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chapter C-25

CODE OF CIVIL PROCEDURE

Chapter C-25 is replaced by the Code of Civil Procedure (chapter C-25.01). (2014, c. 1, s. 833).
2014, c. 1, s. 833.

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BOOK I

GENERAL PROVISIONS

TITLE I

INTRODUCTORY PROVISIONS

1. *Notwithstanding any contrary provision of any general law or special Act, imprisonment in civil matters is abolished, except in cases of contempt of court.*

1965 (1st sess.), c. 80, a. 1 (part); 1966, c. 21, s. 1.

2. *The rules of procedure in this Code are intended to render effective the substantive law and to ensure that it is carried out; and failing a provision to the contrary, failure to observe the rules which are not of public order can only affect a proceeding if the defect has not been remedied when it was possible to do so. The provisions of this Code must be interpreted the one by the other, and, so far as possible, in such a way as to facilitate rather than to delay or to end prematurely the normal advancement of cases.*

1965 (1st sess.), c. 80, a. 2.

3. *In the case of a difference between the French and English texts of any provision of this Code, the text most consistent with the former law must prevail, unless the provision changes the former law, in which case the text most consistent with the intention of the article in accordance with the ordinary rules of legal interpretation shall prevail.*

1965 (1st sess.), c. 80, a. 3.

4. *In this Code,*

(a) "affidavit" means a written statement supported by the oath of the deponent, received and attested by any person authorized for that purpose by law;

(b) "case ready for judgment" means a case in which the trial has been completed and which has been taken under advisement;

(c) "office of the court" means a secretariat comprising the administrative services of one or more courts, whose main functions are the management of the issue of court orders and the preservation of court records;

(d) "clerk" means a public servant of the Ministère de la Justice working in the office of a court and appointed for that purpose according to law, or any other person appointed to act in that capacity at the court to which the provision is applicable;

(e) "special clerk" means the clerk or the assistant clerk appointed by order of the Minister of Justice, with the consent of the chief justice or chief judge of the court, to exercise in that court, in addition to his other functions, the attributions attached to such capacity;

(f) "judge" means according to the context, a judge acting in chambers or presiding in a courtroom;

(g) "trial judge" means the judge presiding at the hearing of a case;

(h) "chief justice" or "chief judge" means the chief justice or judge, the senior associate chief justice or judge or the associate chief justice or judge;

(i) "oath" means a solemn affirmation by a person of the accuracy of a fact or the veracity of his testimony;

(j) "court" means one of the courts of justice enumerated in article 22 or a judge presiding in a courtroom.

Moreover, the meaning of the word "court" used in the Civil Code or in a special Act is determined by this Code or where the case arises, the Act itself where it contains its own definition thereof. It may designate, as the case may be, the competent jurisdiction in civil matters, a judge presiding in a courtroom or acting in chambers, or a clerk.

1965 (1st sess.), c. 80, a. 4; 1975, c. 83, s. 1; 1977, c. 73, s. 1; 1979, c. 37, s. 1; 1983, c. 54, s. 14; 1986, c. 95, s. 61; 1989, c. 54, s. 130; 1992, c. 57, s. 171; 1997, c. 42, s. 1.

4.1. *Subject to the rules of procedure and the time limits prescribed by this Code, the parties to a proceeding have control of their case and must refrain from acting with the intent of causing prejudice to another person or behaving in an excessive or unreasonable manner, contrary to the requirements of good faith.*

The court sees to the orderly progress of the proceeding and intervenes to ensure proper management of the case.

2002, c. 7, s. 1.

4.2. *In any proceeding, the parties must ensure that the proceedings they choose are proportionate, in terms of the costs and time required, to the nature and ultimate purpose of the action or application and to the complexity of the dispute; the same applies to proceedings authorized or ordered by the judge.*

2002, c. 7, s. 1.

4.3. *The courts and judges may attempt to reconcile the parties, if they consent, in any matter except a matter relating to personal status or capacity or involving public policy issues. In family matters or matters involving small claims, it is the judge's duty to attempt to reconcile the parties.*

2002, c. 7, s. 1.

5. *No judicial demand can be adjudicated upon unless the party against whom it is made has been heard or duly summoned.*

1965 (1st sess.), c. 80, a. 5.

6. *The following are non-juridical days:*

(a) Sundays;

(b) 1 and 2 January;

(c) Good Friday;

(d) Easter Monday;

(e) 24 June, the National Holiday;

(f) 1 July, the anniversary of Confederation, or 2 July when 1 July is a Sunday;

(g) The first Monday of September, Labour Day;

(g.1) The second Monday of October;

(h) 25 and 26 December;

(i) The day fixed by proclamation of the Governor-General for the celebration of the birthday of the Sovereign;

(j) Any other day fixed by proclamation or order of the Government as a public holiday or as a day of thanksgiving.

1965 (1st sess.), c. 80, a. 6; 1978, c. 5, s. 11; 1979, c. 37, s. 2; 1984, c. 46, s. 4.

7. *If the date fixed for doing anything falls on a non-juridical day, such thing may validly be done on the next following juridical day.*

1965 (1st sess.), c. 80, a. 7.

8. *In computing any time limit fixed by this Code or any of its provisions, including the time limits for appeal:*

(1) the day which marks the start of the time limit is not counted, but the terminal day is counted;

(2) non-juridical days are counted; but when the last day is a non-juridical day, the time limit is extended to the next following juridical day;

(3) Saturday is considered a non-juridical day.

1965 (1st sess.), c. 80, a. 8; 1979, c. 37, s. 3; 1999, c. 40, s. 56.

9. *A judge may, upon such conditions as he considers just, extend any time limit which is not peremptory or relieve a party from the consequences of his failure to respect such time limit.*

In first instance, the parties may, in establishing the proceeding timetable, agree on time limits other than those prescribed by this Code, unless they are peremptory.

1965 (1st sess.), c. 80, a. 9; 1999, c. 40, s. 56; 2002, c. 7, s. 2.

10. *The place, time and duration of the terms and sittings of the courts are determined in accordance with the provisions of the Courts of Justice Act (chapter T-16).*

The court may shorten or extend a term or adjourn it to a later date.

In the absence of the judge who should preside over the court, the clerk may adjourn the court to another day of the term or to any later date indicated by the judge.

1965 (1st sess.), c. 80, a. 10; 1992, c. 57, s. 420.

11. *The courts cannot sit on non-juridical days.*

1965 (1st sess.), c. 80, a. 11.

12. *The courts of first instance are not obliged to sit between 30 June and 1 September, or between 23 December and 7 January, except as regards the following matters:*

(a) actions arising from relations between lessor and lessee, and employer and employee;

(b) the matters governed by Titles I, IV, V and VI of Book V;

(c) applications relating to the integrity of the person;

(d) writs of habeas corpus and demands provided for in article 846;

(e) (paragraph repealed);

(f) proceedings respecting the guardianship of property under seizure or the distribution of moneys following execution;

(g) expropriation proceedings;

(h) cases in which the defendant is in default to appear or to plead;

(i) inscriptions for judgment upon acquiescence in a demand, upon discontinuance or by agreement between the parties;

(j) incidental proceedings;

(k) the matters governed by Book VI of this Code;

(l) those which must be heard and decided by preference under a provision of law or a decision of the chief justice or a judge designated by him for such purpose.

1965 (1st sess.), c. 80, a. 12; 1966, c. 21, s. 2; 1982, c. 17, s. 1; 1992, c. 57, s. 172.

13. *The sittings of the courts are public wherever they may be held, but the court may order that they be held in camera in the interests of good morals or public order.*

However, in family matters, sittings in first instance are held in camera, unless the court, upon application, orders that, in the interests of justice, a sitting be public. Any journalist who proves his capacity is admitted to sittings held in camera, without further formality, unless the court considers his presence detrimental to a person whose interests may be affected by the proceedings. This paragraph applies notwithstanding section 23 of the Charter of human rights and freedoms (chapter C-12).

The rules of practice may determine the conditions and modalities relating to sittings in camera in respect of advocates and articled students within the meaning of the Act respecting the Barreau du Québec (chapter B-1).

1965 (1st sess.), c. 80, a. 13; 1975, c. 83, s. 2; 1982, c. 17, s. 2; 1984, c. 26, s. 1; 1993, c. 30, s. 1.

14. *Persons present at sittings of the courts must maintain a respectful attitude, remain silent and refrain from showing their approval or disapproval of the proceedings.*

This provision must be observed wherever the judge carries out his official functions.

1965 (1st sess.), c. 80, a. 14.

15. *Any person who contravenes article 14, or who does not obey at once the orders of the judge or the officers under his authority, is guilty of contempt of court.*

If the offender is an officer of justice, the court may suspend him from his functions.

1965 (1st sess.), c. 80, a. 15; 1975, c. 83, s. 3; 1995, c. 41, s. 17.

16. *The judge may require an oath whenever it is deemed necessary.*

1965 (1st sess.), c. 80, a. 16.

17. *When an oath is required, it is taken before the judge, the clerk or any other person authorized by law to administer it.*

1965 (1st sess.), c. 80, a. 17; 1992, c. 57, s. 420.

18. *(Repealed).*

1965 (1st sess.), c. 80, a. 18; 1986, c. 95, s. 62; 1992, c. 57, s. 173.

19. *The court has the same powers as the judge in matters within the jurisdiction of the latter.*

1965 (1st sess.), c. 80, a. 19.

20. *Whenever this Code contains no provision for exercising any right, any proceeding may be adopted which is not inconsistent with this Code or with some other provision of law.*

1965 (1st sess.), c. 80, a. 20.

20.1. *Where a law or regulation provides for the use of the mails, the Government may, if postal services are interrupted, authorize the use of another means of communication, according to such terms and conditions as it may determine.*

1979, c. 37, s. 4.

21. *(Repealed).*

1965 (1st sess.), c. 80, a. 21; 1992, c. 57, s. 174.

21.1. *(Repealed).*

1989, c. 62, s. 2; 1992, c. 57, s. 174.

TITLE II

THE COURTS

CHAPTER I

JURISDICTION OF THE COURTS

1992, c. 57, s. 175.

DIVISION I

GENERAL PROVISIONS

22. *The courts under the legislative authority of Québec which have jurisdiction in civil matters are:*

(a) the Court of Appeal;

(b) the Superior Court;

(c) the Court of Québec;

(d) (paragraph replaced);

(e) the municipal courts.

1965 (1st sess.), c. 80, a. 22; 1978, c. 19, s. 45; 1988, c. 21, s. 76.

23. *The jurisdictions of the Court of Appeal, the Superior Court and the Court of Québec extend throughout Québec; the jurisdiction of a municipal court is limited to a designated territory.*

1965 (1st sess.), c. 80, a. 23; 1978, c. 19, s. 46; 1980, c. 11, s. 46; 1988, c. 21, s. 77.

24. *The courts under the legislative authority of the Parliament of Canada which have jurisdiction in civil matters in Québec are the Supreme Court of Canada and the Federal Court of Canada.*

The jurisdiction of these courts and the procedure to be followed therein are set out in the laws of the Parliament of Canada.

1965 (1st sess.), c. 80, a. 24; 1979, c. 37, s. 5.

DIVISION II

COURT OF APPEAL

25. *The Court of Appeal is the general appeal tribunal for Québec; it hears appeals from any judgment from which an appeal lies, failing an express provision to the contrary.*

1965 (1st sess.), c. 80, a. 25.

26. *Unless otherwise provided, an appeal lies*

(1) from any final judgment of the Superior Court or the Court of Québec, except in a case where the value of the object of the dispute in appeal is less than $50,000;

(2) from any final judgment of the Court of Québec in a case where such court has exclusive jurisdiction under any Act other than this Code;

(3) from any final judgment rendered in matters of contempt of court for which there is no other recourse;

(4) from any judgment or order rendered in matters of adoption;

(5) from any final judgment rendered in matters concerning confinement in an institution or psychiatric assessment;

(6) from any judgment or order rendered in the following matters:

(a) changes made to the register of civil status;

(b) tutorships to minors or absentees and declaratory judgments of death;

(c) tutorship councils;

(d) protective supervision of persons of full age and the homologation of a mandate given by a person in anticipation of his incapacity.

(7) (paragraph replaced);

(8) (paragraph replaced).

An appeal also lies, with leave of a judge of the Court of Appeal, when the matter at issue is one which ought to be submitted to the Court of Appeal, particularly where, in the opinion of the judge, the matter at issue is a question of principle, a new issue or a question of law that has given rise to conflicting judicial precedents,

(1) from any judgment or order rendered under the provisions of Book VI of this Code;

(2) from any judgment ruling on a motion to quash a seizure before judgment;

(3) from any judgment or order rendered in matters concerning execution;

(4) from any judgment rendered under article 846;

(4.1) from any judgment that dismisses an action because of its improper nature;

(5) from any other final judgment of the Superior Court or the Court of Québec.

1965 (1st sess.), c. 80, a. 26; 1969, c. 80, s. 1; 1979, c. 37, s. 6; 1982, c. 17, s. 3; 1982, c. 32, s. 31; 1984, c. 26, s. 2; 1988, c. 21, s. 66; 1992, c. 57, s. 176; 1993, c. 30, s. 2; 1993, c. 72, s. 1; 1995, c. 2, s. 1; 1997, c. 75, s. 34; 1999, c. 46, s. 1; 2002, c. 7, s. 3; 2009, c. 12, s. 1.

26.0.1. Where leave to appeal has already been given by a judge or an appeal has already been brought by a party to the proceeding under one of the provisions of this section, any other party may bring an appeal as of right.

2002, c. 7, s. 4.

26.1. A judgment awarding damages for bodily injury is a final judgment even if it reserves the right of the plaintiff to apply for additional damages.

In determining the value of the object of the dispute in appeal from the judgment ruling on an application for additional damages, account is taken only of the application for additional damages.

1992, c. 57, s. 177.

27. In determining the value of the object of the dispute in appeal for the purposes of article 26, account shall be taken of interest accrued on the date of the judgment in first instance and of the indemnity referred to in article 1619 of the Civil Code, but not of costs.

1965 (1st sess.), c. 80, a. 27; 1969, c. 80, s. 1; 1993, c. 30, s. 3.

28. (Repealed).

1965 (1st sess.), c. 80, a. 28; 1993, c. 30, s. 4.

29. An appeal also lies, in accordance with article 511, from an interlocutory judgment of the Superior Court or the Court of Québec but, as regards youth matters, only in a matter of adoption:

(1) when it in part decides the issues;

(2) when it orders the doing of anything which cannot be remedied by the final judgment; or

(3) when it unnecessarily delays the trial of the suit.

However, an interlocutory judgment rendered during the trial cannot be appealed immediately and it cannot be put in question except on appeal from the final judgment, unless it disallows an objection to evidence based upon article 308 of this Code or on section 9 of the Charter of human rights and freedoms (chapter C-12), or unless it allows an objection to evidence.

Any judgment is interlocutory which is rendered during the suit before the final judgment.

1965 (1st sess.), c. 80, a. 29; 1969, c. 80, s. 2; 1969, c. 81, s. 1; 1975, c. 83, s. 4; 1979, c. 37, s. 7; 1982, c. 17, s. 5; 1982, c. 32, s. 32; 1988, c. 21, s. 78; 1992, c. 57, s. 178.

30. Appeals from judgments rendered in the districts of Beauharnois, Bedford, Drummond, Gatineau, Iberville, Joliette, Labelle, Laval, Longueuil, Mégantic, Montréal, Pontiac, Richelieu, Saint-François, Saint-

Hyacinthe and Terrebonne are brought before the Court of Appeal sitting at Montréal; those from judgments rendered in the other districts, before the court sitting at Québec.

1965 (1st sess.), c. 80, a. 30; 1975, c. 10, s. 12; 1978, c. 19, s. 47; 1979, c. 15, s. 10; 1985, c. 29, s. 4; 2013, c. 29, s. 6.

DIVISION III

SUPERIOR COURT

31. *The Superior Court is the court of original general jurisdiction; it hears in first instance every suit not assigned exclusively to another court by a specific provision of law.*

1965 (1st sess.), c. 80, a. 31.

32. *(Repealed).*

1965 (1st sess.), c. 80, a. 32; 1988, c. 21, s. 66; 1996, c. 5, s. 1.

33. *Excepting the Court of Appeal, the courts within the jurisdiction of the Parliament of Québec, and bodies politic, legal persons established in the public interest or for a private interest within Québec are subject to the superintending and reforming power of the Superior Court in such manner and form as by law provided, save in matters declared by law to be of the exclusive competency of such courts or of any one of the latter, and save in cases where the jurisdiction resulting from this article is excluded by some provision of a general or special law.*

1965 (1st sess.), c. 80, a. 33; 1992, c. 57, s. 179.

DIVISION IV

THE COURT OF QUÉBEC

1988, c. 21, s. 66.

34. *Except where a recourse is brought under Book IX, the Court of Québec has jurisdiction to the exclusion of the Superior Court in any suit:*

(1) wherein the sum claimed or the value of the thing demanded is less than $70,000, except suits for alimentary pension and those reserved for the Federal Court of Canada;

(2) for specific performance, annulment, dissolution or rescission of a contract or for reduction of the obligations resulting from a contract, when the value of the plaintiff's interest in the object of the dispute is less than $70,000;

(3) to annul a lease when the amount claimed for rent and damages is less than $70,000.

When, in answer to an action before the Court of Québec, a defendant makes a claim which itself would be within the jurisdiction of the Superior Court, the latter court is alone competent to hear the entire case, and the record must be sent to it with the written consent of all the parties or, failing such consent, on an application presented to the judge or the clerk. The same applies when following an amendment to a claim before the Court of Québec, such claim becomes within the jurisdiction of the Superior Court.

Likewise, where, following an amendment to a claim before the Superior Court, the claim becomes within the jurisdiction of the Court of Québec, the latter court is alone competent to hear the entire case and the record must be sent to it with the written consent of all the parties or, failing such consent, on an application presented to the judge or the clerk unless, if it so happens, the defendant makes a claim which itself would be within the jurisdiction of the Superior Court.

This article does not apply to an application resulting from the lease of a dwelling or land contemplated in article 1892 of the Civil Code, except where the application consists in a contestation contemplated in article 645 or 656 of this Code.

1965 (1st sess.), c. 80, a. 34; 1969, c. 81, s. 2; 1970, c. 63, s. 1; 1972, c. 70, s. 1; 1978, c. 8, s. 1; 1979, c. 37, s. 8; 1979, c. 48, s. 118; 1982, c. 58, s. 19; 1984, c. 26, s. 3; 1987, c. 63, s. 1; 1988, c. 21, s. 66; 1992, c. 57, s. 180; 1995, c. 2, s. 2; 2002, c. 7, s. 5.

35. *Subject to the jurisdiction assigned to the municipal courts, the Court of Québec also has jurisdiction, to the exclusion of the Superior Court, in all suits, whether personal or hypothecary:*

(1) for the recovery of a tax or other sum of money due to a municipality or school board under the Municipal Code (chapter C-27.1) or any general or special Act, or in virtue of any by-law made thereunder; or

(2) (paragraph repealed);

(3) to annul or set aside a valuation roll of immovables which are taxable for municipal or school purposes, whatever be the law governing the municipality or school board concerned.

1965 (1st sess.), c. 80, a. 35; 1981, c. 14, s. 10; 1988, c. 21, s. 66; 1988, c. 84, s. 701; 1992, c. 57, s. 181; 1996, c. 5, s. 2.

36. *Notwithstanding any legislative provision inconsistent herewith, the Court of Québec has exclusive and ultimate jurisdiction in all suits or actions instituted in virtue of Chapter II of Title VI of Book V and relating to the usurpation, holding or unlawful exercise of an office in a municipality or school board, whatever the law governing the same.*

The case is heard and decided by a judge of the Court of Québec when the only matter in dispute is the property qualification of the defendant.

In all other cases, it is heard by three judges of the Court of Québec designated by the chief judge of such Court whose administrative jurisdiction covers the district in which the action is instituted.

One of the said judges, also designated by such chief judge, presides over the court.

Judgment is rendered by the majority of such judges. It may be rendered in open court, in the absence of the other judges, by the judge who presided over the court, or deposited in the office of the court, under the signature of at least two of them; in the latter case, the clerk must immediately give notice of such deposit to all parties concerned.

