition of an assistant to a person of full age.”

**199.** Section 28 of the Act is amended by replacing “under protective supervision” in the first paragraph by “under tutorship”.

**200.** Section 77 of the Act is amended by replacing “protective supervision” in subparagraph 3 of the first paragraph by “tutorship to a person of full age”.

## ACT RESPECTING THE SHARING OF CERTAIN HEALTH INFORMATION

**201.** Section 79 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended, in paragraph 8,

(1) by striking out “or the fact that he or she is under public curatorship”;

(2) by replacing “the dates of the institution and termination of curatorship” by “the dates on which representation by the latter begins and ends”.

## PHARMACY ACT

**202.** Section 29 of the Pharmacy Act (chapter P-10) is amended by replacing “is placed under tutorship or curatorship” and “curator” by “is placed under tutorship or under a protection mandate” and “mandatary”, respectively.

## ACT RESPECTING THE PROTECTION OF PERSONS WHOSE MENTAL STATE PRESENTS A DANGER TO THEMSELVES OR TO OTHERS

**203.** The schedule to the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001) is amended by striking out “, curator” in subparagraph *a* of the second subparagraph of paragraph 5.

## ACT RESPECTING THE COLLECTION OF CERTAIN DEBTS

**204.** Section 6 of the Act respecting the collection of certain debts (chapter R-2.2), amended by section 789 of chapter 23 of the statutes of 2018, is again amended by replacing “curator” in paragraph 1 by “mandatory or temporary representative of an incapable person of full age”.

## ACT RESPECTING THE RÉGIE DU LOGEMENT

**205.** Section 64 of the Act respecting the Régie du logement (chapter R-8.1) is amended

(1) by striking out “tutor, curator or adviser,” in paragraph 8;

(2) by inserting the following paragraph after paragraph 8:

“(8.1) if the commissioner is the tutor, mandatory or temporary representative of an incapable person of full age who is one of the parties;”.

**206.** Section 73 of the Act is amended by replacing “or curator” by “, a mandatory of an incapable person of full age or a temporary representative of a person of full age”.

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

**207.** Section 22 of the Act respecting health services and social services (chapter S-4.2) is amended

(1) by replacing “curator, mandatory” in the first paragraph by “the mandatory”;

(2) in the second paragraph,

(a) by replacing “for the institution or review of protective supervision for a user or the homologation of a protection mandate” and “assessment of” by “, with regard to a user, for the institution or review of a tutorship, for the homologation of a protection mandate or for temporary representation of an incapable person of full age” and “assessment reports concerning”, respectively;

(b) by inserting “or perform a specified act” after “administer his property”.

**208.** Section 150 of the Act is amended by replacing “curatorship” in paragraph 3 by “under a protection mandate”.

**209.** Section 204 of the Act is amended by replacing “the protective supervision of incapable persons” in paragraph 5.1 by “tutorship to a person of full age”.

**210.** Section 210 of the Act is repealed.

## ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

**211.** Section 77 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended, in the third paragraph,

(1) by striking out “, his curator”;

(2) by replacing “unable to express” and “inability” by “incapable of expressing” and “incapacity”, respectively.

**212.** Section 86 of the Act is amended by replacing “under tutorship or curatorship” in subparagraph *a* of the first paragraph by “under tutorship or under a protection mandate”.

**213.** Section 105 of the Act is amended by replacing “protective supervision of incapable persons” in subparagraph *i* of the second paragraph by “tutorship to persons of full age”.

## TRUST COMPANIES AND SAVINGS COMPANIES ACT

**214.** Section 2 of the Trust Companies and Savings Companies Act (chapter S-29.02) is amended by striking out “, an adviser to a person of full age” and “or curator”.

**215.** Section 18 of the Act is amended by striking out “, or curator to the property of a person of full age or adviser to a person of full age,” in paragraph 2.

**216.** Section 99 of the Act is amended by replacing “the institution of protective supervision” by “tutorship to a person of full age being instituted or a protection mandate homologated”.

## BUSINESS CORPORATIONS ACT

**217.** Section 234 of the Business Corporations Act (chapter S-31.1) is amended by replacing “or the auditor’s becoming bankrupt or being placed under protective supervision” by “, the auditor’s becoming bankrupt or tutorship being instituted or a protection mandate homologated for the auditor”.

## PROFESSIONAL SYNDICATES ACT

**218.** Section 27 of the Professional Syndicates Act (chapter S-40) is amended by replacing “fees fixed by the tariff for curatorship cases” in the third paragraph by “the fees prescribed in section 4 of Schedule I to the Regulation respecting the application of the Unclaimed Property Act (chapter B-5.1, r. 1)”.

