

M.O., 2020**Order number 2020-4304 of the Minister of Justice dated 31 August 2020**

An Act respecting the Ministère de la Justice (chapter M-19)

Measures for ensuring the proper administration of justice amid the COVID-19 pandemic situation

THE MINISTER OF JUSTICE,

CONSIDERING section 5.1 of the Act respecting the Ministère de la Justice (chapter M19), enacted by section 67 of chapter 12 of the Statutes of 2020, which provides that, in a state of emergency declared by the Government, the Minister of Justice may, if necessary for the proper administration of justice, amend any rule of procedure, introduce a new one or provide for any other measure;

CONSIDERING that that section provides that the measures are to be published in the *Gazette officielle du Québec* and may take effect on the date on which the state of emergency is declared or on any later date specified in the measures, and they are applicable for the period determined by the Minister of Justice, which may not exceed one year after the end of the state of emergency;

CONSIDERING that that section provides that, before adopting the measures, the Minister must take into consideration their effects on the rights of individuals and obtain the agreement of the Chief Justice of Québec and the Chief Justice of the Superior Court or the Chief Judge of the Court of Québec, according to their jurisdiction, and the Minister must also take into consideration the opinion of the Barreau du Québec and, if applicable, the Chambre des notaires du Québec or the Chambre des huissiers de justice du Québec;

CONSIDERING section 12 of the Regulations Act (chapter R-18.1), which provides that a proposed regulation may be made without having been published as provided for in section 8 of that Act, if the authority making it is of the opinion that the urgency of the situation requires it;

CONSIDERING section 13 of that Act, which provides that the reason justifying the absence of prior publication must be published with the regulation;

CONSIDERING section 27 of that Act, which provides that a regulation may take effect before the date of its publication in the *Gazette officielle du Québec* where the Act under which it is made or approved expressly provides therefor;

CONSIDERING Order in Council 177-2020 dated 13 March 2020 declaring a public health emergency throughout Québec for a period of 10 days;

CONSIDERING that the public health emergency was renewed until 29 March 2020 by Order in Council 222-2020 dated 20 March 2020, until 7 April 2020 by Order in Council 388-2020 dated 29 March 2020, until 16 April 2020 by Order in Council 418-2020 dated 7 April 2020, until 24 April 2020 by Order in Council 460-2020 dated 15 April 2020, until 29 April 2020 by Order in Council 478-2020 dated 22 April 2020, until 6 May 2020 by Order in Council 483-2020 dated 29 April 2020, until 13 May 2020 by Order in Council 501-2020 dated 6 May 2020, until 20 May 2020 by Order in Council 509-2020 dated 13 May 2020, until 27 May 2020 by Order in Council 531-2020 dated 20 May 2020, until 3 June 2020 by Order in Council 544-2020 dated 27 May 2020, until 10 June 2020 by Order in Council 572-2020 dated 3 June 2020, until 17 June 2020 by Order in Council 593-2020 dated 10 June 2020, until 23 June 2020 by Order in Council 630-2020 dated 17 June 2020, until 30 June 2020 by Order in Council 667-2020 dated 23 June 2020, until 8 July 2020 by Order in Council 690-2020 dated 30 June 2020, until 15 July 2020 by Order in Council 717-2020 dated 8 July 2020, until 22 July 2020 by Order in Council 8072020 dated 15 July 2020, until 29 July 2020 by Order in Council 811-2020 dated 22 July 2020, until 5 August 2020 by Order in Council 814-2020 dated 29 July 2020, until 12 August 2020 by Order in Council 815-2020 dated 5 August 2020, until 19 August 2020 by Order in Council 818-2020 dated 12 August 2020, until 26 August 2020 by Order in Council 845-2020 dated 19 August 2020 and until 2 September 2020 by Order in Council 895-2020 dated 26 August 2020;

CONSIDERING that it is necessary to make measures to ensure the proper administration of justice in the context of the COVID-19 pandemic;

CONSIDERING that those measures will have a beneficial effect on the rights of individuals;

CONSIDERING that the urgency to make the measures in the context of the COVID-19 pandemic justifies the absence of prior publication of this Order and its coming into force on 1 September 2020 as permitted under section 5.1 of the Act respecting the Ministère de la Justice;

CONSIDERING that the Chief Justice of Québec, the Chief Justice of the Superior Court and the Chief Judge of the Court of Québec have given their agreement on the portion of the operative part of this Order that concern them;

CONSIDERING that the opinion of the Barreau du Québec, the Chambre des notaires du Québec and the Chambre des huissiers de justice du Québec has been taken into consideration;

ORDERS AS FOLLOWS:

THAT administrative justices of the peace and officers of justice referred to in the Courts of Justice Act (chapter T-16) exercising their functions within the Superior Court and the Court of Québec, and employees of those Courts, have concurrent territorial jurisdiction with those of all other judicial districts of Québec;

THAT a notary be authorized to close, including remotely, a notarial act *en minute* using technological means, on the following conditions:

- (1) the officiating notary must be able to see and hear each party;
- (2) each party or intervenor must be able to see and hear the officiating notary;
- (3) where the context requires, the witnesses must be able to see and hear the parties and the officiating notary;
- (4) the signatories and the officiating notary must be able to see the notarial act or, as applicable, the part of the notarial act concerning them;
- (5) the signatories other than the notary must affix their signature using technological means enabling them to be identified and confirming their consent;
- (6) the notary must affix his or her digital official signature;

THAT a notary using technological means be required to ensure the integrity and confidentiality of the documents shared and the process leading to the signing of the notarial act, and be also required to maintain the integrity of the notarial act throughout its life cycle, in particular for the purpose of ensuring its preservation;

THAT the board of directors of the Ordre des notaires du Québec establish and publish, on the Order's website, any other of the standards provided for in section 98 of the Notaries Act (chapter N-3), to the extent that the standards concern such a notarial act, until a regulation establishing such standards is made under that section;

THAT the standards established by the board of directors of the Ordre des notaires du Québec under Order 2020-010 of the Minister of Health and Social Services dated 27 March 2020 be deemed to have been established under this Order;

THAT the requirement to support with an affidavit an application for exemption or an application to be declared disqualified to act as juror or to serve at a later session provided for in section 29 of the Jurors Act (chapter J-2) does not apply and such an application be deemed made under oath;

THAT this Order come into force on 1 September 2020 and cease to have effect on 1 September 2021.

Montréal, 31 August 2020

SIMON JOLIN-BARRETTE,
Minister of Justice

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