In the case of the death, before judgment, of the judge who heard the case, or of his being incapable, on account of any circumstance, of taking part in the judgment when the others agree and are ready to adjudicate, the latter may render judgment.

1965 (1st sess.), c. 80, a. 36; 1988, c. 21, s. 66; 1988, c. 84, s. 701; 1992, c. 57, s. 182; 1999, c. 40, s. 56.

DIVISION IV.1

The heading of this section is repealed (1988, c. 21, s. 79).

1978, c. 19, s. 48; 1988, c. 21, s. 79.

36.1. *The Court of Québec has jurisdiction, to the exclusion of the Superior Court, in matters respecting adoption.*

In other matters respecting youth, the jurisdiction of the Court and the procedure to be followed before the Court are determined by special Acts.

1978, c. 19, s. 48; 1982, c. 17, s. 6; 1988, c. 21, s. 80.

36.2. *Pursuant to articles 26 to 31 of the Civil Code, the Court of Québec is competent to hear, to the exclusion of the Superior Court, any application to obtain that a person refusing to undergo a psychiatric assessment be submitted to such assessment, or that the person be confined against his will in an institution referred to in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001).*

In urgent cases, the application may also be made before a judge of the municipal courts of the cities of Montréal, Laval or Québec having jurisdiction in the locality where the person is.

1992, c. 57, s. 183; 1997, c. 75, s. 35.

DIVISION V

MUNICIPAL COURTS

37. *The jurisdiction of municipal courts and the powers of justices of the peace are set out in special laws.*

1965 (1st sess.), c. 80, a. 37; 1989, c. 52, s. 123.

CHAPTER II

JURISDICTION OF JUDGES AND CLERKS

1992, c. 57, s. 184.

38. *The judge in chambers has jurisdiction over such matters as are assigned to him by law or by the rules of practice.*

1965 (1st sess.), c. 80, a. 38.

39. *Where in a district there is no judge or the judge is unable to act, the matters provided for in articles 485, 489, 733, 734.0.1, 734.1, 753 and 834.1 may be presented to a judge of another district by any means of communication available to the judge.*

1965 (1st sess.), c. 80, a. 39; 1968, c. 84, s. 1; 1986, c. 55, s. 1; 1996, c. 5, s. 3; 2002, c. 54, s. 1.

40. *The judge in chambers may refer to the court any matter submitted to him if he considers that the interests of justice so require.*

1965 (1st sess.), c. 80, a. 40.

41. *The clerk has the competence of a judge in chambers:*

(1) in cases where the law expressly so declares;

(2) when the judge is absent or unable to act and delay might result in the loss of a right or cause serious harm.

In matters within his jurisdiction, the clerk has the same powers as the judge.

1965 (1st sess.), c. 80, a. 41; 1992, c. 57, s. 186, s. 420.

42. *In the cases provided for by paragraph 2 of article 41 and by articles 583.1, 584, 644 and 659.5, the decision of the clerk may be revised by the judge or the court, upon a demand setting out the grounds relied*

on, served upon the adverse party and filed at the office of the court within 10 days from the date of the decision attacked.

If the decision is quashed, matters are restored to the state where they were before it was rendered.

1965 (1st sess.), c. 80, a. 42; 1977, c. 73, s. 2; 1980, c. 21, s. 1; 1987, c. 63, s. 2; 1992, c. 57, s. 420.

43. *The clerk may also sign the minute of any judgment rendered upon a motion granted by consent.*

1965 (1st sess.), c. 80, a. 43; 1992, c. 57, s. 420.

44. *The assistant clerk may exercise the powers conferred on the clerk concurrently with the judge, if he has been chosen for that purpose by the clerk with the consent of the Minister of Justice or of a person designated by him.*

The assistant clerk who is a special clerk may exercise such powers ex officio.

For carrying out his duties at the trial, taking down the depositions of witnesses, issuing copies of documents in his custody, and generally for all acts which do not require the exercise of judicial or discretionary power, the clerk may be replaced by such members of his staff as he designates.

1965 (1st sess.), c. 80, a. 44; 1977, c. 73, s. 3; 1992, c. 57, s. 420.

44.1. *The special clerk rules, in particular:*

(1) on any motion, contested or not, for joinder of actions, security, summons of a witness under article 282, communication, filing or dismissal of exhibits, medical examination, particulars, amendment, modification of an agreement under article 151.2, substitution of attorney, appointment of a practitioner or relief from default, or to cease representing, and

(2) on any other interlocutory or incidental proceeding, contested or not but, if contested, with the consent of the parties.

The special clerk may, in the case of applications relating to child custody or obligations of support, homologate any agreement effecting a complete settlement of the matter. Once homologated, such agreements have the same effect and binding force as a judgment of the Superior Court.

In all cases, the decision may be revised by the judge in accordance with the formalities provided in article 42.

1975, c. 83, s. 5; 1976, c. 9, s. 54; 1977, c. 73, s. 4; 1992, c. 57, s. 420; 1994, c. 28, s. 1; 1997, c. 42, s. 2; 2002, c. 7, s. 6.

45. *The clerk or the assistant clerk may refer to the judge or to the court any matter submitted to him, if he considers that the interests of justice so require.*

In the case of an application referred to in the second paragraph of article 44.1, the special clerk may refer the application to the judge or the court if he considers that the agreement between the parties does not provide sufficient protection for the interests of the children or that a party's consent was obtained under duress. He may, to evaluate the agreement or the consent of the parties, summon and hear the parties, even separately, in the presence of their attorneys, if any.

1965 (1st sess.), c. 80, a. 45; 1975, c. 83, s. 6; 1992, c. 57, s. 420; 1997, c. 42, s. 3.

CHAPTER III

POWERS OF COURTS AND JUDGES

DIVISION I

GENERAL POWERS

46. *The courts and judges have all the powers necessary for the exercise of their jurisdiction.*

They may, at any time and in all matters, whether in first instance or in appeal, issue orders to safeguard the rights of the parties, for such time and on such conditions as they may determine. As well, they may, in the matters brought before them, even on their own initiative, issue injunctions or reprimands, suppress writings or declare them libellous, and make such orders as are appropriate to deal with cases for which no specific remedy is provided by law.

1965 (1st sess.), c. 80, a. 46; 2002, c. 7, s. 7.

47. *The majority of the judges of each court, either at a meeting convened for the purpose by the chief justice, or by way of a consultation, held and certified by him, by mail, may make, for one or more judicial districts, the rules of practice judged necessary for the proper carrying out of this Code. The majority of the judges of the Superior Court appointed either for the district of Montréal or for the district of Québec may nevertheless replace, amend or complete such rules by special rules applicable in their respective districts only.*

Similarly, the majority of the judges of each court may make tariffs of fees for commissioners and other officers appointed by the court, whose remuneration is not, by law, fixed by the Government; such tariffs must be promulgated in the manner prescribed for rules of practice.

This article does not apply to municipal judges appointed pursuant to the Act respecting municipal courts (chapter C-72.01).

1965 (1st sess.), c. 80, a. 47; 1969, c. 81, s. 3; 1972, c. 70, s. 2; 1975, c. 83, s. 7; 1988, c. 21, s. 81; 1989, c. 52, s. 124.

48. *The rules of practice come into force 10 days after publication in the Gazette officielle du Québec.*

Immediately after such publication they must be copied into the registers kept for the purpose by the clerks, and notice thereof must be posted in the office of the court in each of the districts where they apply.

1965 (1st sess.), c. 80, a. 48; 1992, c. 57, s. 420.

48.1. *In the case of the Court of Québec, the rules of practice are made and come into force in accordance with the provisions of the Courts of Justice Act (chapter T-16).*

1988, c. 21, s. 82.

DIVISION II

POWER TO PUNISH FOR CONTEMPT OF COURT

49. *The courts or judges may condemn any person who is guilty of contempt of court.*

1965 (1st sess.), c. 80, a. 49.

50. *Anyone is guilty of contempt of court who disobeys any process or order of the court or of a judge thereof, or who acts in such a way as to interfere with the orderly administration of justice, or to impair the authority or dignity of the court.*

In particular, any officer of justice who fails to do his duty, and any sheriff or bailiff who does not execute a writ forthwith or does not make a return thereof or, in executing it, infringes any rule the violation whereof renders him liable to a penalty, is guilty of contempt of court.

1965 (1st sess.), c. 80, a. 50; 1966, c. 21, s. 3.

51. *Except where otherwise provided, anyone who is guilty of contempt of court is liable to a fine not exceeding $5,000 or to imprisonment for a period not exceeding one year.*

Imprisonment for refusal to obey any process or order may be repeatedly inflicted until the person condemned obeys.

1965 (1st sess.), c. 80, a. 51.

52. *Anyone who is guilty of contempt of court in the presence of the judge in the exercise of his functions may be condemned at once, provided that he has been called upon to justify his behaviour.*

1965 (1st sess.), c. 80, a. 52.

53. *No one may be condemned for contempt of court committed out of the presence of the judge, unless he has been served with a special rule ordering him to appear before the court, on the day and at the hour fixed, to hear proof of the acts with which he is charged and to urge any grounds of defence that he may have.*

The judge may issue the rule ex officio or on application. Service of this rule is not required; it may be presented before a judge of the district where the contempt was committed.

The rule must be served personally, unless for valid reasons another mode of service is authorized by the judge.

1965 (1st sess.), c. 80, a. 53; 1979, c. 37, s. 9.

53.1. *The proof submitted to establish contempt of court must leave no possibility of reasonable doubt.*

The respondent may not be compelled to testify.

1992, c. 57, s. 188.

54. *Judgment is rendered after summary hearing; if it contains a condemnation it must state the punishment imposed and set forth the facts upon which it is based, and in such case it shall be executed in accordance with Chapter XIII of the Code of Penal Procedure (chapter C-25.1).*

1965 (1st sess.), c. 80, a. 54; 1990, c. 4, s. 222.

DIVISION III

POWER TO IMPOSE SANCTIONS FOR IMPROPER USE OF PROCEDURE

Note

This Section is inserted by section 2 of chapter 12 of the Statutes of 2009 (An Act to amend the Code of Civil Procedure to prevent improper use of the courts and promote freedom of expression and citizen participation in public debate). The preamble to that Act reads as follows:

"AS it is important to promote freedom of expression affirmed in the Charter of human rights and freedoms;

"AS it is important to prevent improper use of the courts and discourage judicial proceedings designed to thwart the right of citizens to participate in public debate;

"AS it is important to promote access to justice for all citizens and to strike a fairer balance between the financial strength of the parties to a legal action;".

2009, c. 12, s. 2.

54.1. *A court may, at any time, on request or even on its own initiative after having heard the parties on the point, declare an action or other pleading improper and impose a sanction on the party concerned.*

The procedural impropriety may consist in a claim or pleading that is clearly unfounded, frivolous or dilatory or in conduct that is vexatious or quarrelsome. It may also consist in bad faith, in a use of procedure that is excessive or unreasonable or causes prejudice to another person, or in an attempt to defeat the ends of justice, in particular if it restricts freedom of expression in public debate.

2009, c. 12, s. 2.

54.2. *If a party summarily establishes that an action or pleading may be an improper use of procedure, the onus is on the initiator of the action or pleading to show that it is not excessive or unreasonable and is justified in law.*

A motion to have an action in the first instance dismissed on the grounds of its improper nature is presented as a preliminary exception.

2009, c. 12, s. 2.

54.3. *If the court notes an improper use of procedure, it may dismiss the action or other pleading, strike out a submission or require that it be amended, terminate or refuse to allow an examination, or annul a writ of summons served on a witness.*

In such a case or where there appears to have been an improper use of procedure, the court may, if it considers it appropriate,

(*1*) *subject the furtherance of the action or the pleading to certain conditions;*

(*2*) *require undertakings from the party concerned with regard to the orderly conduct of the proceeding;*

(*3*) *suspend the proceeding for the period it determines;*

(*4*) *recommend to the chief judge or chief justice that special case management be ordered; or*

(*5*) *order the initiator of the action or pleading to pay to the other party, under pain of dismissal of the action or pleading, a provision for the costs of the proceeding, if justified by the circumstances and if the*

court notes that without such assistance the party's financial situation would prevent it from effectively arguing its case.

2009, c. 12, s. 2.

54.4. *On ruling on whether an action or pleading is improper, the court may order a provision for costs to be reimbursed, condemn a party to pay, in addition to costs, damages in reparation for the prejudice suffered by another party, including the fees and extrajudicial costs incurred by that party, and, if justified by the circumstances, award punitive damages.*

If the amount of the damages is not admitted or may not be established easily at the time the action or pleading is declared improper, the court may summarily rule on the amount within the time and under the conditions determined by the court.

2009, c. 12, s. 2.

54.5. *If the improper use of procedure results from a party's quarrelsomeness, the court may, in addition, prohibit the party from instituting legal proceedings except with the authorization of and subject to the conditions determined by the chief judge or chief justice.*

2009, c. 12, s. 2.

54.6. *If a legal person or an administrator of the property of another resorts to an improper use of procedure, the directors and officers of the legal person who took part in the decision or the administrator may be ordered personally to pay damages.*

2009, c. 12, s. 2.

TITLE III

RULES APPLICABLE TO ALL ACTIONS

CHAPTER I

ACTIONS, PARTIES TO ACTIONS AND ATTORNEYS

55. *Whoever brings an action at law, whether for the enforcement of a right which is not recognized or is jeopardized or denied, or otherwise to obtain a pronouncement upon the existence of a legal situation, must have a sufficient interest therein.*

1965 (1st sess.), c. 80, a. 55.

56. *A person must be able to fully exercise his rights to be a party to an action in whatever form it may be, saving contrary provisions of law.*

A person who is not able to fully exercise his rights must be represented, assisted or authorized, in the manner provided by the laws which govern his status and capacity or by this Code.

The irregularity resulting from failure to be represented, assisted or authorized has no effect unless it is not remedied, and this may be done retroactively at any stage of a case, even in appeal.

1965 (1st sess.), c. 80, a. 56; 1982, c. 17, s. 7; 1992, c. 57, s. 189.

57. *Any person or corporation domiciled outside Québec, who is authorized by the law of his domicile to appear in judicial proceedings, may do so before the courts of Québec.*

1965 (1st sess.), c. 80, a. 57.

58. *Any person who, under the law of a foreign country, is empowered to represent a person who died or made his will there and left property in Québec, may be a party in that capacity to proceedings before any court of Québec.*

1965 (1st sess.), c. 80, a. 58.

59. *A person cannot use the name of another to plead, except the State through authorized representatives.*

Nevertheless, when several persons have a common interest in a dispute, any one of them may appear in judicial proceedings on behalf of them all, if he holds their mandate. The power of attorney must be filed in the office of the court with the first pleading; thereafter the mandate cannot be revoked except with leave of the court and is not affected by the death or change of status of the mandators. In such case, the mandators are jointly and severally liable with their mandatary for the costs.

Tutors, curators and others representing persons who are not able to fully exercise their rights, plead in their own name in their respective capacities. This also applies to an administrator of the property of others in respect of anything connected with his administration and to a mandatary in the performance of a mandate given by a person of full age in anticipation of his incapacity to take care of himself or administer his property.

1965 (1st sess.), c. 80, a. 59; 1992, c. 57, s. 190.

60. *Where all or some of the directors of an association within the meaning of the Civil Code are party to legal proceedings in their capacity as directors, they may do so under their own name or under the name which the association has given itself or the name by which it is known.*

However, an association of employees must, to institute legal proceedings, deposit at the office of the court, with the proceeding introductive of suit, a certificate of the Commission des relations du travail under the Labour Code (chapter C-27) attesting that it is an association of employees within the meaning of the Labour Code.

1965 (1st sess.), c. 80, a. 60; 1969, c. 48, s. 44; 1977, c. 41, s. 1; 1992, c. 57, s. 191; 2001, c. 26, s. 92.

61. *No one is required to be represented by attorney before the courts, except:*

(a) legal persons;

(b) the Public Curator;

(c) trustees, guardians, liquidators, receivers and other representatives of collective interests, when they act in that capacity;

(d) collection agents and purchasers of accounts, concerning the accounts which they are charged with recovering or which they have purchased;

(e) general or limited partnerships and associations within the meaning of the Civil Code, unless all the partners or members act themselves or mandate one of their number to act;

(f) persons acting on behalf of others under article 59.

Nevertheless, the claim of a legal person, general or limited partnership or association within the meaning of the Civil Code, to participate in a distribution of funds derived from the sale of the property of a debtor or from the seizure or voluntary deposit of his salary, wages or earnings, may be made by any attorney under a general or special power.

1965 (1st sess.), c. 80, a. 61; 1966, c. 21, s. 4; 1992, c. 57, s. 192.

62. *The right to act as attorney before the courts is reserved exclusively to advocates, except in the cases set forth in paragraph 7 of section 15 of the Notaries Act (chapter N-3).*

1965 (1st sess.), c. 80, a. 62; 2000, c. 44, s. 99.

63. *The party who has appeared by attorney but has since left Québec or has no known domicile, residence or business establishment therein, is deemed to have elected domicile at the office of his attorney, and any service which need not be made personally can be made upon him at the office of his attorney, provided that the bailiff certifies, that though he has searched he has been unable to find him and does not know if he has any domicile, residence or business establishment in Québec.*

However, in the case of a motion to cease representing, service upon such party may be made at the office of the court of the district where the proceedings are held.

1965 (1st sess.), c. 80, a. 63; 1972, c. 70, s. 3; 1975, c. 83, s. 8; 1999, c. 40, s. 56.

64. *Advocates must elect domicile within a radius of 5 km from the court house where they practise, and have such election registered at the office of the court, failing which they are deemed to have elected domicile at the office of the court, where all services upon them may be validly made.*

1965 (1st sess.), c. 80, a. 64; 1984, c. 47, s. 213.

65. *A plaintiff or plaintiff-appellant who does not reside in Québec must give security for the costs which may be incurred in consequence of his suit. The same applies to a person who acts on behalf of another under the second paragraph of article 59 if neither he nor any of his mandators resides in Québec.*

1965 (1st sess.), c. 80, a. 65; 2002, c. 7, s. 8.

CHAPTER II

JOINDER OF CAUSES OF ACTION AND OF PARTIES

66. *Several causes of action may be joined in the same suit, provided that the recourses exercised are not incompatible or contradictory, that they seek condemnations of a like nature, that their joinder is not expressly prohibited and that they are susceptible of the same mode of trial.*

A creditor cannot divide a debt that is due, for the purpose of suing for the several portions of it by different actions.

1965 (1st sess.), c. 80, a. 66.

67. *Two or more persons, whose claims have the same juridical basis or raise the same points of law and fact, may join in the same suit. The suit must be instituted before the Court of Québec, if that court has jurisdiction in each of the claims; otherwise it must be instituted before the Superior Court.*

At any time before the hearing, the court may order that claims joined in virtue of this article be disjoined, if it is of opinion that the interests of justice will thus be better served.

Unless the court orders otherwise, unsuccessful co-plaintiffs are jointly and severally liable for the costs.

1965 (1st sess.), c. 80, a. 67; 1988, c. 21, s. 66.

CHAPTER III

PLACE OF INSTITUTING ACTIONS

68. *Subject to the provisions of this Chapter and the provisions of Book X of the Civil Code, and notwithstanding any agreement to the contrary, a purely personal action may be instituted:*

(1) Before the court of the defendant's real domicile or, in the cases contemplated by article 83 of the Civil Code, before that of his elected domicile.

If the defendant has no domicile in Québec but resides or possesses property therein, he may be sued before the court of his ordinary residence, before the court of the place where such property is situated, or before the court of the place where the action is personally served upon him;

(2) Before the court of the place where the whole cause of action has arisen; or, in an action for libel published in a newspaper, before the court of the district where the plaintiff resides if the newspaper has circulated therein;

(3) Before the court of the place where the contract which gives rise to the action was made.

A contract giving rise to an obligation to deliver, negotiated through a third party who was not the representative of the creditor of such obligation, is deemed to have been made at the place where the latter gave his consent.

1965 (1st sess.), c. 80, a. 68; 1992, c. 57, s. 193.

69. *Notwithstanding any agreement to the contrary, an action based upon a contract of insurance and taken against the insurer may in all cases be instituted before the court of the domicile of the insured; in the case of insurance of property, it may also be instituted before the court of the place where the loss occurred.*

1965 (1st sess.), c. 80, a. 69.