## ACT RESPECTING THE QUÉBEC SALES TAX

**219.** Section 310 of the Act respecting the Québec sales tax (chapter T-0.1) is amended by replacing “or curator” in paragraph 3 of the definition of “receiver” in the second paragraph by “, mandatary of an incapable person of full age or temporary representative of an incapable person of full age”.

## SECURITIES ACT

**220.** Section 3 of the Securities Act (chapter V-1.1), amended by section 803 of chapter 23 of the statutes of 2018, is again amended, in paragraph 11,

(1) by replacing “curators to property” by “mandataries to property of incapable persons of full age”;

(2) by striking out “, advisers to persons of full age”.

**221.** Section 151.0.1 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) the representative, chief compliance officer or ultimate designated person is under tutorship or under a protection mandate; or”.

## ACT MAINLY TO IMPROVE THE REGULATION OF THE FINANCIAL SECTOR, THE PROTECTION OF DEPOSITS OF MONEY AND THE OPERATION OF FINANCIAL INSTITUTIONS

**222.** Section 486 of the Act mainly to improve the regulation of the financial sector, the protection of deposits of money and the operation of financial institutions (2018, chapter 23) is amended by striking out “, curators” in subparagraph 1 of the first paragraph proposed by subparagraph *c* of paragraph 1.

## PROVISIONS AMENDING VARIOUS REGULATIONS

### REGULATION RESPECTING THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS

**223.** Section 25 of the Regulation respecting the register of personal and movable real rights (chapter CCQ, r. 8) is amended, in subparagraph 1 of the first paragraph,

(1) by striking out “a curator,”;

(2) by inserting “a temporary representative by reason of the person’s incapacity,” after “party,”.



## REGULATION RESPECTING SAVINGS PRODUCTS

**224.** Section 50 of the Regulation respecting savings products (chapter A-6.001, r. 9) is amended by replacing “is under protective supervision” in the first paragraph by “is under tutorship, is under a protection mandate”.

## REGULATION RESPECTING LEGAL AID

**225.** Section 30 of the Regulation respecting legal aid (chapter A-14, r. 2) is amended

(1) in the first paragraph,

(a) by striking out “his curator,”;

(b) by inserting “a temporary representative of an incapable person of full age performing the specific act he has been authorized to perform,” after “protection mandate,”;

(2) by replacing “the institution or review of protective supervision for a third party” in the second paragraph by “, for a third party, the institution or review of tutorship to a person of full age, the designation of a temporary representative for an incapable person of full age”.

## REGULATION RESPECTING THE REIMBURSEMENT OF CERTAIN EXPENSES

**226.** Section 51 of the Regulation respecting the reimbursement of certain expenses (chapter A-25, r. 14) is amended

(1) by replacing “under protective supervision” by “under tutorship or for whom a protection mandate has not been homologated”;

(2) by striking out “, curator or adviser,”.

## REGULATION RESPECTING THE TERMS AND CONDITIONS FOR THE ISSUANCE OF HEALTH INSURANCE CARDS AND THE TRANSMITTAL OF STATEMENTS OF FEES AND CLAIMS

**227.** Section 8.0.1 of the Regulation respecting the terms and conditions for the issuance of health insurance cards and the transmittal of statements of fees and claims (chapter A-29, r. 7.2) is amended, in paragraph 3,

(1) by striking out “or curatorship”;

(2) by replacing “represented by the Public Curator Act” by “represented by the Public Curator”.

REGULATION RESPECTING THE TRAINING, SKILL AND  
KNOWLEDGE EVALUATION, ACCREDITATION AND DISCIPLINE OF  
STENOGRAPHERS

**228.** Section 39 of the Regulation respecting the training, skill and knowledge evaluation, accreditation and discipline of stenographers (chapter B-1, r. 13) is amended by replacing “protective supervision” in the second paragraph by “tutorship to a person of full age”.

REGULATION RESPECTING THE CONDITIONS FOR THE  
CERTIFICATION OF NOTARIES AS REGARDS THE INSTITUTION OR  
REVIEW OF PROTECTIVE SUPERVISION AND PROTECTION  
MANDATES

**229.** The title of the Regulation respecting the conditions for the certification of notaries as regards the institution or review of protective supervision and protection mandates (chapter C-25.01, r. 0.2) is replaced by the following title:

“REGULATION RESPECTING THE CONDITIONS FOR THE  
CERTIFICATION OF NOTARIES AS REGARDS THE INSTITUTION OR  
REVIEW OF TUTORSHIPS TO PERSONS OF FULL AGE AND  
PROTECTION MANDATES”.

**230.** Section 1 of the Regulation is amended by replacing “protective supervision” in the introductory clause by “tutorships to persons of full age”.