70. *Applications in family cases are taken before the court of the common domicile of the parties or, failing such a domicile, the domicile of either of the parties.*

However, oppositions to a marriage or a civil union and applications for authorization for a minor or a person of full age under tutorship or provided with an adviser to make matrimonial or civil union agreements are taken before the court of the place where the marriage or civil union is to be solemnized or of the domicile of the minor or the person of full age.

Lastly, applications in adoption cases are taken before the court of the domicile of the child or the plaintiff or, if the adopters consent, before the court where the director of youth protection who was the last to have charge of the child exercises his functions.

1965 (1st sess.), c. 80, a. 70; 1982, c. 17, s. 8; 1989, c. 54, s. 131; 1992, c. 57, s. 194; 2002, c. 6, s. 91.

70.1. *In family cases, if the parties no longer live in the district where the judgment was rendered, applications for review of accessory measures may be brought before the court of the domicile of either of the parties.*

1982, c. 17, s. 8.

70.2. *Applications with respect to integrity, emancipation, tutorship to minors or protective supervision of persons of full age are taken before the court of the domicile or residence of the minor or of the person of full age.*

Applications concerning the integrity of a person kept by an institution governed by the Acts respecting health services and social services may be taken before the court of the place in which that person is kept.

1989, c. 54, s. 132; 1992, c. 21, s. 126; 1992, c. 57, s. 195.

71. *The incidental action in warranty must be taken before the court in which the principal action is pending.*

1965 (1st sess.), c. 80, a. 71.

71.1. *An application for additional damages for bodily injury that could not be determined at the time of the judgment forms part of the original record and must be presented in the district where the principal action was heard.*

1992, c. 57, s. 196.

72. *In personal matters, a plaintiff who has joined several causes of action which did not all arise in the same district may bring his action before any court which has jurisdiction over any one of them.*

1965 (1st sess.), c. 80, a. 72.

73. *A real action or a mixed action may be taken either before the court of the domicile of the defendant or before the court of the district where the property in dispute is situated in whole or in part.*

1965 (1st sess.), c. 80, a. 73.

74. *In matters of succession, action is instituted before the court of the place where the succession devolved if it opened in Québec; otherwise, before that of the place where the property is situated, or of the domicile of the defendant or any of the defendants.*

Judicial proceedings in which the liquidator of a succession is interested may be instituted before the court of his domicile.

1965 (1st sess.), c. 80, a. 74; 1992, c. 57, s. 197.

75. *An action against several defendants domiciled in different districts, if it is a personal or mixed action, may be instituted in the court before which any of them may be summoned; but if it is a real action, it must be instituted in the court of the place where the object of the dispute is situated.*

1965 (1st sess.), c. 80, a. 75.

75.0.1. *At any stage of a proceeding, the chief justice or chief judge or the judge designated by the chief justice or chief judge may, by way of exception, order, even on his or her own initiative after having heard the parties, that a case, a trial or an application relating to the execution of a judgment be transferred to another district in the interests of the parties or of the third persons concerned or if warranted on serious grounds.*

2002, c. 7, s. 9; 2014, c. 10, s. 1.

CHAPTER III.1

Repealed, 2009, c. 12, s. 3.

1984, c. 26, s. 4; 2009, c. 12, s. 3.

75.1. *(Repealed).*

1984, c. 26, s. 4; 2009, c. 12, s. 3.

75.2. *(Repealed).*

1993, c. 72, s. 2; 2009, c. 12, s. 3.

CHAPTER IV

GENERAL RULES CONCERNING WRITTEN PLEADINGS

76. *In their written pleadings, the parties must state the facts that they intend to invoke and the conclusions that they seek.*

Such statement must be frank, precise and brief; it shall be divided into paragraphs numbered consecutively, each paragraph referring so far as possible to one essential fact.

1965 (1st sess.), c. 80, a. 76.

77. *Every fact of such a nature as to take the opposite party by surprise if not alleged, or to raise an issue not arising from the pleadings already filed, must be expressly pleaded.*

1965 (1st sess.), c. 80, a. 77.

78. *Failing provision to the contrary, any written proceeding of a party must be served upon the attorneys of the other parties, or upon the parties themselves if they have no attorney, otherwise it cannot be regularly filed; if it contains a demand which must be presented to a judge or to the court, it must be accompanied by a notice of the date of such presentation, and the service must have been made at least one clear juridical day before such date, except in a case of urgency when the judge may allow a shorter time.*

Every party filing a written proceeding must mention his address therein.

1965 (1st sess.), c. 80, a. 78; 1972, c. 70, s. 4; 1999, c. 40, s. 56.

79. *If the copy served of a written proceeding is not a true copy of the original, the party who served it may serve a new copy with or without the permission of the court, according to whether the adverse party has already replied or not.*

1965 (1st sess.), c. 80, a. 79.

80. *(Repealed).*

1965 (1st sess.), c. 80, a. 80; 1994, c. 28, s. 2.

81. *(Repealed).*

1965 (1st sess.), c. 80, a. 81; 1994, c. 28, s. 2.

82. *(Repealed).*

1965 (1st sess.), c. 80, a. 82; 1994, c. 28, s. 2.

82.1. *A party or his attorney may send a written proceeding, an exhibit or any other document to a bailiff, an advocate or a notary by fax machine. The correspondent chosen prepares copies of the facsimile of the document and an attestation of their authenticity; the copies are presumed to be originals for the purposes of notification, service, filing at the office of the court or evidence. The signature of the advocate, notary or court bailiff is sufficient to certify the authenticity of the document.*

The attestation of authenticity must specify that the copies are true to the facsimile received by fax machine and must state the nature of the document, the number of the court, the name of the sender and the fax number of the transmitting fax machine as well as the place, date and time of transmission.

A party who sends a written proceeding, an exhibit or any other document by fax machine must let another party take cognizance of the original at any time after the receipt of a written request to that effect. If the sender refuses or neglects to do so, the other party may, by motion, apply to the judge or the court to order the sender to produce the original within a specified time.

1993, c. 72, s. 3; 2002, c. 7, s. 10.

83. *Prior to the end of the proceedings, filed exhibits cannot be taken out of the record, except with the consent of the opposite party or the authorization of the clerk, and upon giving a receipt; the parties may, however, obtain copies from the clerk.*

1965 (1st sess.), c. 80, a. 83; 1992, c. 57, s. 420; 1994, c. 28, s. 3.

84. *A person who retains an exhibit notwithstanding an order of the judge is guilty of contempt of court.*

1965 (1st sess.), c. 80, a. 84.

85. *A party who replies in writing to a proceeding must admit the allegations thereof that he knows to be true; he cannot merely deny those which he does not admit but must allege affirmatively all the facts upon which he relies to oppose the conclusions taken against him.*

1965 (1st sess.), c. 80, a. 85.

86. *Except where otherwise provided, the silence of a party in respect of a fact alleged by the opposite party must not be interpreted as an admission of the truth of such fact.*

1965 (1st sess.), c. 80, a. 86.

87. *To repeat a fact already alleged, it is sufficient merely to refer to the paragraph where it is set forth.*

1965 (1st sess.), c. 80, a. 87.

88. *Unless expressly otherwise provided, any demand in a suit is made by motion to the court, or to a judge if the court is not sitting or in cases of urgency.*

The motion must be supported by an affidavit attesting the truth of all facts the proof of which is not already in the record, and it can only be contested orally, unless the court allows written contestation within the time and on the conditions it determines.

During the hearing of the demand, any party may submit relevant evidence.

1965 (1st sess.), c. 80, a. 88; 1992, c. 57, s. 198.

89. *The following must be expressly alleged and supported by affidavit:*

(1) the contestation of a signature or of a material part of any private writing, or of the fulfilment of the formalities required for the validity of a writing;

(2) the pretension of the heirs or legal representatives of the signatory of a document contemplated in paragraph 1, that they do not know the handwriting or signature of the person whom they represent;

(3) the contestation of a semi-authentic act;

(4) the contestation of a technology-based document on the ground of a violation of integrity ; in such a case the affidavit must state precisely the facts and reasons suggesting a probable violation of the document's integrity.

Failing such affidavit, the writings are held to be admitted or the formalities to have been fulfilled, as the case may be.

1965 (1st sess.), c. 80, a. 89; 1992, c. 57, s. 199; 2001, c. 32, s. 90.

90. *If the document contested is a semi-authentic act, and a copy only has been filed in the record, the party wishing to make use thereof must prove its authenticity and, for that purpose, may obtain from the judge*

an order enjoining the person who has charge of the original to deliver it to the clerk, who must furnish him, at the expense of the contesting party, with a certified copy.

1965 (1st sess.), c. 80, a. 90; 1992, c. 57, s. 200, s. 420.

91. *Every affidavit must be divided into paragraphs numbered consecutively, and be in the first person.*

The names, occupation and exact address of the deponent must be inserted therein.

The date when and the place where it was sworn must be inserted in the jurat.

1965 (1st sess.), c. 80, a. 91.

92. *Whenever, in virtue of some provision of this Code, an affidavit is required in support of any proceeding, it must be made by the party himself or by a representative or agent acquainted with the facts.*

1965 (1st sess.), c. 80, a. 92.

93. *When a party has filed an affidavit required by any provision of this Code or of the rules of practice, any other party may summon the deponent to be examined before the judge or the clerk upon the truth of the facts sworn to in the affidavit.*

Failure to submit to such examination entails the dismissal of the affidavit and of the proceeding which it supported.

1965 (1st sess.), c. 80, a. 93; 1992, c. 57, s. 420.

93.1. *Where a provision of this Code requires that the parties' proof be adduced by means of affidavits sufficiently detailed to establish all the facts necessary to support their pretensions, such affidavits may contain only relevant evidence that the affiant may swear to and that has not already been alleged and sworn to in the motion and the accompanying affidavit.*

1996, c. 5, s. 4.

CHAPTER V

PROCEEDINGS CONCERNING THE STATE

1992, c. 57, s. 201.

94. *Any person having a recourse to exercise against the government may exercise it in the same manner as if it were a recourse against a person of full age and capacity, subject only to the provisions of this chapter.*

1965 (1st sess.), c. 80, a. 94; 1966, c. 21, s. 5; 1992, c. 57, s. 202.

94.1. *No recourse which can be exercised against a State body or any other legal person established in the public interest may be exercised against the government.*

1966, c. 21, s. 5; 1992, c. 57, s. 203.

94.2. *No extraordinary recourse or provisional remedy lies against the government.*

1966, c. 21, s. 5; 1992, c. 57, s. 204.

94.3. *Proceedings against the government are directed against the Attorney General of Québec.*

1966, c. 21, s. 5; 1992, c. 57, s. 205.

94.4. *Service upon the Attorney General is made at the office of the Director General of the legal department at Montréal or at Québec, by speaking to any person in charge of that office.*

The return of service must mention in particular the name of the person with whom the copy of the proceeding was left.

1966, c. 21, s. 5; 1975, c. 83, s. 9; 1977, c. 5, s. 14; 1985, c. 29, s. 5.

94.5. *(Repealed).*

1966, c. 21, s. 5; 1992, c. 57, s. 206; 1996, c. 5, s. 5; 2002, c. 7, s. 11.

94.6. *No case may be inscribed for judgment by default against the Attorney General before the lapse of 30 days after the expiry of the time fixed to appear.*

1966, c. 21, s. 5; 1992, c. 57, s. 207; 2002, c. 7, s. 12.

94.7. *Notice of inscription for judgment or for proof and hearing must be given to the Attorney General, when in default to appear or to plead, at least 15 days prior to the date when such inscription is to be proceeded upon.*

1966, c. 21, s. 5; 1992, c. 57, s. 208.

94.8. *(Repealed).*

1966, c. 21, s. 5; 1992, c. 57, s. 209; 2002, c. 7, s. 13.

94.9. *Articles 543 to 553 and 568 to 732 shall not apply to judgments rendered against the Attorney General.*

1966, c. 21, s. 5; 1992, c. 57, s. 210.

94.10. *Whenever the Attorney General is condemned, by a judgment that has become definitive, to pay a sum of money, the Minister of Finance, after having received a certified copy of such judgment, shall pay the amount due out of the moneys at his disposal for such purpose or, failing such, out of the Consolidated Revenue Fund.*

1966, c. 21, s. 5; 1992, c. 57, s. 211.

95. *Unless the Attorney General has previously received a notice in accordance with this section, no provision of a statute of Québec or Canada, of a regulation made thereunder, of an order, of an order in council or of a proclamation of the Lieutenant-Governor, the Governor General, the Gouvernement du Québec or the Governor General in Council may be declared inapplicable constitutionally, invalid or inoperative or of no force or effect, including in respect of the Canadian Charter of Rights and Freedoms (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom) or the Charter of human rights and freedoms (chapter C-12), by a court in Québec.*

Such notice is also required when a person sues the State or the Public Administration for compensation for a violation or negation of the person's fundamental rights and freedoms under the Charter of human rights and freedoms or the Canadian charter of rights and freedoms.

The notice shall set forth, in a precise manner, the nature of the pretensions and the grounds relied upon. It is to be accompanied with a copy of the proceedings and served by the person who intends to raise the question not later than 30 days before the date of the hearing. Only the Attorney General may waive such notice.

No application may be determined by the court unless the notice has been validly given, and the court shall adjudicate only upon the grounds set forth in the notice.

The notices referred to in this article are also served on the Attorney General of Canada when the provision concerned comes under federal jurisdiction. They are also served on the Director of Criminal and Penal Prosecutions when the provision relates to a criminal or penal matter.

1965 (1st sess.), c. 80, a. 95; 1985, c. 29, s. 6; 2005, c. 34, s. 43.

95.1. *In criminal or penal matters, the notice referred to in the second paragraph of article 95 is not required when the compensation sought relates to the disclosure or exclusion of evidence or the period of time elapsed since the accusation, or in the cases determined by order of the Minister of Justice published in the Gazette officielle du Québec.*

In all other cases, the notice must be served at least 10 days before the date the application for compensation is heard. Otherwise, the court orders the notice to be served and postpones the hearing, unless the Attorney General waives such notice or shortens the period of notice because the court judges it necessary to prevent irreparable harm to the person applying for compensation or a third party.

2005, c. 34, s. 44.

96. *A party cannot raise the question of navigability or floatability of a lake or watercourse or the question of the right of ownership of its bed or banks, unless he has advised the Attorney General of his intention at least 10 days before the day fixed for proof, or, if no proof is required, before the day fixed for hearing.*

The notice shall state the question and the grounds relied upon and must be accompanied by a copy of the proceedings filed in the record.

1965 (1st sess.), c. 80, a. 96.

97. *A judge, ex officio or on application, may order any demand concerning the application of a provision of public order to be served on the Attorney General of Québec. The suit is thereupon suspended until the expiry of 10 days from the date of service.*

A judge, ex officio, may also order any application questioning the integrity of a person of full age unable to consent to care who is not represented by a tutor, curator or mandatary to be served upon the Public Curator. In such case, the suit is suspended until the expiry of 5 days from the date of the service.

1965 (1st sess.), c. 80, a. 97; 1969, c. 79, s. 3; 1979, c. 37, s. 10; 1989, c. 54, s. 133; 1992, c. 57, s. 212.

98. *After service of the notice provided for in article 95 or 96 or at any time in the case of a demand contemplated in article 97, the Attorney General may intervene in the case and file written conclusions upon which the court must adjudicate.*

In the cases contemplated in articles 95 and 96, the clerk transmits a copy of the judgment to the Attorney General without delay. In the cases contemplated in article 97, he does so if the judge has ordered the proceeding which contains the demand served upon the Attorney General or if the latter has intervened in the case.

1965 (1st sess.), c. 80, a. 98; 1979, c. 37, s. 11; 1992, c. 57, s. 213, s. 420.

99. *In any action relating to the application of a provision of public order, the Attorney General may ex officio and without notice take part in the proof and hearing as if he were a party thereto.*

1965 (1st sess.), c. 80, a. 99.

100. *No extraordinary recourse or provisional remedy lies against a minister of the government or any person acting upon his instructions to force him to act or to refrain from acting in a matter which relates to the carrying out of his duties or to the exercise of any authority conferred upon him by any law of Québec.*

1965 (1st sess.), c. 80, a. 100; 1966, c. 21, s. 6; 1977, c. 5, s. 14; 1992, c. 57, s. 214; 1999, c. 40, s. 56.

101. *(Repealed).*

1965 (1st sess.), c. 80, a. 101; 1972, c. 14, s. 91.

102. *(Repealed).*

1965 (1st sess.), c. 80, a. 102; 1972, c. 14, s. 91.

103. *(Repealed).*

1965 (1st sess.), c. 80, a. 103; 1972, c. 14, s. 91.

104. *(Repealed).*

1965 (1st sess.), c. 80, a. 104; 1969, c. 80, s. 3; 1972, c. 14, s. 91.

105. *(Repealed).*

1965 (1st sess.), c. 80, a. 105; 1972, c. 14, s. 91.

106. *(Repealed).*

1965 (1st sess.), c. 80, a. 106; 1972, c. 14, s. 91.

107. *(Repealed).*

1965 (1st sess.), c. 80, a. 107; 1972, c. 14, s. 91.

108. *(Repealed).*

1965 (1st sess.), c. 80, a. 108; 1972, c. 14, s. 91.

109. *(Repealed).*

1965 (1st sess.), c. 80, a. 109; 1972, c. 14, s. 91.

BOOK II

ORDINARY PROCEDURE IN COURTS OF FIRST INSTANCE

TITLE I

INTRODUCTION OF ACTIONS AND APPLICATIONS, APPEARANCE AND CASE MANAGEMENT

2002, c. 7, s. 14.

CHAPTER I

PRELIMINARY PROVISIONS

2002, c. 7, s. 14.

DIVISION I

PROCEDURE APPLICABLE TO ACTIONS AND APPLICATIONS

1996, c. 5, s. 6; 2002, c. 7, s. 14.

110. *Actions and applications are introduced by means of a motion. They are pursued according to the procedure set out in this Title, subject to special rules otherwise prescribed. However, actions and applications pertaining to contempt of court, habeas corpus, non-contentious matters and the recovery of small claims are governed by their own special rules.*

1965 (1st sess.), c. 80, a. 110; 1996, c. 5, s. 6; 2002, c. 7, s. 14.

110.1. *Actions and applications that are to be contested orally must be heard or scheduled for proof and hearing and, in the latter case, referred by order to the clerk for scheduling of the hearing, and those that are to be contested in writing inscribed for proof and hearing, within a peremptory time limit of 180 days after service of the motion. In family matters, however, the peremptory time limit is one year.*

The court may extend the peremptory time limits, if warranted by the complexity of the matter or special circumstances, upon a request submitted at the time of presentation of the motion to institute proceedings. If, on the day the motion to institute proceedings is presented, the parties are unable to assess the time needed to allow the scheduling of the hearing or the inscription of the case, they may request an extension on the same grounds at any time before the expiry of the peremptory time limit.

The court may also relieve a party from the consequences of failure to act within the time limit upon proof that it was in fact impossible for the party to act within the time limit.

The decision must in all cases contain reasons.

2002, c. 7, s. 14; 2004, c. 14, s. 1.

CHAPTER I.1

SUMMONS

2002, c. 7, s. 14.

DIVISION I

CONTENT AND FORM OF MOTION

2002, c. 7, s. 14.

111. *A motion to institute proceedings is a concise written statement of the facts on which the action or application is based and the conclusions sought.*

The motion is prepared and signed by the plaintiff or the attorney for the plaintiff.

Except where prohibited by law or by circumstances, a motion may be made jointly.

1965 (1st sess.), c. 80, a. 111; 1991, c. 20, s. 5; 1992, c. 57, s. 420; 1996, c. 5, s. 6; 2002, c. 7, s. 14.

111.1. *The motion to institute proceedings indicates the court seized of the action or application and the district in which it is brought and states the name, domicile and place of residence of the plaintiff and the name and last known place of residence of the defendant. It also indicates in what capacity a party is named in the motion if not in the party's personal capacity.*

2002, c. 7, s. 14.

112. *The plaintiff prepares an original and at least two copies of his motion to institute proceedings and notice. On request and after payment of the court costs, the original is numbered by the clerk; the copies are certified true by the plaintiff or his attorney, and one copy is filed in the office of the court, opening the court record.*

The attorney must enter his name, address, telephone number and fax number, if any, on the original and on all the copies.