REGULATION RESPECTING THE ISSUE OF BROKER’S AND  
AGENCY LICENCES

**231.** Section 5 of the Regulation respecting the issue of broker’s and agency licences (chapter C-73.2, r. 3) is amended by striking out “, curator or adviser” in paragraph 12.

**232.** Section 7 of the Regulation is amended by striking out “, curator or adviser” in paragraph 10.

REGULATION RESPECTING THE APPLICATION OF THE PUBLIC  
CURATOR ACT

**233.** Section 1 of the Regulation respecting the application of the Public Curator Act (chapter C-81, r. 1) is amended

- (1) by replacing “protective supervision for” in paragraph 5 by “tutorship to”;
- (2) by replacing “protective supervision” in paragraph 6 by “tutorship”.

**234.** Section 7 of the Regulation is amended, in paragraph 2,

(1) by replacing “tutorship and curatorships” in the introductory clause by “tutorships”;

(2) by striking out “or the curator or curators” in subparagraphs *b* and *d*;

(3) by striking out subparagraph *c*;

(4) by replacing “protective supervision” in subparagraph *f* by “tutorship”.

**235.** Schedule II to the Regulation is amended

(1) by replacing the introductory clause of section 1 by the following introductory clause:

“(1) The fees that the Public Curator may, as applicant, charge for activities relating to the institution of tutorship to a person of full age are established as follows and payable at the latest at the end of the tutorship, if public tutorship is instituted, or on the rendering of the judgment, if private tutorship is instituted.”;

(2) by replacing “public protective supervision” in the second paragraph of section 2 by “public tutorship”.

#### CODE OF ETHICS OF THE CHAMBRE DE LA SÉCURITÉ FINANCIÈRE

**236.** Section 19 of the Code of ethics of the Chambre de la sécurité financière (chapter D-9.2, r. 3) is amended by striking out “, curator or adviser within the meaning of the Civil Code” in paragraph 3.

#### REGULATION RESPECTING THE REGISTRATION OF FIRMS, REPRESENTATIVES AND INDEPENDENT PARTNERSHIPS

**237.** Section 2 of the Regulation respecting the registration of firms, representatives and independent partnerships (chapter D-9.2, r. 15) is amended by striking out “, curator or adviser” in subparagraph *f* of paragraph 16.

**238.** Section 6 of the Regulation is amended by striking out “, curator or adviser” in subparagraph *f* of paragraph 10.

#### REGULATION RESPECTING THE PRESERVATION, USE OR DESTRUCTION OF THE RECORDS, BOOKS AND REGISTERS OF A PHARMACIST WHO CEASES TO PRACTISE

**239.** Section 4.01 of the Regulation respecting the preservation, use or destruction of the records, books and registers of a pharmacist who ceases to practise (chapter P-10, r. 13) is amended by replacing “is placed under protective supervision” by “is placed under tutorship or under a protection mandate”.

## RÈGLEMENT SUR L'EXERCICE DE LA PHARMACIE EN SOCIÉTÉ

**240.** Section 2 of the Règlement sur l'exercice de la pharmacie en société (chapter P-10, r. 16, French only) is amended by replacing “d'un régime de protection” in subparagraph *b* of paragraph 2 by “d'une tutelle au majeur ou d'un mandat de protection homologué”.

**241.** Section 4 of the Regulation is amended by replacing “d'un régime de protection” in subparagraph *b* of subparagraph 9 of the first paragraph by “d'une tutelle au majeur ou d'un mandat de protection homologué”.

**242.** Section 5 of the Regulation is amended by replacing “de l'ouverture d'un régime de protection, le tuteur ou le curateur” in paragraph 2 by “d'une tutelle au majeur ou d'un mandat de protection homologué, le tuteur ou le mandataire”.

## ORGANIZATION AND MANAGEMENT OF INSTITUTIONS REGULATION

**243.** Section 43 of the Organization and Management of Institutions Regulation (chapter S-5, r. 5) is amended by replacing “the curator of the beneficiary” in the second paragraph by “the tutor or mandatary of the beneficiary”.

## REGULATION UNDER THE ACT RESPECTING THE QUÉBEC CORRECTIONAL SYSTEM

**244.** Section 56 of the Regulation under the Act respecting the Québec correctional system (chapter S-40.1, r. 1) is amended by replacing subparagraph 8 of the first paragraph by the following subparagraph:

“(8) tutor or mandatary as designated by the judgment instituting the tutorship or homologating the protection mandate.”

## TRANSITIONAL AND FINAL PROVISIONS

**245.** A person of full age under curatorship on the date of coming into force of section 46 is deemed to be under tutorship. The curator of the person of full age is deemed to be his or her tutor.

However, until the tutorship ceases or is modified, where applicable, the person of full age must be represented for the same acts as when under curatorship. A curator who has become a tutor may only perform acts of simple administration.

**246.** A person of full age provided with an adviser on the date of coming into force of section 52 remains under advisership as long as there is no release from or modification of the protective supervision.

During that period, the provisions concerning advisers to persons of full age and persons of full age provided with an adviser that are repealed or amended by this Act continue to have effect with regard to such advisers and persons of full age.

**247.** An application for the institution of protective supervision that is pending on the date of coming into force of section 46 is deemed to be an application for the institution of tutorship to a person of full age. However, the medical and psychosocial assessment reports must be replaced by such reports that comply with section 68 of the Public Curator Act (chapter C-81), as amended by section 153.

**248.** A tutor to the person who is party to proceedings pertaining to the property of a minor or a person of full age that are pending on the date of coming into force of section 7 continues the proceedings.

**249.** An insurer who, before the date of coming into force of section 11, has received the required proof of loss for a payment is not subject to the 15-day notice period prescribed in article 217 of the Civil Code, as replaced by section 11, if complying with that notice period prevents the insurer from complying with the time limit prescribed in article 2436 of the Code. In such a case, the insurer must fulfil the obligation imposed on it by that article 217 as soon as possible.

**250.** A protection mandate made before the date of coming into force of section 82 may not be invalidated for the sole reason that it was made jointly by two or more persons.

The first paragraph ceases to apply to such a mandate if changes are made to the mandate after the date specified in that paragraph.

The third paragraph of article 2166.1 of the Civil Code, enacted by section 83, applies only with respect to a protection mandate made on or after the date of coming into force of section 83.

Article 2167.4 of the Code, enacted by section 84, applies only with respect to a protection mandate homologated on or after the date of coming into force of section 84.

**251.** For the purposes of the reassessment of a person of full age who is under protective supervision on the date of coming into force of section 42, the following time limits continue to apply, taking into account the time that has already passed since the last assessment:

- (1) the five-year time limit, if the person was under curatorship;
- (2) the three-year time limit, if the person is under tutorship or provided with an adviser;

(3) the shorter time limit set by the court, if applicable.

**252.** A will made by a person of full age under curatorship who died after the date preceding the date of coming into force of section 46 may be confirmed by the court if the nature of its provisions and the circumstances in which it was drawn up allow it.

**253.** The Public Curator must send the Chief Electoral Officer the name, address, date of birth and sex of all persons of full age under curatorship on the date of coming into force of section 46.

The name of every such person of full age must be entered on the permanent list of electors by the Chief Electoral Officer. The Chief Electoral Officer must provide written confirmation to such electors that their names have been entered on the permanent list of electors and invite them to correct or complete the information which concerns them, if necessary.

If the confirmation notice is returned to the Chief Electoral Officer without having reached the addressee or if the Chief Electoral Officer is informed by the person that he or she cannot be or does not wish to be entered on the permanent list of electors, his or her name is struck off the list.

**254.** Unless the context indicates otherwise, in any other provision of an Act or of a regulation, the following terms and expressions are struck out, with the necessary adaptations:

(1) “curator”, when used elsewhere than in “Public Curator”, and “curators”, except in the following provisions:

(a) articles 1239 and 1289 of the Civil Code;

(b) sections 810 and 905.0.3 of the Taxation Act (chapter I-3);

(c) section 30 of the Pharmacy Act (chapter P-10);

(d) section 13 of the Règlement sur l’exercice de la pharmacie en société (chapter P-10, r. 16, French only);

(e) section 308 of the Supplemental Pension Plans Act (chapter R-15.1);

(f) section 94 of the General Regulation respecting supplemental pension plans (chapter R-15.1, r. 6.2);

(2) “curatorship” and “curatorships”;

(3) “adviser to a person of full age” and “advisers to persons of full age”.

**255.** The Government may, by order, authorize the Public Curator to implement a pilot project on any matter within the scope of this Act or the regulations with a view to studying, improving or defining standards applicable to those matters.

All pilot projects must be in line with the objectives pursued by this Act.

A pilot project is established for a period of up to three years which the Government may extend by up to one year. The Government may modify or terminate a pilot project at any time.

**256.** The Public Curator must, on the expiry of five years after the coming into force of this Act, report to the Minister of Families on the carrying out of the amendments made by this Act with respect to tutorship to a person of full age, including the right to vote, with respect to temporary representation and with respect to assistance to a person of full age, and on the advisability of amending the relevant legislative provisions. The Minister tables the report in the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is examined by the competent committee of the National Assembly in the year following the date of its tabling.

**257.** The provisions of this Act come into force on the date or dates to be set by the Government.