1965 (1st sess.), c. 80, a. 112; 1975, c. 83, s. 10; 1991, c. 20, s. 6; 1992, c. 57, s. 420; 1996, c. 5, s. 6; 2002, c. 7, s. 160.

113. *In case of emergency, the original of the motion to institute proceedings may be filed with the clerk outside office hours even on a non-juridical day, provided that the court costs are paid forthwith to the clerk, or to the person designated by him under the third paragraph of article 44, who must as soon as possible affix the seal to the copy left with him for the court record, after having entered thereon the date of payment and amount of the costs.*

1965 (1st sess.), c. 80, a. 113; 1992, c. 57, s. 420; 1996, c. 5, s. 6; 2002, c. 7, s. 160.

114. *The clerk, upon proof that the original of a motion to institute proceedings has been lost or destroyed, may certify a copy to replace the original.*

1965 (1st sess.), c. 80, a. 114; 1982, c. 17, s. 9; 1996, c. 5, s. 6; 2002, c. 7, s. 160.

115. *A minister of the government, a clerk or registrar, a sheriff, the director of youth protection or the Public Curator, summoned in his capacity only, may be designated by his official title, if that designation is sufficient to identify him.*

In actions upon bills of exchange or other private writings, negotiable or not, the defendant is sufficiently designated by his name or initials as they appear in the writing.

A defendant whose name is uncertain or unknown is sufficiently designated by a name that identifies him clearly, provided that the motion to institute proceedings is served on him in person.

A legal person must be designated by the name under which it is constituted or by which it identifies itself, with a mention of its head office; if it is a defendant, mention of the head office may be replaced by mention of its principal establishment. The syndicate of co-owners is designated by the name the co-owners as a body have given themselves or by the name by which they are generally known or by the address of the place where the immovable is located.

A general or limited partnership may be designated by the name it declares.

An association within the meaning of the Civil Code may be designated by the name it has adopted or by the name under which it is commonly known.

1965 (1st sess.), c. 80, a. 115; 1982, c. 17, s. 10; 1992, c. 57, s. 215; 1996, c. 5, s. 7; 2002, c. 7, s. 160.

116. *Heirs, legatees by particular title and successors are summoned by service on the liquidator of the succession; however, where the liquidator is unknown or cannot be identified in due time, they may be summoned collectively, without mention of their names or places of residence.*

The heirs are required to give written notice of the name and address of the liquidator to the opposite party; proceedings drawn up before service of the notice are valid, unless the court, on an application by the liquidator, decides otherwise; those drawn up afterwards are invalid, since the proceeding is suspended until it is continued by the liquidator in office.

The heirs and legatees by particular title of a person whose succession opens outside Québec who have not registered a declaration of transmission pursuant to article 2998 of the Civil Code may be summoned collectively in any immovable real action relating to the succession.

1965 (1st sess.), c. 80, a. 116; 1981, c. 14, s. 11; 1992, c. 57, s. 215.

117. *(Repealed).*

1965 (1st sess.), c. 80, a. 117; 1994, c. 28, s. 4; 1996, c. 5, s. 8; 2002, c. 7, s. 15.

118. *If the object of the demand is certain and determinate property, it must be described in such a manner as clearly to establish its identity.*

If the object of the demand is an immovable, it must be described as prescribed in the Book of the Civil Code on the Publication of rights.

1965 (1st sess.), c. 80, a. 118; 1992, c. 57, s. 216.

119. *The motion to institute proceedings must be accompanied by a notice to the defendant to appear within the time limit indicated in order to file an answer to the action or application. The time limit is 10 days from service of the notice, except where otherwise prescribed by this Code.*

In addition, the notice to the defendant must state

(*1*) *that the defendant is required to appear within the time limit indicated, failing which a judgment by default may be rendered against the defendant without further notice or extension;*

(*2*) *that if the defendant appears, the action or application will be presented before the court on the date indicated unless a written agreement is made by the parties before that date to determine a timetable for the orderly progress of the proceeding;*

(*3*) *that on the date indicated for presentation, the court may exercise such powers as are necessary to ensure the orderly progress of the proceeding;*

(*4*) *that the exhibits in support of the motion are available on request; and*

(*5*) *that the defendant may make a request to the clerk for the action to be disposed of pursuant to the rules of Book VIII if the defendant would be admissible as a plaintiff under that Book and the action would be admissible under that Book, and that if the defendant does not make such a request, the defendant could be liable for costs according to the rules applicable under the other Books of this Code.*

The exhibits in support of the motion to institute proceedings must be disclosed in the notice to the defendant.

The notice must reproduce the text determined by the Minister of Justice.

1965 (1st sess.), c. 80, a. 119; 1996, c. 5, s. 9; 1999, c. 46, s. 2; 2002, c. 7, s. 16.

119.1. *(Replaced).*

1975, c. 83, s. 11; 1996, c. 5, s. 9.

DIVISION II

SERVICE

119.2. *Unless otherwise prescribed, acts, documents or notices the service of which is prescribed by law are served in accordance with the rules prescribed in this section.*

1992, c. 57, s. 217.

§ 1. — How service is made

120. *Unless specifically otherwise provided, any sheriff or bailiff may make a service anywhere in Québec.*

The taxable costs of service are the costs chargeable by a bailiff pursuant to the regulation made under section 13 of the Court Bailiffs Act (chapter H-4.1).

1965 (1st sess.), c. 80, a. 120; 1979, c. 37, s. 12; 1982, c. 32, s. 33; 1989, c. 6, s. 1; 1989, c. 57, s. 36; 1995, c. 41, s. 18.

121. *A sheriff or bailiff cannot make service in matters in which he or she is interested, or in matters which concern his or her spouse or a relative by blood or by alliance, to the degree of cousin-german inclusively, under pain of suspension.*

1965 (1st sess.), c. 80, a. 121; 2002, c. 6, s. 92.

122. *In any place where, within a radius of 50 kilometres, there is neither sheriff nor bailiff able to act, service may be made by any person of legal age residing within that radius or by registered or certified mail; service made otherwise without sufficient reason gives no right to higher costs.*

1965 (1st sess.), c. 80, a. 122; 1975, c. 83, s. 12; 1979, c. 37, s. 13.

123. *Service of a motion to institute proceedings or of any other written proceeding is made by leaving a copy of the proceeding for the person for whom it is intended.*

Personal service may be made by handing a copy of the proceeding to him in person, wherever he may be; domiciliary service may be made by leaving the copy at his domicile or residence, with a reasonable person residing therein.

Service may also be made at the domicile elected by the person for whom it is intended, or upon the person indicated by him.

If he has no known domicile or ordinary residence within Québec, service may be made by leaving a copy of the proceeding in a sealed envelope addressed to the person for whom it is intended at the person's business establishment or place of work, speaking to a reasonable person in charge thereof.

If he is not represented by attorney, service of any written proceeding other than a proceeding to institute a suit may be made in accordance with article 140. If that person has no known domicile or ordinary residence within Québec, service may be made at the office of the court.

1965 (1st sess.), c. 80, a. 123; 1972, c. 70, s. 5; 1992, c. 57, s. 218; 1996, c. 5, s. 10; 1999, c. 40, s. 56; 1999, c. 46, s. 3; 2002, c. 7, s. 160.

124. *The copy served must be certified by the party himself or his attorney or, where applicable, by one of the persons referred to in article 82.1, and the person making service must endorse thereon, over his signature, the date and hour of service.*

1965 (1st sess.), c. 80, a. 124; 1993, c. 72, s. 4.

125. *If the person concerned refuses to accept the copy of a proceeding, the person making service records the refusal on the original and personal service is deemed to have been made at the time of refusal.*

The person making service must then leave the copy of the proceeding by any appropriate means.

1965 (1st sess.), c. 80, a. 125; 1975, c. 83, s. 13.

126. *Service shall not be made in a place of public worship, or in court, or upon a member of the National Assembly upon the floor of the House.*

1965 (1st sess.), c. 80, a. 126.

127. *In all cases in which the parties reside together, any service for one upon the other must be personal, unless another mode of service is authorized under article 138.*

1965 (1st sess.), c. 80, a. 127.

128. *A proceeding addressed to several parties must be served upon each of them separately.*

1965 (1st sess.), c. 80, a. 128.

129. *Service upon a general or limited partnership may be made at its business establishment or, if it has none, upon one of the partners. Similarly, service upon an association within the meaning of the Civil Code may be made at its office or, if it has none, upon one of its directors.*

1965 (1st sess.), c. 80, a. 129; 1992, c. 57, s. 219; 1999, c. 40, s. 56.

130. *Service upon a legal person is made at its head office, at one of its establishments in Québec or at the establishment of its agent in the district where the cause of action has arisen, speaking to one of its senior officers or to a person in charge of the said establishment.*

Failing such head office or establishment, service may be made upon one of its senior officers or upon any person mentioned as such in the register referred to in Chapter II of the Act respecting the legal publicity of enterprises (chapter P-44.1), or upon the attorney designated under that Act.

Service upon persons acting illegally as a legal person is made upon one of them, or at their principal business establishment.

1965 (1st sess.), c. 80, a. 130; 1975, c. 83, s. 14; 1981, c. 9, s. 24; 1982, c. 52, s. 114; 1992, c. 57, s. 220; 1993, c. 48, s. 216; 1999, c. 40, s. 56; 2010, c. 7, s. 195, s. 282.

131. *(Repealed).*

1965 (1st sess.), c. 80, a. 131; 1966, c. 21, s. 7.

132. *Service upon a joint stock company, upon a legal person constituted otherwise than under the laws of Québec or of Canada, or upon the liquidator of the succession of a person who had property in Québec but was not domiciled therein, may be made at its or his office, speaking to a person employed therein, or anywhere upon its president or secretary or upon its or his agent.*

1965 (1st sess.), c. 80, a. 132; 1992, c. 57, s. 221; 1999, c. 40, s. 56.

132.1. *Service upon a trustee may be made at his domicile or residence, or at his business establishment by speaking to a person in charge.*

1992, c. 57, s. 222; 1999, c. 40, s. 56.

133. *Service upon the heirs and legatees by particular title summoned collectively in accordance with the first paragraph of article 116 is made at the last domicile of the deceased; if such domicile is not in Québec, or is closed or if no member of the deceased's family is there, the service is made upon one of the heirs or legatees by particular title.*

Service upon the heirs and legatees by particular title summoned collectively in accordance with the third paragraph of article 116 may, with the authorization of the judge or clerk, be made by public notice in the district in which the immovable in dispute is situated.

Service upon the liquidator of a succession is made at his domicile or residence, or at his business establishment, speaking to a person in charge of the office; if his domicile, residence and business establishment are unknown or located outside Québec, service is made upon one of the heirs.

1965 (1st sess.), c. 80, a. 133; 1992, c. 57, s. 223, s. 420; 1999, c. 40, s. 56.

134. *Service upon a navigator or mariner, who has no known domicile or residence in Québec, may be made on board his ship, speaking to a member of the ship's company.*

1965 (1st sess.), c. 80, a. 134.

135. *Persons imprisoned must be served personally.*

1965 (1st sess.), c. 80, a. 135.

135.1. *Any application relating to the integrity, status or capacity of a person 14 years of age or over must be served personally.*

Where there is a risk that personal service may worsen the physical or psychological condition of the person concerned by the application, the judge may, on a motion and insofar as the initial application was served personally, authorize that service be effected by means of a sealed envelope, speaking to a reasonable person having custody of the person.

1992, c. 57, s. 224; 1998, c. 51, s. 1.

136. *The Attorney General may, on request made to the Government through diplomatic channels, direct a bailiff to serve upon a person in Québec any proceeding issued by a tribunal foreign to Canada.*

Such service is made by leaving for the party in the ordinary way a true copy of such proceeding, certified by an officer of the court by which such proceeding was issued. If such copy is not drawn in the French or English language, a certified translation thereof must be annexed thereto.

The return of service also is made in the ordinary way, but with mention where necessary of the fact that a translation was annexed to the copy served.

The capacity and signature of the serving officer must be attested by the clerk of the Superior Court of the district where he resides.

The Lieutenant-Governor may attest the signature of and the declaration by the clerk, and have the original proceeding with the return of service and the taxed bill of costs transmitted to the Secretary of State of Canada.

1965 (1st sess.), c. 80, a. 136; 1977, c. 5, s. 14; 1992, c. 57, s. 420.

137. *Service upon a party domiciled or resident in another province of Canada may be made by any person of the age of majority, who must make a certificate of service.*

1965 (1st sess.), c. 80, a. 137; 1983, c. 28, s. 1; 1992, c. 57, s. 225.

138. *The judge or clerk may, on motion, if the circumstances so require, authorize a mode of service other than those provided by articles 120, 122, 123 and 130, particularly by public notice or by mail, unless such last mode is already authorized by the said articles.*

The judge or clerk may also, upon inspecting the certificate of the person who has attempted to make the service, authorize him to serve the proceeding otherwise than in the manner provided in articles 123 and 130. The authorization must appear on the original of the certificate, which must then be filed in the office of the court. An entry of the authorization must be made on the copies of the written proceeding to be served. However, where the attempt to effect service was made by a bailiff or a sheriff and was recorded in his certificate, the bailiff or sheriff may, without authorization, serve the proceeding by leaving on the premises a copy of the written proceeding intended for the addressee.

Any authorization under this article may be obtained in the district of the place in which the written proceeding is served, if such district is not that in which the proceeding was issued.

1965 (1st sess.), c. 80, a. 138; 1966, c. 21, s. 8; 1975, c. 83, s. 15; 1983, c. 28, s. 2; 1992, c. 57, s. 420; 1997, c. 42, s. 4.

139. *Service by public notice is made by publication of an order of the judge or clerk, calling upon the defendant to appear within 30 days or such other time as may be fixed, and informing him that a copy of the motion to institute proceedings has been left for him at the office of the court.*

Unless the judge or the clerk decides otherwise, the order is published only once; the publication is made in a newspaper, designated by the judge or clerk, distributed in the locality of the last known address of the defendant or, if no newspaper is distributed in that locality, in the locality where he is required to appear.

If the circumstances so require, the judge may order the publication by any other appropriate means, in particular by letter, or by an advertisement on the radio or television; he shall then determine the mode of proof of publication.

The order is published in French but if the circumstances so require, the judge may order it published in English as well.

The same rules are followed, with any necessary modifications, for the service by public notice, when it is required, of any proceeding other than a motion to institute proceedings, and for the publication of the public notices of sale provided for in articles 594 and 670.

Service by one publication is complete and is deemed to have taken place on the date of such publication; in the other cases, service is complete only when all the prescribed publications have been made, but it is deemed to have been made on the date of the first publication.

1965 (1st sess.), c. 80, a. 139; 1977, c. 73, s. 5; 1992, c. 57, s. 226, s. 420; 1996, c. 5, s. 11; 1999, c. 40, s. 56; 2002, c. 7, s. 17.

140. *Service by mail is made by mailing a copy of the proceeding by registered or certified mail to the party at the last known address of his residence or place of work.*

Such service is deemed to have been made on the date when the acknowledgment of receipt presented by the postman at the time of delivery was signed by the party himself or by one of the persons mentioned in article 123.

1965 (1st sess.), c. 80, a. 140; 1975, c. 83, s. 16; 1999, c. 40, s. 56.

140.1. *Service of a written proceeding, an exhibit or any other document on the attorney of a party may, without the authorization of the judge or clerk, be effected by transmitting to him a facsimile of the proceeding, exhibit or other document by fax machine.*

1993, c. 72, s. 5.

§ 2. — When Service may be made

141. *No service may be made, under pain of penalty against the serving officer, before 7:00 a.m. or after 10:00 p.m., or on a non-juridical day, without the written authorization of the clerk obtained without formality and entered on the original and copies of the proceeding to be served.*

Such authorization may be obtained in accordance with the third paragraph of article 138.

1965 (1st sess.), c. 80, a. 141; 1972, c. 70, s. 6; 1975, c. 83, s. 17; 1983, c. 28, s. 3; 1992, c. 57, s. 420.

142. *Service upon the attorney of a party cannot be made on Saturday.*

Service by fax machine upon the attorney of a party after 4:30 p.m. or on a Saturday is deemed to have been made on the following juridical day.

1965 (1st sess.), c. 80, a. 142; 1993, c. 72, s. 6.

143. *The judge or clerk may order the plaintiff who delays having a motion to institute proceedings served to do so within the time fixed under pain of annulment of the motion to institute proceedings.*

1965 (1st sess.), c. 80, a. 143; 1992, c. 57, s. 420; 1996, c. 5, s. 12; 2002, c. 7, s. 160.

§ 3. — Proof of Service

144. *The person who makes the service must draw up a certificate of service on the back of the original of the document served or on a separate paper attached thereto; in the latter case he must also write the number of the record and the names of the parties.*

If he is not a sheriff or bailiff, his certificate must be sworn to.

1965 (1st sess.), c. 80, a. 144; 1983, c. 28, s. 4.

145. *The certificate of a service made by a bailiff, sheriff, or other person authorized under article 122, must state:*

(a) His names, occupation and residence;

(b) The place, day and hour of the service;

(c) The person with whom a copy of the proceeding was left;

(d) The distance from his residence to the place of service;

(e) The amount of the costs of service.

1965 (1st sess.), c. 80, a. 145.

146. *Service by public notice is proved by filing in the office of the court a copy of the page of the newspaper in which the notice has been published.*

The return of service by mail is made by means of a sworn statement of the sender, attesting that he has fulfilled the formalities prescribed in article 140, to which is attached, for registered mail, the acknowledgment of receipt or, for certified mail, the notice of delivery.

1965 (1st sess.), c. 80, a. 146; 1975, c. 83, s. 18; 1977, c. 73, s. 6; 1983, c. 28, s. 5; 1992, c. 57, s. 227.

146.0.1. *Service by fax machine may be proved by means of a transmission slip or, failing that, by means of an affidavit from the person who effected the service.*

1993, c. 72, s. 7.

146.0.2. *A written proceeding, exhibit or other document that is served by fax machine must be accompanied with a transmission slip setting out*

(a) the name, address and telephone number of the sender;

(b) the name of the attorney to be served and the fax number of the receiving fax machine;

(c) the date and time of transmission;

(d) the total number of pages transmitted, including the transmission slip;

(e) the fax number of the transmitting fax machine; and

(f) the nature of the document.

1993, c. 72, s. 7.

DIVISION III

NOTIFICATION

1992, c. 57, s. 228.

146.1. *Notification may be made by delivering the original or a certified copy or abstract of the act, document or notice to the person to be notified and obtaining a receipt therefor.*

1992, c. 57, s. 228.

146.2. *Notification may also be made by sending the original, a certified copy or an abstract of the act, document or notice by registered or certified mail to the last known address of the residence or place of work of the person to be notified.*

Notification is deemed to have been made on the date on which the acknowledgement of receipt presented by the postal employee at the time of delivery or, in the case of certified mail, the acknowledgement of delivery, is signed by the person to be notified or by one of the persons referred to in article 123.

1992, c. 57, s. 228; 1999, c. 40, s. 56.

146.3. *Unless prescribed otherwise, notification of the original or of a copy or abstract of the act, document or notice may be made by regular mail or by any other means of communication where the context does not require the sender to obtain proof of sending.*

1992, c. 57, s. 228.

CHAPTER II

FILING OF MOTION TO INSTITUTE PROCEEDINGS

1994, c. 28, s. 5; 1996, c. 5, s. 13; 2002, c. 7, s. 160.

147. *(Repealed).*

1965 (1st sess.), c. 80, a. 147; 1994, c. 28, s. 6.

148. *The original of the motion to institute proceedings and of the notice to the defendant and the return of service must be filed by the plaintiff at the office of the court at least 48 hours before the date fixed for presentation of the action or application or within the time limit prescribed by the rules of practice*

Judgment cannot be rendered against a defendant who has not appeared or has not pleaded if the plaintiff has not filed in the office of the court the original of the motion to institute proceedings with proof of service.

1965 (1st sess.), c. 80, a. 148; 1992, c. 57, s. 229; 1996, c. 5, s. 14; 2002, c. 7, s. 18.

CHAPTER III

APPEARANCE

149. *The defendant must appear before the expiry of the time fixed, by filing in the office of the court a written appearance signed by him or his attorney.*

1965 (1st sess.), c. 80, a. 149; 1983, c. 28, s. 6; 1985, c. 29, s. 7; 1992, c. 57, s. 230; 1999, c. 40, s. 56.

150. *The defendant may appear even after expiry of the time fixed to appear if the inscription for judgment by the clerk or for proof and hearing before the court has not been filed in the record.*

An inscription made prematurely or irregularly does not prevent the defendant from appearing and he is not required to apply for relief of his default.

1965 (1st sess.), c. 80, a. 150; 1992, c. 57, s. 231.

151. *Notwithstanding the inscription, and failing the consent of the opposite party, the judge or the clerk may, at any time before judgment and on such conditions as he determines, give the defendant leave to appear.*

1965 (1st sess.), c. 80, a. 151; 1992, c. 57, s. 232.

CHAPTER IV

CASE MANAGEMENT

2002, c. 7, s. 19.

DIVISION I

AGREEMENT BETWEEN PARTIES AS TO CONDUCT OF PROCEEDING

2002, c. 7, s. 19.

151.1. *Before the date indicated in the notice to the defendant for presentation of the action or application, the parties, except impleaded parties, must negotiate an agreement as to the conduct of the proceeding, specifying the arrangements between them and the timetable with which they are to comply within the 180-day or, in family matters, the one-year peremptory time limit.*

Any person impleaded in the motion to institute proceedings who wishes to take part in the negotiation of the agreement determining the proceeding timetable must notify the parties within five days of service of the motion. Otherwise, the person is presumed not to wish to do so.

The agreement must cover, among other things, the preliminary exceptions and safeguard measures, the procedure and time limit for the communication of exhibits, written statements in lieu of testimony and detailed affidavits, the number and length of and other conditions relating to examinations on discovery before the filing of the defence, expert appraisals, any planned or foreseeable incidental proceedings, the oral or written form of the defence and, in the case of a written defence, the time limit for its filing as well as the time limit for filing an answer, if one is to be filed. The agreement must be filed without delay at the office of the court, no later than the date fixed for presentation of the action or application.

2002, c. 7, s. 19; 2004, c. 14, s. 2.

151.2. *The agreement is binding on the parties as to the conduct of the proceeding. The parties may modify the agreement, insofar as the modification does not contravene the 180-day or, in family matters, the one-year peremptory time limit. If there is a disagreement between the parties, the court may, on request, authorize any modification it considers appropriate.*

2002, c. 7, s. 19; 2004, c. 14, s. 3.

151.3. *The parties must comply with the timetable they have set under pain of the penalty prescribed by this Code or, in the absence thereof, of dismissal of the action or application, striking of the allegations involved or foreclosure, as appropriate. However, the judge may, on request, relieve a defaulting party from default if required in the interest of justice; the costs resulting from the default are borne by the party concerned, unless the judge decides otherwise.*

2002, c. 7, s. 19.

DIVISION II

PRESENTATION OF ACTION OR APPLICATION

2002, c. 7, s. 19.

151.4. *The action or application is presented before the court on the date indicated in the notice to the defendant, unless an agreement was made by the parties before that date as to the conduct of the proceeding.*

The date of presentation may not be less than 30 days from the date of service, except where mutually agreed by the parties or where otherwise prescribed by law or decided by the court in an urgent situation.

If the action or application is to be presented jointly, the date of presentation is set in agreement with the clerk.

2002, c. 7, s. 19.

151.5. *Subject to article 159 and any agreement between the parties, all preliminary exceptions must be raised orally at the time of presentation of the action or application. The exceptions may only be contested orally, although the court may allow the parties to present the necessary evidence.*

Moreover, the defendant must present an oral summary of the grounds of the defence.

2002, c. 7, s. 19.

151.6. *At the time of presentation of the action or application, the court may, after examining the questions of law or fact at issue,*

(*1*) *if the defence is to be oral and the parties are ready to proceed, hear the merits of the case, or otherwise determine the date of the hearing or order that the case be placed on the roll;*

(*2*) *hear the contested preliminary exceptions, or defer the hearing of exceptions to a date determined by the court;*

(*3*) *determine the number and length of and other conditions relating to examinations on discovery before the filing of the defence;*

(*4*) *in the absence of an agreement filed by the parties at the office of the court, determine a timetable that will ensure the orderly progress of the proceeding;*

(*5*) *determine how the conduct of the proceeding may be simplified or accelerated and the hearing shortened, by ruling among other things on the advisability of splitting the proceeding, better defining the questions at issue, amending the pleadings or admitting any fact or document, or invite the parties to a settlement conference or to recommend mediation;*

(*6*) *authorize or order that the defence be made orally or in writing on the conditions determined by the court, where not permitted as of right;*

(*7*) *dispose of specific requests made by the parties;*

(*8*) *order service of the motion to institute proceedings on any person, identified by the court, whose rights may be affected by the judgment; and*

(*9*) *authorize or order provisional measures.*

2002, c. 7, s. 19.

151.7. *The decisions made by the court are recorded in the minutes of the hearing and govern the parties as to the conduct of the proceeding and, where applicable, the hearing, unless the judge decides otherwise.*

The parties must comply with the timetable determined by the court under pain of the penalty prescribed by this Code or, in the absence thereof, of dismissal of the action or application, striking of the allegations involved or foreclosure, as appropriate. However, the judge may, on request, relieve a defaulting party from default if required in the interest of justice; the costs resulting from the default are borne by the party concerned, unless the judge decides otherwise.

2002, c. 7, s. 19.

151.8. *If the defendant does not attend the presentation of the action or application, the court records the default and hears the plaintiff, if the latter is ready to proceed; if not, the court fixes a new hearing date or orders that the case be placed on the roll and issues such orders as are necessary.*

2002, c. 7, s. 19.

151.9. *If the hearing is held on the same day, the parties prove their cases either by means of detailed affidavits, or by means of oral or documentary evidence, unless otherwise specified by law.*

2002, c. 7, s. 19.

151.10. *If, during the course of a proceeding, a transaction, a discontinuance of the action or a total acquiescence in the demand occurs, the parties must notify the clerk without delay.*

2002, c. 7, s. 19.

DIVISION III

SPECIAL CASE MANAGEMENT

2002, c. 7, s. 19.

151.11. *Where required by the nature or complexity of the proceeding or in cases where the 180-day or, in family matters, the one-year peremptory time limit is extended, the chief judge or chief justice may, at any stage of the proceeding, on his or her own initiative or on request, order special case management. In that case, the chief judge or chief justice designates a judge to see to the orderly conduct of the proceeding.*

2002, c. 7, s. 19; 2004, c. 14, s. 4.

151.12. *The judge so designated convenes the parties and their attorneys to a case management conference so that they may negotiate an agreement as to the conduct of the proceeding, specifying the arrangements between them and determining the timetable with which they are to comply. If the parties fail to agree, the judge shall determine a timetable for the proceeding.*

2002, c. 7, s. 19.

151.13. *The judge disposes of all incidental proceedings and other applications during the course of the proceeding. The judge holds a pre-trial conference, where applicable, and issues any appropriate orders. The judge presides the hearing and renders judgment on the merits.*

2002, c. 7, s. 19.

DIVISION IV

SETTLEMENT CONFERENCE

2002, c. 7, s. 19.

151.14. *A judge may preside a settlement conference. A judge enjoys judicial immunity while presiding such a conference.*

2002, c. 7, s. 19.

151.15. *At any stage of the proceeding, the chief justice or chief judge may, at the request of the parties, designate a judge to preside a settlement conference. In their request, the parties must present a summary of the questions at issue.*

The chief justice or chief judge may, on his or her own initiative, recommend the holding of such a conference. If the parties consent, the chief justice or chief judge designates a judge to preside the conference.

2002, c. 7, s. 19.

151.16. *The purpose of a settlement conference is to facilitate dialogue between the parties and help them to identify their interests, assess their positions, negotiate and explore mutually satisfactory solutions.*

A settlement conference is held in private, at no cost to the parties and without formality.

2002, c. 7, s. 19.

151.17. *A settlement conference is held in the presence of the parties, and, if the parties so wish, in the presence of their attorneys. With the consent of the parties, the presiding judge may meet with the parties separately. Other persons may also take part in the conference if the judge and the parties consider that their presence would be helpful in resolving the dispute.*

2002, c. 7, s. 19.

151.18. *In agreement with the parties, the judge defines the rules of the settlement conference and any measure to facilitate its conduct, and determines the schedule of meetings.*

2002, c. 7, s. 19.

151.19. *The settlement conference does not suspend the proceeding, but the judge presiding the conference may, if necessary, modify the timetable.*

2002, c. 7, s. 19.

151.20. *The parties must ensure that the persons who have authority to conclude an agreement are present at the settlement conference, or that they may be reached at all times to give their consent.*

2002, c. 7, s. 19.

151.21. *Anything said or written during a settlement conference is confidential.*

2002, c. 7, s. 19.

151.22. *If a settlement is reached, the judge homologates the transaction on request.*

2002, c. 7, s. 19.

151.23. *If no settlement is reached, the judge may not preside any subsequent hearing relating to the dispute.*

With the consent of the parties, the judge may convert the settlement conference into a pre-trial conference.

2002, c. 7, s. 19.

TITLE II

CONTESTATION OF THE ACTION

CHAPTER I

DEMAND FOR SECURITY FOR COSTS

152. *If article 65 applies to the plaintiff, the defendant may request, at the time of presentation of the motion to institute proceedings, that the plaintiff be required to give security, within the time determined by*

the court, for the costs that may be incurred in consequence of the action, on pain of dismissal of the action. The court determines the amount of the security on the basis of such factors as the nature and importance of the case and the costs associated with incidental proceedings, experts' appraisals, the examination of witnesses out of court, the type of hearing and the length of the trial. Other factors to be considered are the value of the property held in Québec by, and the ability to pay of, the plaintiff or the mandator, if not a resident of Québec.

At the request of a party during the proceeding, the court may increase or reduce the amount of security if warranted by the development of the case or a change in the situation of the plaintiff.

1965 (1st sess.), c. 80, a. 152; 1992, c. 57, s. 420; 1999, c. 40, s. 56; 2002, c. 7, s. 20.

153. *The defendant may request security for costs after the presentation of the motion to institute proceedings. In such a case, however, the court may award costs against the defendant in the amount it determines.*

1965 (1st sess.), c. 80, a. 153; 1999, c. 40, s. 56; 2002, c. 7, s. 20.

154. *(Replaced).*

1965 (1st sess.), c. 80, a. 154; 1999, c. 40, s. 56; 2002, c. 7, s. 20.

CHAPTER II

Repealed, 1996, c. 5, s. 15.

1996, c. 5, s. 15.

155. *(Repealed).*

1965 (1st sess.), c. 80, a. 155; 1988, c. 21, s. 66; 1996, c. 5, s. 15.

156. *(Repealed).*

1965 (1st sess.), c. 80, a. 156; 1992, c. 57, s. 420; 1996, c. 5, s. 15.

157. *(Repealed).*

1965 (1st sess.), c. 80, a. 157; 1988, c. 21, s. 66; 1996, c. 5, s. 15.

158. *(Repealed).*

1965 (1st sess.), c. 80, a. 158; 1996, c. 5, s. 15.

CHAPTER III

PRELIMINARY EXCEPTIONS

DIVISION I

GENERAL PROVISIONS

159. *Unless otherwise agreed by the parties in accordance with article 151.1, preliminary exceptions and the conclusions sought must be disclosed in writing to the opposite party before the date of presentation of the action or application, failing which the court may refuse the presentation of preliminary exceptions.*

1965 (1st sess.), c. 80, a. 159; 2002, c. 7, s. 21.

160. *(Replaced).*

1965 (1st sess.), c. 80, a. 160; 2002, c. 7, s. 21.

161. *(Replaced).*

1965 (1st sess.), c. 80, a. 161; 1969, c. 80, s. 4; 1996, c. 5, s. 16; 2002, c. 7, s. 21.

162. *(Replaced).*

1965 (1st sess.), c. 80, a. 162; 1969, c. 80, s. 5; 1996, c. 5, s. 17; 1999, c. 40, s. 56; 2002, c. 7, s. 21.

DIVISION II

DECLINATORY EXCEPTIONS

163. *A defendant, summoned before a court other than that before which the suit should have been instituted, may ask that the suit be referred to the competent court within the legislative authority of Québec, or that the suit be dismissed if there is no such court.*

1965 (1st sess.), c. 80, a. 163.

164. *Lack of jurisdiction by reason of the subject matter may be raised at any stage of the case, and it may even be declared by the court of its own motion. The court adjudicates as to costs according to the circumstances.*

1965 (1st sess.), c. 80, a. 164.

DIVISION III

EXCEPTION TO DISMISS ACTION

165. *The defendant may ask for the dismissal of the action if:*

(*1*) *There is lis pendens or res judicata;*

(*2*) *One of the parties is incapable or has not the necessary capacity;*

(*3*) *The plaintiff has clearly no interest in the suit;*

(*4*) *The suit is unfounded in law, even if the facts alleged are true.*

1965 (1st sess.), c. 80, a. 165.

166. *When it is possible to remedy the ground upon which the exception is based, the plaintiff may ask that he be granted a time to do so and that judgment be rendered upon the exception only upon the expiry of such time.*

If the ground remains, the suit is dismissed; if it has been remedied, the exception is maintained for costs only.

1965 (1st sess.), c. 80, a. 166; 1999, c. 40, s. 56.

167. *The dismissal of a suit for one of the grounds set forth in article 165 may be urged notwithstanding the failure to do so within the time limit; but if an exception made tardily results in the dismissal of the suit, the costs shall be the same as if the exception had been made within the time limit, unless the court otherwise orders.*

1965 (1st sess.), c. 80, a. 167; 1999, c. 40, s. 56.

DIVISION IV

DILATORY EXCEPTIONS

168. *The defendant may ask that the suit be stayed for the time fixed by law or by the judgment granting his motion:*

(1) when the time allowed him to deliberate and exercise an option in a succession matter has not expired;

(2) when he has the right to demand the discussion of the property of the principal or original debtor;

(3) when he has the right to demand the execution by the plaintiff of some precedent obligation;

(4) when he has the right to demand that the plaintiff declare his option between different recourses that he has joined, or that co-plaintiffs disjoin separate actions which they have joined;

(5) when he wishes to implead a third party whose presence is necessary to permit a complete solution of the question involved in the action, or against whom he claims to have a recourse in warranty;

(6) when the motion to institute proceedings is affected by some irregularity which he has an interest to have corrected;

(7) when he has the right to obtain, in respect of any vague or ambiguous allegations of the demand, particulars necessary for the preparation of his defence;

(8) when he has the right to require that an exhibit the plaintiff intends to refer to at the hearing be communicated to him by the plaintiff.

The defendant may also ask for the striking out of allegations which are immaterial, redundant or libellous.

1965 (1st sess.), c. 80, a. 168; 1992, c. 57, s. 233; 1994, c. 28, s. 7; 1999, c. 40, s. 56; 2002, c. 7, s. 22.

169. *When the judgment granting a motion based upon one of the grounds set forth in article 168 orders the plaintiff to do something within the time fixed and the plaintiff fails to do so, the defendant may, as soon as the time has expired, obtain the dismissal of the demand or the striking out of the allegations involved.*

1965 (1st sess.), c. 80, a. 169; 1999, c. 40, s. 56.

170. *(Repealed).*

1965 (1st sess.), c. 80, a. 170; 1999, c. 40, s. 56; 2002, c. 7, s. 23.

171. *At any stage of the proceeding, the judge may authorize the impleading of a third party or oblige the plaintiff to choose between actions which cannot be joined, on such conditions as are determined by the judge.*

1965 (1st sess.), c. 80, a. 171; 1999, c. 40, s. 56; 2002, c. 7, s. 24.

CHAPTER IV

CONTESTATION ON THE MERITS

172. *The defendant may plead by defence any ground of law or fact which shows that the conclusions of the demand cannot be granted in whole or in part.*

He may also in the same proceeding constitute himself cross-plaintiff in order to urge against the plaintiff any claim arising from the same source as the principal demand, or from a related source. The court remains seized of the cross demand notwithstanding discontinuance of the principal demand.

1965 (1st sess.), c. 80, a. 172; 1972, c. 70, s. 7.

173. *(Repealed).*

1965 (1st sess.), c. 80, a. 173; 1969, c. 81, s. 4; 1996, c. 5, s. 18; 2002, c. 7, s. 25.

174. *(Repealed).*

1965 (1st sess.), c. 80, a. 174; 1999, c. 40, s. 56; 2002, c. 7, s. 25.

175. *The declaration by a party that he submits to justice is not equivalent to a contestation of the suit or to an acquiescence in the pretensions of the opposite party.*

1965 (1st sess.), c. 80, a. 175.

175.1. *The defence is filed in writing, or presented orally. It is presented orally where so prescribed by this Code; it is filed in writing in all other cases, subject to the provisions of article 175.3.*

2002, c. 7, s. 26.

175.2. *The defence is presented orally if the subject matter of the action or application is*

(*1*) *any of the following matters concerning natural persons:*

(a) physical integrity;

(b) reputation and privacy, including suits for slander;

(c) respect for the body after death;

(*2*) *any of the following matters concerning legal persons:*

(a) retroactive conferral of juridical personality;

(b) the designation of a liquidator;

(c) a disqualification from serving as a director or the lifting of such a disqualification;

(d) an authorization to be obtained under article 341 of the Civil Code;

(*3*) *any of the following family, successions or property law matters:*

(a) any family matter except separation as to property, separation from bed and board, annulment of marriage, divorce, the determination of filiation and the surviving spouse's compensatory allowance;

(b) changes to a trust or to the property of a trust, termination of a trust, revocation or modification of a legacy or of a charge imposed on a donee;

(c) building against a common wall;

(d) the protection of the rights of a substitute;

(e) the determination of boundaries;

(f) divided co-ownership of an immovable;

(g) partition of a succession or partition or administration of property held in indivision;

(4) any of the following matters relating to obligations:

(a) a claim relating to the sale price of movable property that has been delivered or the price of a contract for services that have been provided, a leasing contract or a contract of carriage, a claim relating to a contract of employment, of deposit or of loan of money or a claim relating to the remuneration of a mandatary, a surety or an office holder;

(b) the price of a contract of enterprise, other than a contract pertaining to an immovable work, if the value of the subject matter of the dispute exceeds the jurisdictional limit of the Court of Québec;

(c) rights and obligations under a lease;

(d) the determination of the term of an obligation, the contestation of the distribution statement for the sale of an enterprise, the sufficiency of the surety's property or of the security offered in a suretyship matter;

(e) the determination of the seizable portion of an annuity under article 2378 of the Civil Code;

(f) the awarding of additional damages for bodily injury;

(g) a bill of exchange, cheque, promissory note or acknowledgement of debt;

(5) any of the following matters relating to prior claims, hypothecs or the publication of rights:

(a) any matter governed by Book Six of the Civil Code, including the exercise of hypothecary rights, and any matter relating to hypothecated property where the owner's identity is unknown or uncertain;

(b) registration or the correction, reduction or cancellation of a registration in the land register or the register of personal and movable real rights;

(6) in private international law, the recognition and execution of a foreign judgment or of an arbitration award made outside Québec;

(7) any of the following procedural matters:

(a) an application for a determination on a question of law;

(b) an application for a declaratory judgment;

(c) the exercise of an extraordinary recourse; or

(8) any of the following other matters:

(a) a tax, contribution or assessment imposed by or under any provision of a statute of Québec;

(b) any other matter covered by legislation other than the Civil Code for which the law does not impose a defence in writing.

2002, c. 7, s. 26.

175.3. *Where a defence in writing is prescribed by law, the parties may by agreement opt for an oral defence or the court may authorize or order an oral defence if the court considers that this will not cause prejudice to the parties.*

Where an oral defence is prescribed by law, the parties may by agreement opt for a defence in writing; in the absence of such an agreement, the court may authorize or order a defence in writing on such conditions as it determines if, in the opinion of the court, the absence of a writing may cause prejudice to a party.

2002, c. 7, s. 26.

176. *(Repealed).*

1965 (1st sess.), c. 80, a. 176; 1972, c. 70, s. 8; 1992, c. 57, s. 234; 2002, c. 7, s. 27.

177. *(Repealed).*

1965 (1st sess.), c. 80, a. 177; 1972, c. 70, s. 9; 1984, c. 26, s. 5.

178. *(Repealed).*

1965 (1st sess.), c. 80, a. 178; 1992, c. 57, s. 235.

179. *(Repealed).*

1965 (1st sess.), c. 80, a. 179; 1992, c. 57, s. 235.

180. *(Repealed).*

1965 (1st sess.), c. 80, a. 180; 1992, c. 57, s. 235.

180.1. *(Repealed).*

1989, c. 62, s. 3; 1992, c. 57, s. 235.

181. *(Repealed).*

1965 (1st sess.), c. 80, a. 181; 1992, c. 57, s. 235.

182. *The plaintiff may file an answer within the time agreed or determined in the proceeding timetable.*

1965 (1st sess.), c. 80, a. 182; 2002, c. 7, s. 28.

183. *A party may allege in his defence or answer any material facts, even those which have arisen since the institution of the action, and may take any conclusions necessary to defeat a ground set up by the opposite party.*

1965 (1st sess.), c. 80, a. 183.

184. *A party may raise preliminary exceptions against a defence or an answer within the time agreed between the parties or, failing that, the time determined by the court, after having disclosed the exceptions in writing to the opposite party.*

1965 (1st sess.), c. 80, a. 184; 2002, c. 7, s. 29.

185. *After the expiry of the time allowed for filing a defence, the party against whom an inscription by default has been made can no longer do so, unless with the consent of the opposite party or the authorization of the judge in chambers or the clerk.*

The same applies to a plaintiff who does not file his answer before the inscription for proof and hearing.

1965 (1st sess.), c. 80, a. 185; 1969, c. 81, s. 5; 1983, c. 28, s. 7; 1985, c. 29, s. 8; 1992, c. 57, s. 236.

186. *The issues are joined:*

(*1*) *by the demand, the defence and the answer;*

(*2*) *(paragraph repealed)*;

(*3*) *by the demand and the defence, when the plaintiff has omitted to file an answer or has been foreclosed from so doing.*

1965 (1st sess.), c. 80, a. 186; 2002, c. 7, s. 30.

CHAPTER V

TENDER AND DEPOSIT

187. *Tenders by a judicial declaration are made in the manner set out in the Civil Code.*

1965 (1st sess.), c. 80, a. 187; 1992, c. 57, s. 237.

188. *(Repealed).*

1965 (1st sess.), c. 80, a. 188; 1992, c. 57, s. 238.

189. *In an action, a party may make or renew a tender and demand record thereof, by a simple declaration in a pleading.*

A tender of a sum of money or security must be completed by a deposit in the office of the court, unless the deposit has already been made in the general deposit office of Québec or with a trust company and the receipt therefor has been filed in the record.

1965 (1st sess.), c. 80, a. 189; 1992, c. 57, s. 239.

189.1. *Where a tender of a sum of money or security is made to guarantee the performance of the obligation of the opposite party, the party making the tender may, instead of depositing the sum of money or security, entrust it to a trust company licensed under the Act respecting trust companies and savings companies (chapter S-29.01).*

The trust company shall undertake to remit the sum of money or security to the opposite party upon proof of performance of the obligation. It shall also undertake to invest the sum by making deposits of money within the meaning of the Deposit Insurance Act (chapter A-26) and guaranteed under that Act, but not including term deposits not repayable at all times before maturity.

The receipt issued by the trust company and the writing attesting the undertakings made by the trust company under the second paragraph must be filed in the record of the court.

1987, c. 48, s. 1; 1987, c. 95, s. 402; 1992, c. 57, s. 240.

190. *Unless the tender of money made in a suit is conditional, the opposite party is entitled to receive the sum of money or security deposited, without thereby prejudicing his claim to the remainder.*

1965 (1st sess.), c. 80, a. 190; 1992, c. 57, s. 241.

191. *The withdrawal of a sum of money or security deposited, and the expenses related to tender and deposit, are subject to the provisions of the Civil Code.*

1965 (1st sess.), c. 80, a. 191; 1992, c. 57, s. 242.

TITLE III

DEFAULT TO APPEAR AND DEFAULT TO PLEAD

192. *If the defendant fails to appear within 10 days of service of the motion to institute proceedings, the plaintiff may inscribe the case for judgment by default or for proof and hearing before the court or the special clerk.*

If the defendant fails to file a defence within the time limit agreed between the parties or determined by the court, the plaintiff may inscribe the case for judgment by the clerk or for proof and hearing before the court or the special clerk.

The court or the clerk may, of their own motion or on an application, order the cancellation of an inscription made prematurely or irregularly.

1965 (1st sess.), c. 80, a. 192; 1992, c. 57, s. 243; 2002, c. 7, s. 31.

193. *At least two clear juridical days' notice of the date on which the inscription will be presented must be given to the defendant foreclosed from pleading. No notice is necessary if the defendant has made default to appear.*

1965 (1st sess.), c. 80, a. 193.

194. *The only actions that may be inscribed for judgment before the clerk are those for a sum of money which are founded on:*

(*1*) *an authentic deed or private writing;*

(*2*) *a verbal agreement to pay a specific sum of money;*

(*3*) *a detailed account pertaining to the sale price of a movable that has been delivered or the price of a contract for services that have been provided.*

The inscription must be accompanied by an affidavit attesting that the amount claimed is owing by the defendant to the plaintiff.

The clerk renders judgment upon inspection of the affidavit and of the document upon which the action is based. The clerk may also validate any seizure before judgment made in the proceeding.

1965 (1st sess.), c. 80, a. 194; 1992, c. 57, s. 420; 2002, c. 7, s. 32.

195. *An action not contemplated in article 194 is inscribed for proof and hearing before the court or, if it is not an application for separation from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union or an application relating to filiation or parental authority, before the special clerk.*

The proof and hearing are governed by the provisions of articles 280 to 331, except that a defendant foreclosed from pleading may not produce any witnesses.

1965 (1st sess.), c. 80, a. 195; 1972, c. 70, s. 10; 1977, c. 73, s. 7; 1982, c. 17, s. 11; 1992, c. 57, s. 244, s. 420; 2002, c. 6, s. 93.

196. *When proof and hearing are necessary, and the defendant has made default to appear, the witnesses may be heard out of court; but if the defendant has appeared the witnesses can only be heard out of court with the permission of the court or the consent of the parties.*

Notwithstanding the foregoing, the court cannot maintain an application for the annulment of a marriage or a civil union unless the plaintiff's evidence has been given before the court.

The depositions must then by made by affidavits sufficiently detailed to establish all the necessary facts in support of the conclusions sought, or be taken by stenography or written down, before a person authorized to administer the oath, and be filed in the record, and shall have the same effect as if taken in open court.

1965 (1st sess.), c. 80, a. 196; 1982, c. 58, s. 20; 1986, c. 85, s. 1; 2002, c. 6, s. 94.

197. *If there are several defendants and only one or some of them make default to appear or to plead, the plaintiff may proceed at once to judgment against those in default, by inscribing for judgment by the court, after giving notice to all who have appeared. However, if the court is of opinion that the case requires a uniform decision for all the defendants, whether by reason of the object of the demand or in order to avoid contradictory judgments, it shall not render judgment immediately but shall order that the action be decided by one judgment as regards all defendants.*

1965 (1st sess.), c. 80, a. 197.

198. *(Repealed).*

1965 (1st sess.), c. 80, a. 198; 1983, c. 28, s. 8; 1992, c. 57, s. 245.

198.1. *Where a proceeding introductive of suit was transmitted to a foreign state in order to be served in accordance with any mode of service acknowledged by the law of that state for the service of proceedings from abroad in its territory and it is proved that, despite reasonable efforts in applying to the proper authorities of that state to obtain a return of service, no such return was received within six months of the transmission of the application, the judge may render a judgment against a defendant who has not appeared or who has not pleaded.*

1985, c. 29, s. 9.

TITLE IV

INCIDENTAL PROCEEDINGS

CHAPTER I

AMENDMENTS

199. *At any time before judgment, the parties may amend their pleadings without leave and as often as necessary provided the amendment is not useless or contrary to the ends of justice and does not result in an entirely new action or application having no connection with the original one.*

An amendment may be made, for instance, to modify, correct or complete allegations or conclusions, to invoke new facts or to assert a right accrued since service of the motion to institute proceedings.

1965 (1st sess.), c. 80, a. 199; 1996, c. 5, s. 19; 2002, c. 7, s. 33.

200. *A party who amends a pleading must notify the amended pleading to the other parties and file a copy at the office of the court. The other parties have 10 days to express their opposition in writing, notify it to the other parties and file a copy at the office of the court.*

If no opposition is filed, the amended pleading is accepted; if an opposition is filed, the party who intends to amend the pleading applies to the court for a determination.

The time allowed for answering an amended pleading is agreed between the parties or, failing that, determined by the court, and runs either from the date of notification of the amended pleading or from the date of the judgment authorizing the amendment, as the case may be.

1965 (1st sess.), c. 80, a. 200; 2002, c. 7, s. 33; 2002, c. 54, s. 2.

201. *(Replaced).*

1965 (1st sess.), c. 80, a. 201; 1999, c. 40, s. 56; 2002, c. 7, s. 33.

202. *(Replaced).*

1965 (1st sess.), c. 80, a. 202; 2002, c. 7, s. 33.

203. *(Replaced).*

1965 (1st sess.), c. 80, a. 203; 2002, c. 7, s. 33.

204. *The court may, of its own motion, at any time before judgment and on such conditions as it deems just, order the immediate correction of any error of form, expression, calculation or writing in any written pleading.*

1965 (1st sess.), c. 80, a. 204.

205. *The court may, during the trial and in the presence of the opposite party, authorize an amendment upon an oral request; the decision must be noted in the minutes of trial and the amended pleading must be filed in the record as soon as possible, without service being necessary.*

1965 (1st sess.), c. 80, a. 205; 2002, c. 7, s. 34.

206. *When, by an amendment, a new defendant is joined in an action, he must be served with a copy of the motion to institute proceedings in the ordinary manner.*

1965 (1st sess.), c. 80, a. 206; 1996, c. 5, s. 20; 2002, c. 7, s. 35.

207. *The judge may, on such conditions as he considers just, allow the plaintiff to serve anew the motion to institute proceedings when the first service is irregular.*

1965 (1st sess.), c. 80, a. 207; 1996, c. 5, s. 21; 2002, c. 7, s. 36.

CHAPTER II

PARTICIPATION OF THIRD PARTIES IN THE ACTION

DIVISION I

VOLUNTARY INTERVENTION

208. *Any person interested in an action to which he is not a party, or whose presence is necessary to authorize, assist or represent a party who is incapable, may intervene therein at any time before judgment.*

1965 (1st sess.), c. 80, a. 208.

209. *Voluntary intervention is termed aggressive when the third party asks that he be acknowledged as having, against the parties or one of them, a right which is in dispute; it is termed conservatory when the third party only seeks to be substituted for one of the parties, in order to represent him, or to be joined with such party in order to assist him, either to aid his action or to support his pretensions.*

1965 (1st sess.), c. 80, a. 209.

210. *A third party who intends to intervene in a proceeding for conservatory or aggressive purposes must notify a declaration to all the parties, specifying the party's interest in the case and the conclusions sought and stating the facts justifying such conclusions, and file a copy of the declaration at the office of the court; in addition, the third party's declaration must propose an intervention procedure which must be consistent with any agreements between the parties and with the timetable agreed between them or determined by the court.*

The parties have 10 days to express their opposition in writing, notify it to the parties and file a copy at the office of the court. If no opposition is filed, the third party's interest is presumed sufficient and the intervention procedure accepted. If an opposition is filed, the third party shall apply to the court for a determination; if it authorizes the intervention, the court determines the intervention procedure.

An intervening party becomes a party to the proceeding.

1965 (1st sess.), c. 80, a. 210; 2002, c. 7, s. 37.

211. *A third party may ask to intervene in order to make representations during the trial. The third party must inform the parties in writing of the purpose of and the grounds for the intervention. After hearing the parties, the court may authorize the intervention if it deems it expedient, having regard to the questions at issue.*

1965 (1st sess.), c. 80, a. 211; 2002, c. 7, s. 37.

212. *(Replaced).*

1965 (1st sess.), c. 80, a. 212; 2002, c. 7, s. 37.

213. *(Replaced).*

1965 (1st sess.), c. 80, a. 213; 1999, c. 40, s. 56; 2002, c. 7, s. 37.

214. *(Replaced).*

1965 (1st sess.), c. 80, a. 214; 1984, c. 26, s. 6; 1994, c. 28, s. 8; 2002, c. 7, s. 37.

215. *When the principal action and the intervention are heard at the same time, a single judgment decides them both.*

1965 (1st sess.), c. 80, a. 215.

DIVISION II

FORCED INTERVENTION OR JOINDER OF PARTIES

216. *Any party to a case may implead a third party whose presence is necessary to permit a complete solution of the question involved in the action, or against whom he claims to exercise a recourse in warranty.*

1965 (1st sess.), c. 80, a. 216.

217. *Such forced intervention is effected by ordinary summons and the application must be filed with a copy of the motion to institute proceedings.*

1965 (1st sess.), c. 80, a. 217; 1996, c. 5, s. 22; 2002, c. 7, s. 38.

218. *(Repealed).*

1965 (1st sess.), c. 80, a. 218; 1999, c. 40, s. 56; 2002, c. 7, s. 39.

219. *A third party called in simple or personal warranty cannot take up the defence of the warrantee; he can merely contest the demand against the latter, if he thinks proper.*

1965 (1st sess.), c. 80, a. 219.

220. *A third party called in legal warranty may take up the defence of the warrantee, who may be relieved from the contestation if he so requires. Although relieved from the contestation, the warrantee may nevertheless act therein for the conservation of his rights.*

Judgments rendered against the warrantor may, after being served on the warrantee, be executed against the latter.

1965 (1st sess.), c. 80, a. 220.

221. *(Repealed).*

1965 (1st sess.), c. 80, a. 221; 1999, c. 40, s. 56; 2002, c. 7, s. 40.

222. *Unless the court decides otherwise, the principal action and the action in warranty must be heard jointly, and a single judgment decides them both.*

The plaintiff in the principal action or any other party has an interest to make any useful application to ensure that the action in warranty does not cause undue delay in the principal action.

1965 (1st sess.), c. 80, a. 222; 1984, c. 26, s. 7; 1996, c. 5, s. 23.

CHAPTER III

IMPROBATION

223. *A party may, during the suit, demand that an authentic writing that he or the opposite party intends to avail himself of at the hearing or that has already been filed in the record be declared a forgery or to have been falsified.*

Such incidental improbation may be begun at any time before judgment; but, after the closing of the proof, it can only be allowed if the party shows that he did not earlier become aware of the forgery.

1965 (1st sess.), c. 80, a. 223; 1994, c. 28, s. 9.

223.1. *A party who intends to improbate a document must, before proceeding, issue a notice requiring the opposite party to declare whether or not that party intends to use the contested document.*

If the opposite party does not respond within five days of receipt of the notice, or declares that the party does not intend to use the document, the document may not be produced at the hearing on the principal action or, if it is already filed, the document is removed from the record.

If the opposite party declares that the party intends to use the document, the motion in improbation must be disposed of by the court.

2002, c. 7, s. 41.

224. *The motion must set out the grounds of improbation and is served on all parties and on the public officer who is in possession of the original of the document. The motion must be accompanied by an affidavit and a notice of presentation indicating the date on which the court will be asked to rule on the motion.*

The motion must also be accompanied by a certificate of the clerk that there has been deposited in the office of the court an amount considered sufficient to cover the costs of the opposite party if the motion is dismissed.

1965 (1st sess.), c. 80, a. 224; 1992, c. 57, s. 420; 2002, c. 7, s. 42.

225. *(Repealed).*

1965 (1st sess.), c. 80, a. 225; 2002, c. 7, s. 43.

226. *(Repealed).*

1965 (1st sess.), c. 80, a. 226; 2002, c. 7, s. 43.

227. *(Repealed).*

1965 (1st sess.), c. 80, a. 227; 1994, c. 28, s. 10; 2002, c. 7, s. 43.

228. *When the original of the impugned document has not already been filed in the record, the judge, at the request of one of the parties, may order the person who has custody of the document to deposit it in the office of the court within the time fixed, under all legal penalties.*

1965 (1st sess.), c. 80, a. 228; 1999, c. 40, s. 56; 2002, c. 7, s. 44.

229. *(Repealed).*

1965 (1st sess.), c. 80, a. 229; 2002, c. 7, s. 45.

230. *The judgment which decides the improbation determines, if necessary, to whom the document shall be handed over.*

1965 (1st sess.), c. 80, a. 230.

231. *(Repealed).*

1965 (1st sess.), c. 80, a. 231; 2002, c. 7, s. 46.

CHAPTER IV

CONTESTATION AND CORRECTION OF RETURNS

232. *A party may ask that the return of a sheriff, bailiff or other court officer, or of any person authorized to make a return of service, be declared untrue or inaccurate.*

1965 (1st sess.), c. 80, a. 232.

233. *The court may grant leave to correct any error appearing in a return mentioned in article 232.*

1965 (1st sess.), c. 80, a. 233.

CHAPTER V

RECUSATION

234. *A judge may be recused in particular:*

(1) If the judge is the spouse of or related or allied within the degree of cousin-german inclusively to one of the parties;

(2) If the judge is himself or herself a party to an action involving a question similar to the one in dispute;

(3) If the judge has given advice upon the matter in dispute, or has previously taken cognizance of it as an arbitrator, if the judge has acted as attorney for any of the parties, or if the judge has made known his or her opinion extra-judicially;

(4) If the judge is directly interested in an action pending before a court in which any of the parties will be called to sit as judge;

(*5*) *If there is mortal enmity between him or her and any of the parties, or if the judge has made threats against any of the parties, since the institution of the action or within six months previous to the proposed recusation;*

(*6*) *If the judge is the legal representative, the mandatary or the administrator of the property of a party to the suit, or if the judge is, in relation to one of the parties, a successor or a donee;*

(*7*) *If the judge is a member of an association, partnership or legal person, or is manager or patron of some order or community which is a party to the suit;*

(*8*) *If the judge has any interest in favouring any of the parties;*

(*9*) *If the judge is the spouse of or is related or allied to the attorney or counsel or to the partner of any of them, either in the direct line, or in the collateral line in the second degree;*

(*10*) *if there is reasonable cause to fear that the judge will not be impartial.*

1965 (1st sess.), c. 80, a. 234; 1992, c. 57, s. 246; 2002, c. 6, s. 95; 2002, c. 7, s. 47.

235. *A judge is disqualified if he or his spouse is interested in the action.*

1965 (1st sess.), c. 80, a. 235; 1977, c. 73, s. 8; 2002, c. 6, s. 236.

236. *A judge who is aware of a ground of recusation to which he or she is liable must, without waiting until it is invoked, declare it in a writing filed in the record and so inform the chief judge or chief justice. The latter designates another judge to continue the matter and informs the parties by means of a writing, which must also be filed in the record.*

Likewise, a party who is aware of a ground of recusation against the judge must declare it without delay in a writing filed in the record and notify a copy to the judge and to the other parties.

1965 (1st sess.), c. 80, a. 236; 2002, c. 7, s. 48.

237. *The recusation motion is proposed after notification by the clerk, to all the parties in the case, of a declaration made under article 236.*

Failing such declaration, recusation may be proposed at any stage of the case, if the party shows that he has been diligent.

A recusation motion must be in writing if it is presented before the hearing, but may be presented orally during the course of the hearing, in which case the grounds for the motion are recorded in the minutes.

1965 (1st sess.), c. 80, a. 237; 1992, c. 57, s. 420; 2002, c. 7, s. 49.

238. *A recusation motion is disposed of by the judge seized of the case. The judge's decision is subject to appeal in accordance with the rules applicable to appeals from an interlocutory judgment.*

1965 (1st sess.), c. 80, a. 238; 1999, c. 40, s. 56; 2002, c. 7, s. 50.

239. *If recusation is proposed against the sole judge designated to preside over the court in the district where the case is pending, the clerk must forthwith inform the chief justice.*

1965 (1st sess.), c. 80, a. 239; 1992, c. 57, s. 420.

240. *The clerk must inform the chief judge or chief justice of any case the hearing of which is postponed because of the judge's decision to recuse himself or herself.*

1965 (1st sess.), c. 80, a. 240; 2002, c. 7, s. 51.

241. *If the recusation is maintained, the recused judge must not be present during the proof and hearing of the case; if it is dismissed, the judge cannot refuse to sit.*

1965 (1st sess.), c. 80, a. 241.

242. *Except in the case mentioned in article 235, the parties may renounce in writing their right to recuse, but a judge who is subject to any ground of recusation may refuse to sit, even if recusation is not proposed.*

1965 (1st sess.), c. 80, a. 242.

CHAPTER VI

DISAVOWAL

243. *A party may disavow an attorney who has exceeded his powers or who has acted for him without a mandate.*

1965 (1st sess.), c. 80, a. 243.

244. *A disavowal may be taken during the suit in accordance with the provisions of this chapter.*

It may also be taken after judgment, by an ordinary action, which does not suspend the execution unless the judge so orders.

1965 (1st sess.), c. 80, a. 244.

245. *A disavowal motion is served on the attorney disavowed and notified to all parties in the case.*

1965 (1st sess.), c. 80, a. 245; 2002, c. 7, s. 52.

246. *(Repealed).*

1965 (1st sess.), c. 80, a. 246; 1992, c. 57, s. 247; 2002, c. 7, s. 53.

247. *If the disavowal is maintained, the acts disavowed are annulled and the parties are placed in the same position as they were in when the acts were done.*

1965 (1st sess.), c. 80, a. 247.

CHAPTER VII

CHANGE OF ATTORNEYS

248. *If, before the case is taken under advisement, the attorney of one of the parties dies, becomes unable to act or withdraws, no proceeding can be taken and no judgment rendered, under pain of nullity, before the party has appeared personally or appointed another attorney or, after being called upon to do so, has made default.*

1965 (1st sess.), c. 80, a. 248.

249. *An attorney who wishes to cease representing a party must, if the date of the hearing has yet to be determined, notify a declaration to the party concerned and to the opposite party and file a copy at the office of the court. The parties each have 10 days to express their opposition in writing, notify it to the other parties and file a copy at the office of the court.*

If no opposition is filed, the declaration is accepted and the party is deemed from that moment to be no longer represented. If an opposition is filed, the attorney applies to the court.

If the date of the hearing has been determined, an attorney may not cease to represent a party without leave of the court.

1965 (1st sess.), c. 80, a. 249; 2002, c. 7, s. 54.

250. *A party who is represented by an attorney is deemed to know of the suspension or death of the attorney of the opposite party, or of his appointment to a public office incompatible with the practice of his profession, without any notice being necessary.*

1965 (1st sess.), c. 80, a. 250.

251. *When one of the parties ceases to be represented before the case is taken under advisement, the opposite party must serve him with a notice to appoint another attorney or to file a written appearance on his own behalf.*

If the party fails, within 10 days, to conform to the notice, the opposite party may, after inscription, proceed as in a case by default, if he is plaintiff, or ask for the dismissal of the action, saving the plaintiff's recourse, if he is defendant.

1965 (1st sess.), c. 80, a. 251; 1992, c. 57, s. 248.

252. *A party may not revoke the powers of his attorney unless he pays him his fees and disbursements, taxed after notice given.*

A party who revokes the powers of his attorney must, without being notified to do so by the opposite party, immediately appoint another attorney or file a written appearance on his own behalf; in default of his so doing the case is proceeded with as provided in article 251.

1965 (1st sess.), c. 80, a. 252.

253. *The substitution of one attorney for another must be authorized by the judge or clerk, if a party expresses his or her opposition in writing, notifies it to the other parties and files a copy at the office of the court.*

1965 (1st sess.), c. 80, a. 253; 1969, c. 81, s. 6; 1992, c. 57, s. 420; 2002, c. 7, s. 55.

253.1. *Where the parties bring an action by way of a joint suit and are represented by the same attorney, the court may adjourn the hearing of the action until each party has appeared in person or appointed a new attorney, if it considers that the action raises genuine problems and that, owing to the mode of representation, it will not be possible for justice to be done.*

1982, c. 17, s. 12.

CHAPTER VIII

CONTINUANCE OF SUIT

254. *A case which has been taken under advisement cannot be retarded by the change of civil status of any of the parties, by the cessation of the functions within which he was acting, or by his death.*

1965 (1st sess.), c. 80, a. 254.

255. *An attorney who learns of the change of civil status or of the death of the party whom he is representing, or of the cessation of the functions within which such party was acting, is bound to notify the opposite party in writing.*

1965 (1st sess.), c. 80, a. 255.

256. *All proceedings taken before the service of the notice mentioned in article 255 are valid; those taken afterwards are null, and the suit is suspended until it is continued by those interested or until they have been called in to continue it.*

1965 (1st sess.), c. 80, a. 256.

257. *A suit may be continued:*

(1) by the heirs or representatives of a deceased party or the liquidator of the succession, or by the person who has acquired the right which is the subject of the suit;

(2) by a person who, as a result of a change of status or capacity of one of the parties or of his loss of capacity, has acquired the capacity and the necessary interest to do so;

(3) (paragraph repealed);

(4) by the person who replaces a party whose functions have ceased.

1965 (1st sess.), c. 80, a. 257; 1972, c. 70, s. 11; 1982, c. 17, s. 13; 1992, c. 57, s. 249.

258. *Continuance of suit is effected by filing in the office of the court and serving on all the parties in the case an appearance and an affidavit setting forth the facts which give rise to the continuance.*

The right to continue the suit may, within 10 days of such appearance, be contested in the ordinary way; in default of such contestation, the continuance is held to be admitted.

1965 (1st sess.), c. 80, a. 258; 1992, c. 57, s. 250.

259. *If the interested parties fail to continue the suit, the party remaining gives them formal notice to do so. If continuance of suit is not effected within 10 days of notification, the plaintiff may proceed by default or the defendant may request the dismissal of the action, unless an interested party is relieved from default by the court.*

1965 (1st sess.), c. 80, a. 259; 2002, c. 7, s. 56.

260. *(Replaced).*

1965 (1st sess.), c. 80, a. 260; 2002, c. 7, s. 56.

261. *(Replaced).*

1965 (1st sess.), c. 80, a. 261; 2002, c. 7, s. 56.

CHAPTER IX

DISCONTINUANCE

262. *A party may at any time discontinue his suit or proceeding.*

1965 (1st sess.), c. 80, a. 262.

263. *Discontinuance is effected by a simple declaration signed by the party or his attorney, and presented at the trial or filed in the office of the court.*

Unless made at the trial in the presence of the opposite party, the discontinuance has no effect against him until it has been served upon him.

1965 (1st sess.), c. 80, a. 263.

264. *Discontinuance replaces matters in the state in which they would have been had the suit to which it applies not been commenced.*

It involves the obligation to pay the costs occasioned by the suit, which costs are adjudged to the opposite party by the clerk, upon inscription.

1965 (1st sess.), c. 80, a. 264; 1992, c. 57, s. 420.

264.1. *If one of the parties discontinues a joint suit, either of the parties may continue the suit alone. In that case, the motion to institute proceedings is amended and served on the opposite party and the suit is continued pursuant to the rules applicable to any suit.*

2002, c. 7, s. 57.

CHAPTER X

Repealed, 2002, c. 7, s. 58.

2002, c. 7, s. 58.

265. *(Repealed).*

1965 (1st sess.), c. 80, a. 265; 1996, c. 5, s. 24; 2002, c. 7, s. 58.

266. *(Repealed).*

1965 (1st sess.), c. 80, a. 266; 2002, c. 7, s. 58.

267. *(Repealed).*

1965 (1st sess.), c. 80, a. 267; 1992, c. 57, s. 251; 2002, c. 7, s. 58.

268. *(Repealed).*

1965 (1st sess.), c. 80, a. 268; 2002, c. 7, s. 58.

269. *(Repealed).*

1965 (1st sess.), c. 80, a. 269; 1996, c. 5, s. 25; 2002, c. 7, s. 58.

CHAPTER XI

JOINDER OF ACTIONS

270. *Even where the claims do not originate from the same source or from related sources, two or more actions between the same parties, brought before the same jurisdiction, may be joined by order of the court, if it appears expedient to the court to hear them together and if it causes no undue delay for any of the actions or serious injury to any third person interested in any of the actions.*

1965 (1st sess.), c. 80, a. 270; 1984, c. 26, s. 8; 1992, c. 57, s. 252; 1994, c. 28, s. 11; 2002, c. 7, s. 59.

271. *The court may also order that several actions brought before it, whether or not involving the same parties, be tried at the same time and decided on the same evidence; it may also order that the evidence in one be used in another or that one be tried and decided first and the others meanwhile stayed.*

1965 (1st sess.), c. 80, a. 271; 1984, c. 26, s. 9; 1994, c. 28, s. 12; 2002, c. 7, s. 60.

272. *An order under article 270 or 271 may be issued at any stage of a proceeding, but it may be revoked by the trial judge if he is of opinion that it is in the interest of justice to do so. No appeal lies from such order or from the order revoking it.*

1965 (1st sess.), c. 80, a. 272; 2002, c. 7, s. 61.

273. *When the Superior Court and the Court of Québec are seized of actions having the same juridical basis or raising the same questions of law and fact, the Court of Québec must, if one of the parties so requests and no serious prejudice can result to the opposite party, suspend the hearing of the case before it until the judgment in the case before the Superior Court has become definitive.*

An order by the Court of Québec suspending the hearing may be revoked if warranted by new circumstances.

1965 (1st sess.), c. 80, a. 273; 1988, c. 21, s. 66; 2002, c. 7, s. 62.

CHAPTER XII

SPLITTING OF ACTION

1996, c. 5, s. 26; 2002, c. 7, s. 63.

273.1. *The court may, on an application, split an action in any matter at any stage of the proceeding.*

The resulting trials are held before the same judge, unless the chief judge or chief justice decides otherwise.

1996, c. 5, s. 26; 2002, c. 7, s. 63.

273.2. *No appeal lies from the judgment on the application for the splitting of an action; the right to appeal judgments on the merits only arises upon the issue of the judgment terminating the proceedings.*

1996, c. 5, s. 26; 2002, c. 7, s. 63.

TITLE V

PROOF AND HEARING

CHAPTER I

TRIAL BEFORE THE COURT

DIVISION I

INSCRIPTION

274. *If the defence is in writing, either party may, as soon as the issue is joined, inscribe the case for proof and hearing.*

1965 (1st sess.), c. 80, a. 274; 1999, c. 46, s. 4; 2002, c. 7, s. 64.

274.1. *The inscription form is filed together with a declaration containing the following information:*

(1) the names and addresses of the parties and, if they are represented by counsel, the names and addresses of their attorneys;

(2) a list of the exhibits communicated to the other parties;

(3) *the expected length of the hearing; and*

(4) *a list of witnesses, except where there is reasonable cause not to disclose their names.*

2002, c. 7, s. 64.

274.2. *The inscription and the declaration must be notified to the other parties.*

Within 30 days of inscription, each of the other parties must file a declaration containing the same information and notify it to the other parties.

2002, c. 7, s. 64.

274.3. *The inscription form must be filed at the office of the court within a peremptory time limit of 180 days or, in family matters, one year from service of the motion to institute proceedings, unless the court extends the time limit in accordance with article 110.1, in which case the inscription form must be filed before the expiry of the extended time limit, and make a reference to the extension order. A plaintiff who fails to inscribe within the time limit is deemed to have discontinued the action or application.*

A cross-plaintiff is not required to inscribe the case. However, if the plaintiff in the principal action fails to inscribe the case within the time limit, the cross-plaintiff may do so within 30 days after the expiry of the time limit.

The clerk must refuse any inscription after expiry of the time limit.

2002, c. 7, s. 64; 2004, c. 14, s. 5.

275. *The clerk keeps such rolls as are determined by the rules of practice of the court.*

1965 (1st sess.), c. 80, a. 275; 1982, c. 17, s. 14; 1992, c. 57, s. 253; 2002, c. 7, s. 65.

275.1. *(Repealed).*

1994, c. 28, s. 13; 1999, c. 46, s. 5.

276. *(Repealed).*

1965 (1st sess.), c. 80, a. 276; 1972, c. 70, s. 12; 1984, c. 26, s. 10; 1994, c. 28, s. 14; 2002, c. 7, s. 66.

277. *(Repealed).*

1965 (1st sess.), c. 80, a. 277; 1994, c. 28, s. 15.

278. *Subject to the rules of practice, the clerk sends to the parties and their attorneys a notice of the date fixed for proof and hearing at least 30 days and not more than 60 days before proof and hearing, unless the parties agree to a shorter period of time. Such notice is sent by mail or, if the circumstances require it, by any other means authorized by the Government.*

The clerk files in the record a note of the sending of the notice to the parties, which establishes as presumption of its receipt by the party.

If a copy of the roll has been sent to the attorneys in accordance with the rules of practice, failure to receive the notice by the parties cannot stay proceedings.

1965 (1st sess.), c. 80, a. 278; 1972, c. 70, s. 13; 1975, c. 83, s. 19; 1983, c. 28, s. 9; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

DIVISION II

PRE-TRIAL

279. *After a case has been inscribed or scheduled for proof and hearing, the judge assigned to hear it, or any other judge designated by the chief justice, if he believes it useful or if he is so requested, invites the attorneys to discuss appropriate means to simplify the suit and to shorten the hearing, including the advisability of amendments to the pleadings, of defining the questions of law and fact really in controversy, of admitting some fact or document and of providing the list of authorities they intend to submit. During the conference, the parties must provide access to the original of the exhibits that they have communicated and that they intend to refer to at the hearing.*

The conference may also be called and presided over by a person designated by the chief justice who is a retired judge or an advocate with at least 10 years of practice. Years in which a person acquired relevant legal experience may be considered by the chief justice to be years of practice.

The agreements and decisions made at such conference are recorded in minutes signed by the attorneys and countersigned by the person who presided over the pre-trial and, as far as they go, govern the hearing before the trial judge, unless he permits a derogation therefrom to prevent an injustice.

1965 (1st sess.), c. 80, a. 279; 1984, c. 26, s. 11; 1994, c. 28, s. 16; 2002, c. 7, s. 67.

DIVISION III

SUMMONING WITNESSES

280. *The party who wishes a witness to testify may summon him by a writ of subpoena issued by a judge, clerk or advocate of the district where the case is to be heard or any other district and served at least 10 days before the appearance.*

However, in cases of urgency, the judge or clerk may, by special order entered on the writ of subpoena, allow a shorter time for service, but it cannot be made less than 24 hours before the time fixed for appearance.

1965 (1st sess.), c. 80, a. 280; 1977, c. 5, s. 14; 1977, c. 73, s. 9; 1984, c. 46, s. 5; 1992, c. 57, s. 420; 1999, c. 40, s. 56; 2002, c. 7, s. 68.

281. *A witness may be summoned to declare what he knows, to produce some document, or to do both.*

The summons must specify the nature of the case, and invite the witness to contact the attorney whose coordinates appear on the summons.

A notary or a land surveyor may not be summoned for the sole purpose of depositing an authentic copy of an act executed en minute, except in the case of an improbation.

1965 (1st sess.), c. 80, a. 281; 2002, c. 7, s. 69.

281.1. *A party who summons a witness must advance to the witness, for the first day of attendance at court, the loss of time indemnity and the travel, meal and overnight accommodation allowances prescribed by government regulation; the summons must contain clear information in this regard.*

2002, c. 7, s. 70.

282. *A person residing in the Province of Ontario may be compelled to appear as a witness, if the judge or the clerk is satisfied that his presence is necessary and if there is not another action between the same parties and for the same cause pending in the Province of Ontario.*

Such summons, however, can only be made upon a special order of the judge or the clerk written on the writ of subpoena which must be served in conformity with the law of Ontario, by a person of full age, who must make a return thereof under oath.

1965 (1st sess), c. 80, a. 282; 1975, c. 83, s. 20; 1977, c. 73, s. 10; 1992, c. 57, s. 420.

283. *A person in prison can only be summoned on an order from the judge or clerk commanding the director or gaoler, as the case may be, to bring him before the court to give evidence.*

1965 (1st sess.), c. 80, a. 283; 1992, c. 57, s. 420; 2002, c. 24, s. 209.

284. *When a person who has been duly summoned and to whom travelling expenses and, if applicable, a loss of time indemnity and meal and overnight accommodation allowances have been advanced fails to appear, the judge, if he is of the opinion that his evidence may be useful, may issue a warrant for his arrest and order that he be imprisoned until he has given evidence, or that he be released on giving good and sufficient security that he will remain at the disposition of the court. The warrant for his arrest issued under this article may be executed by a bailiff.*

Examination of a witness detained in custody must begin without undue delay.

The judge may, in addition, condemn the person so arrested to pay, in whole or in part, the costs caused by his default.

A defaulting witness who resides in the Province of Ontario can only be punished by the court within whose jurisdiction he resides, upon a certificate of the court attesting his default.

1965 (1st sess.), c. 80, a. 284; 1972, c. 70, s. 14; 1977, c. 73, s. 11; 1990, c. 4, s. 223; 2002, c. 7, s. 71.

DIVISION IV

ORDER OF TRIAL AND ADJOURNMENT

285. *On the day of the trial, if a party does not produce any witnesses and does not justify the absence of those that he wished to have heard, his proof may be declared closed.*

1965 (1st sess.), c. 80, a. 285.

286. *If a party shows that he has been diligent and makes oath that the absent witness is necessary and that his absence is not due to any contrivance on his part, the case may be adjourned.*

However, the opposite party may require him to declare under oath the facts that the defaulting witness would have stated, and may avoid the adjournment by admitting either the truth of such facts or merely that the witness would have so stated.

1965 (1st sess.), c. 80, a. 286.

287. *When it is established that a witness, by reason of illness or infirmity, has not been able to attend the trial, the court may order that his evidence be taken by the clerk, if all parties are present or have been duly summoned.*

1965 (1st sess.), c. 80, a. 287; 1992, c. 57, s. 420.

288. *The court may always grant an adjournment of the case, on such conditions as it determines.*

1965 (1st sess.), c. 80, a. 288.

289. *The party upon whom the burden of proof lies must proceed first to the examination of his witnesses.*

The opposite party then presents his evidence, after which the other party may adduce evidence in rebuttal.

The court may, in its discretion, allow the examination of other witnesses.

1965 (1st sess.), c. 80, a. 289.

290. *The judge may, during the trial, order that the court go to the scene in order to make any observation which may assist in the determination of the case; and, for this purpose, he may make such orders as he considers necessary.*

1965 (1st sess.), c. 80, a. 290.

291. *At the conclusion of the evidence, the party upon whom the burden of proof lies addresses the court first; the opposite party follows; the other party replies, and if he raises a new point of law, his opponent may answer.*

No other address can be made, unless with the permissions of the court.

1965 (1st sess.), c. 80, a. 291.

292. *At any time before judgment, the presiding judge may draw the attention of the parties to any gap in the proof or in the proceedings and permit them to fill it, on such conditions as he may determine.*

1965 (1st sess.), c. 80, a. 292.

DIVISION V

EXAMINATION OF WITNESSES

293. *(Repealed).*

1965 (1st sess.), c. 80, a. 293; 1992, c. 57, s. 254.

294. *Except where otherwise provided, in any contested case the witnesses are examined in open court, the opposite party being present or duly notified.*

Any party may demand that the witnesses testify outside each other's presence.

1965 (1st sess.), c. 80, a. 294.

294.1. *The court may accept a written statement as testimony, provided the statement is communicated and filed in the record in accordance with the rules contained in this Title concerning the communication and filing of exhibits.*

A party may demand that the party having communicated the statement summon the witness to the hearing, but costs in the amount determined by the court may be awarded against that party if, in the opinion of the court, the production of the written statement would have been sufficient.

1968, c. 84, s. 2; 1975, c. 83, s. 21; 1977, c. 73, s. 12; 1979, c. 45, s. 159; 1984, c. 26, s. 12; 1992, c. 57, s. 255; 1994, c. 28, s. 17; 1999, c. 46, s. 6; 2000, c. 12, s. 315; 2002, c. 7, s. 72.

295. *All persons are competent to testify except those who, because of their physical or mental condition, are not in a fit state to report the facts of which they had knowledge, and any person competent to testify may be compelled to do so.*

A spousal or family relationship, connection by marriage or a civil union and interest are objections only to the credibility of a witness.

1965 (1st sess.), c. 80, a. 295; 2002, c. 6, s. 96.

296. *A person afflicted with an infirmity which renders him unable to speak, or to hear and speak, may take the oath and testify, either by writing under his hand, or by signs with the aid of an interpreter.*

1965 (1st sess.), c. 80, a. 296; 1992, c. 57, s. 256.

297. *The bailiff who served the summons cannot testify to any facts or admissions which came to his knowledge after his being charged with service of the summons, except in relation to the service itself.*

1965 (1st sess.), c. 80, a. 297; 1996, c. 5, s. 27.

298. *Before testifying, the witness must declare his name, age and residence.*

1965 (1st sess.), c. 80, a. 298; 1986, c. 95, s. 63.

299. *No person may testify, under the penalty of the nullity of his deposition, unless he swears that he will tell the truth.*

In all cases, the court must see to it that the form of the oath, which consists in making the solemn affirmation to tell the truth, the whole truth and nothing but the truth, is read to the witness in such a way as to be well understood by him.

1965 (1st sess.), c. 80, a. 299; 1986, c. 95, s. 64; 1992, c. 57, s. 257.

300. *(Repealed).*

1965 (1st sess.), c. 80, a. 300; 1992, c. 57, s. 258.

301. *(Repealed).*

1965 (1st sess.), c. 80, a. 301; 1992, c. 57, s. 259.

302. *Any person present at the trial may be required to testify and is bound to answer as if he had been regularly summoned.*

1965 (1st sess.), c. 80, a. 302.

303. *A witness who is present cannot refuse to testify under pretext that his travelling expenses have not been advanced to him.*

1965 (1st sess.), c. 80, a. 303.

304. *A refusal to take an oath constitutes a refusal to testify.*

1965 (1st sess.), c. 80, a. 304; 1992, c. 57, s. 260.

305. *To facilitate the examination of a witness, the judge may retain the services of an interpreter, whose remuneration forms part of the costs of the case.*

However, the Minister of Justice assumes that remuneration in the judicial districts of Abitibi and Roberval, if one of the parties benefits by the agreement contemplated in the Act approving the Agreement concerning James Bay and Northern Québec (chapter C-67), and in the judicial district of Mingan, if one of

the parties benefits by the agreement contemplated in the Act approving the Northeastern Québec Agreement (chapter C-67.1).

1965 (1st sess.), c. 80, a. 305; 1977, c. 73, s. 13; 1979, c. 37, s. 14; 1981, c. 14, s. 12.

306. *The witness is examined by the party producing him or by his counsel. The questions must deal with the facts in issue only; they must not be put in such a way as to suggest the desired answer, unless the witness evidently attempts to elude a question or to favour another party, or unless, being himself a party to the suit, he has interests opposed to the party who is questioning him.*

1965 (1st sess.), c. 80, a. 306.

307. *A witness cannot be compelled to divulge any communication made to him or her by his or her spouse during their life together.*

1965 (1st sess.), c. 80, a. 307; 2002, c. 6, s. 97.

308. *Similarly, Government officials cannot be obliged to divulge what has been revealed to them in the exercise of their functions provided that the judge is of the opinion, for reasons set out in the affidavit of the Minister or deputy minister to whom the witness is answerable, that the disclosure would be contrary to public order.*

1965 (1st sess.), c. 80, a. 308; 1975, c. 6, s. 96.

309. *A witness cannot refuse to answer for the reason that his reply might tend to incriminate him or to expose him to a legal proceeding of any kind; but if he objects on that ground, his reply cannot be used against him in any penal proceedings instituted under any law of Québec.*

1965 (1st sess.), c. 80, a. 309.

310. *A party cannot impeach the credit of a witness produced by himself, but he may prove by others the contrary of what such witness has stated, or, by leave of the court, he may prove that at another time he has made statements inconsistent with his present testimony, provided, in the latter case, that the witness be first questioned upon the subject.*

1965 (1st sess.), c. 80, a. 310.

311. *A witness who has in his possession any document touching the matter in issue is bound to produce it on demand. Except in the case of an authentic writing, he must allow copies, extracts or reproductions to be made which, when certified by the clerk, have the same probative effect as the original.*

1965 (1st sess.), c. 80, a. 311; 1992, c. 57, s. 420.

312. *The court may order a party to exhibit before the court, or at any other convenient place and time, any real evidence in his possession which witnesses are called upon to identify; if the party fails to obey the order, the identity of the real evidence is deemed to be established against him, unless the court relieves him from his default before judgment is rendered.*

A judge may also order a witness in possession of any real evidence connected with the litigation to produce it.

1965 (1st sess.), c. 80, a. 312; 1992, c. 57, s. 261; 1994, c. 28, s. 18.

313. *A witness who, without valid reason, refuses to answer, is guilty of contempt of court, as is he who, having in his possession some real evidence connected with the litigation, refuses to produce it.*

1965 (1st sess.), c. 80, a. 313; 1994, c. 28, s. 19.

314. *When a party has ceased examining a witness he has produced, any other party with opposing interests may cross-examine such witness on all the facts in issue and may also establish in any manner whatever grounds he may have for objecting to such witness.*

1965 (1st sess.), c. 80, a. 314.

315. *A witness may be heard again by the party who produced him, either to be examined on new facts elicited by the cross-examination or to explain his answers to the questions put by another party.*

1965 (1st sess.), c. 80, a. 315.

316. *If the examination of a witness cannot be completed on the day he appears, he is bound to attend on the next following juridical day, or on such other day as is indicated to him by the court and entered in the minutes of trial. His default renders him liable to the same penalties as for refusing to attend upon the subpoena.*

1965 (1st sess.), c. 80, a. 316.

317. *A witness who withdraws without the permission of the court is subject to the same penalties as he who refuses to attend upon the subpoena.*

1965 (1st sess.), c. 80, a. 317.

318. *The judge may ask the witness any question he deems useful according to the rules of evidence.*

1965 (1st sess.), c. 80, a. 318.

319. *(Repealed).*

1965 (1st sess.), c. 80, a. 319; 1992, c. 57, s. 262.

320. *(Repealed).*

1965 (1st sess.), c. 80, a. 320; 1992, c. 57, s. 262.

321. *A writ of subpoena must indicate, in easily legible type, the right of the witness to require taxation for his costs and expenses according to the tariff fixed by the Government.*

1965 (1st sess.), c. 80, a. 321; 1968, c. 84, s. 3; 1983, c. 28, s. 10.

322. *A witness in favour of whom taxation has been made may execute for it, as under a judgment, against the party who summoned him.*

1965 (1st sess.), c. 80, a. 322.

323. *A party cannot recover the costs of more than five witnesses heard upon the same fact, unless the judge orders otherwise.*

1965 (1st sess.), c. 80, a. 323.

DIVISION VI

TAKING DEPOSITIONS OF WITNESSES

324. *In any case susceptible of appeal pleno jure, the depositions are taken by stenography or recorded in such other manner as may be authorized by the Government.*

In any other case susceptible of appeal, the judge may order that such depositions be taken by stenography or so recorded.

1965 (1st sess.), c. 80, a. 324; 1969, c. 80, s. 6.

325. *The court may order that the stenographer's notes be read to the witness and, if necessary, that they be corrected in open court.*

The stenographer must read out his notes whenever the judge so requires.

1965 (1st sess.), c. 80, a. 325.

326. *The stenographer's notes are transcribed only when the judge so orders or in case of appeal; the cost of such transcription forms part of the costs of the case. In the first case, each party advances the cost of transcribing the depositions of his own witnesses; in the second case, all the costs of transcription are advanced by the appellant.*

1965 (1st sess.), c. 80, a. 326.

327. *The stenographer certifies under his oath of office the correctness of his notes and of their transcription.*

At the commencement of each deposition, he must mention the name of the judge presiding at the trial, the designation of the parties, the names, age, occupation and residence of the witness, and the fact of his having been sworn.

1965 (1st sess.), c. 80, a. 327; 1999, c. 40, s. 56.

328. *The stenographer must observe the rules of practice enacted to ensure the preservation of his notes.*

1965 (1st sess.), c. 80, a. 328.

329. *The judge may, with the consent of the parties, permit a deposition to be taken down in writing, either word for word or in summary; the deposition thus taken is read to the witness, who signs it if he acknowledges it to be correct.*

1965 (1st sess.), c. 80, a. 329.

330. *The person who takes down the depositions must note the objections of the parties, as well as the decisions thereon.*

1965 (1st sess.), c. 80, a. 330.

331. *The admissions made orally by the parties must be noted by the judge or clerk. Such notes, signed by the person who has taken them, are proof of their contents as if they had been signed by the parties themselves.*

1965 (1st sess.), c. 80, a. 331; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

CHAPTER I.1

EXHIBITS

1994, c. 28, s. 20.

DIVISION I

COMMUNICATION OF EXHIBITS

1994, c. 28, s. 20.

331.1. *A party who intends to refer at the hearing to an exhibit in his possession, whether the exhibit be real evidence or a document, including the whole or an abstract of testimony, an expert's report or any other document referred to in articles 294.1, 398.1, 398.2, 399.2 and 402.1, must communicate it to any other party to the proceedings, in accordance with the provisions of this Section.*

1994, c. 28, s. 20.

§ 1. — General provisions

1994, c. 28, s. 20; 1996, c. 5, s. 28; 2002, c. 7, s. 73.

331.2. *In proceedings introduced pursuant to article 110, exhibits must be disclosed to the other parties by means of a notice of disclosure.*

Disclosure is not required if a copy of the exhibits is provided to the parties upon service of a pleading.

In the case of an exhibit in support of a pleading, the notice or the copy of the exhibit must be attached to the pleading being served.

1994, c. 28, s. 20; 1996, c. 5, s. 29; 2002, c. 7, s. 73.

331.3. *The procedure and the time limit for communicating exhibits may be agreed between the parties in the proceeding timetable or determined by the court.*

If the proceeding timetable does not set out the procedure or the time limit for communicating exhibits, a party having received a notice of disclosure may, in writing, request a copy of the exhibits. If the request is not complied with within 10 days after it is received, the party may apply to the court for satisfaction.

1994, c. 28, s. 20; 2002, c. 7, s. 73.

331.4. *Except where otherwise provided in the proceeding timetable, upon inscribing a case for proof and hearing, a party who intends to refer at the hearing to an exhibit in his or her possession other than an exhibit in support of a pleading must communicate the exhibit to all other parties. The other parties must do likewise within 30 days after the inscription, failing which any exhibit they may wish to refer to may be filed only with the authorization of the court.*

In the case of an oral defence and where the hearing is not held at the time of presentation of the motion to institute proceedings, any exhibit to which the first paragraph applies must be communicated within the time limit set forth in the proceeding timetable or determined by the court, failing which the exhibit may be filed only with the authorization of the court.

1994, c. 28, s. 20; 2002, c. 7, s. 73.

331.5. *If, owing to the circumstances, a copy of an exhibit cannot reasonably be provided to a party having requested such a copy, the party in possession of the exhibit must give access thereto by other means.*

If the parties cannot agree, a judge may be requested to determine a communication procedure and, if appropriate, a time limit.

1994, c. 28, s. 20; 2002, c. 7, s. 73.

331.6. *A party that intends to use real evidence at the hearing must give the other parties access to the evidence in accordance with the provisions of this Section, with the necessary modifications.*

1994, c. 28, s. 20; 2002, c. 7, s. 73.

DIVISION II

Heading replaced, 2002, c. 7, s. 73.

1994, c. 28, s. 20; 2002, c. 7, s. 73.

331.7. *If the defence is to be in writing, the parties must file their exhibits at the latest 15 days before the date of the proof and hearing.*

If the defence is to be oral, the parties must file their exhibits at the latest three days before the date of the hearing.

In cases where the defendant is in default for failure to appear or to plead, the exhibits are filed upon inscription or, if there is no inscription, at the hearing.

1994, c. 28, s. 20; 2002, c. 7, s. 73.

§ 2. — Special provisions applicable to certain proceedings and to applications presented during proceedings

2002, c. 7, s. 73.

331.8. *In proceedings other than those introduced pursuant to article 110 and in the case of applications presented during the proceedings, the exhibits used by the plaintiff or applicant must be attached to the motion or application and those used by any other party must be filed as soon as possible before the presentation of the motion or application, failing which exhibits may be filed only with the authorization of the court.*

In the case of real evidence, communication is effected by making the evidence accessible as soon as possible before the presentation of the motion or application.

Exhibits so communicated are filed at the hearing.

1994, c. 28, s. 20; 1996, c. 5, s. 30; 2002, c. 7, s. 73.

DIVISION III

RETRIEVAL AND DESTRUCTION OF EXHIBITS

1994, c. 28, s. 20.

331.9. *Once proceedings are terminated, the parties must retrieve the exhibits they have filed, failing which the exhibits are destroyed by the clerk one year after the date of the judgment or of the proceeding terminating the proceedings, unless the chief justice or chief judge decides otherwise.*

Where a party, on whatever grounds, seeks a remedy against a judgment, the exhibits that have not been retrieved by the parties are destroyed by the clerk one year after the date of the final judgment or of the proceeding terminating the proceedings, unless the chief justice or chief judge decides otherwise.

The child support determination forms attached to the judgment under article 825.13 are excepted from the above rules.

1994, c. 28, s. 20; 2004, c. 5, s. 4; 2012, c. 20, s. 46.

332. *(Repealed).*

1965 (1st sess.), c. 80, a. 332; 1976, c. 9, s. 56.

333. *(Repealed).*

1965 (1st sess.), c. 80, a. 333; 1976, c. 9, s. 56.

334. *(Repealed).*

1965 (1st sess.), c. 80, a. 334; 1976, c. 9, s. 56.

335. *(Repealed).*

1965 (1st sess.), c. 80, a. 335; 1976, c. 9, s. 56.

336. *(Repealed).*

1965 (1st sess.), c. 80, a. 336; 1976, c. 9, s. 56.

337. *(Repealed).*

1965 (1st sess.), c. 80, a. 337; 1976, c. 9, s. 56.

338. *(Repealed).*

1965 (1st sess.), c. 80, a. 338; 1976, c. 9, s. 56.

339. *(Repealed).*

1965 (1st sess.), c. 80, a. 339; 1976, c. 9, s. 56.

340. *(Repealed).*

1965 (1st sess.), c. 80, a. 340; 1976, c. 9, s. 56.

341. *(Repealed).*

1965 (1st sess.), c. 80, a. 341; 1976, c. 9, s. 56.

342. *(Repealed).*

1965 (1st sess.), c. 80, a. 342; 1976, c. 9, s. 56.

343. *(Repealed).*

1965 (1st sess.), c. 80, a. 343; 1976, c. 9, s. 56.

344. *(Repealed).*

1965 (1st sess.), c. 80, a. 344; 1976, c. 9, s. 56.

345. *(Repealed).*

1965 (1st sess.), c. 80, a. 345; 1976, c. 9, s. 56.

346. *(Repealed).*

1965 (1st sess.), c. 80, a. 346; 1976, c. 9, s. 56.

347. *(Repealed).*

1965 (1st sess.), c. 80, a. 347; 1976, c. 9, s. 56.

348. *(Repealed).*

1965 (1st sess.), c. 80, a. 348; 1976, c. 9, s. 56.

349. *(Repealed).*

1965 (1st sess.), c. 80, a. 349; 1976, c. 9, s. 56.

350. *(Repealed).*

1965 (1st sess.), c. 80, a. 350; 1976, c. 9, s. 56.

351. *(Repealed).*

1965 (1st sess.), c. 80, a. 351; 1976, c. 9, s. 56.

352. *(Repealed).*

1965 (1st sess.), c. 80, a. 352; 1976, c. 9, s. 56.

353. *(Repealed).*

1965 (1st sess.), c. 80, a. 353; 1976, c. 9, s. 56.

354. *(Repealed).*

1965 (1st sess.), c. 80, a. 354; 1976, c. 9, s. 56.

355. *(Repealed).*

1965 (1st sess.), c. 80, a. 355; 1976, c. 9, s. 56.

356. *(Repealed).*

1965 (1st sess.), c. 80, a. 356; 1976, c. 9, s. 56.

357. *(Repealed).*

1965 (1st sess.), c. 80, a. 357; 1976, c. 9, s. 56.

358. *(Repealed).*

1965 (1st sess.), c. 80, a. 358; 1976, c. 9, s. 56.

359. *(Repealed).*

1965 (1st sess.), c. 80, a. 359; 1976, c. 9, s. 56.

360. *(Repealed).*

1965 (1st sess.), c. 80, a. 360; 1976, c. 9, s. 56.

361. *(Repealed).*

1965 (1st sess.), c. 80, a. 361; 1976, c. 9, s. 56.

362. *(Repealed).*

1965 (1st sess.), c. 80, a. 362; 1976, c. 9, s. 56.

363. *(Repealed).*

1965 (1st sess.), c. 80, a. 363; 1976, c. 9, s. 56.

364. *(Repealed).*

1965 (1st sess.), c. 80, a. 364; 1976, c. 9, s. 56.

365. *(Repealed).*

1965 (1st sess.), c. 80, a. 365; 1976, c. 9, s. 56.

366. *(Repealed).*

1965 (1st sess.), c. 80, a. 366; 1976, c. 9, s. 56.

367. *(Repealed).*

1965 (1st sess.), c. 80, a. 367; 1976, c. 9, s. 56.

368. *(Repealed).*

1965 (1st sess.), c. 80, a. 368; 1976, c. 9, s. 56.

369. *(Repealed).*

1965 (1st sess.), c. 80, a. 369; 1976, c. 9, s. 56.

370. *(Repealed).*

1965 (1st sess.), c. 80, a. 370; 1976, c. 9, s. 56.

371. *(Repealed).*

1965 (1st sess.), c. 80, a. 371; 1976, c. 9, s. 56.

372. *(Repealed).*

1965 (1st sess.), c. 80, a. 372; 1976, c. 9, s. 56.

373. *(Repealed).*

1965 (1st sess.), c. 80, a. 373; 1976, c. 9, s. 56.

374. *(Repealed).*

1965 (1st sess.), c. 80, a. 374; 1976, c. 9, s. 56.

375. *(Repealed).*

1965 (1st sess.), c. 80, a. 375; 1976, c. 9, s. 56.

376. *(Repealed).*

1965 (1st sess.), c. 80, a. 376; 1976, c. 9, s. 56.

377. *(Repealed).*

1965 (1st sess.), c. 80, a. 377; 1976, c. 9, s. 56.

378. *(Repealed).*

1965 (1st sess.), c. 80, a. 378; 1976, c. 9, s. 56.

379. *(Repealed).*

1965 (1st sess.), c. 80, a. 379; 1976, c. 9, s. 56.

380. *(Repealed).*

1965 (1st sess.), c. 80, a. 380; 1976, c. 9, s. 56.

381. *(Repealed).*

1965 (1st sess.), c. 80, a. 381; 1976, c. 9, s. 56.

CHAPTER II

ARBITRATION BY ADVOCATES

382. *The court may, at the request of the parties, refer a case to the decision of one or more arbitrators selected by them, who must be practising advocates or retired judges.*

The demand for an arbitration must be signed by the parties themselves and must contain the names of the arbitrators, their consent to act and the amount of the remuneration that the parties undertake jointly and severally to pay to them.

1965 (1st sess.), c. 80, a. 382.

383. *After having sworn faithfully to carry out their duties, the arbitrators must notify the parties of the day and hour when and the place where the case will be heard. Such notice must be given in writing between the fifteenth and the tenth day before that fixed for the hearing, unless the parties have otherwise agreed.*

1965 (1st sess.), c. 80, a. 383.

384. *The arbitrators may appoint someone to act as their clerk.*

1965 (1st sess.), c. 80, a. 384.

385. *The provisions of Sections III, IV, V, and VI of Chapter I of Title V of Book II, as to the summoning and examination of witnesses, the taking down of their evidence and the order of trial, apply to the trial before the arbitrators.*

1965 (1st sess.), c. 80, a. 385.

386. *The arbitrators must make their award in writing, in the form of a judgment of the court; if they are not unanimous, those who dissent must give their reasons for so doing.*

1965 (1st sess.), c. 80, a. 386.

387. *The award must, within 30 days of the judgment referring the case to arbitrators, be filed in the office of the court with all documents produced during the hearing, unless the judge has, for valid reason, granted an extension.*

1965 (1st sess.), c. 80, a. 387; 1999, c. 40, s. 56.

388. *The award has no effect unless homologated by the court, on motion of one of the parties.*

The court, seized of such motion, cannot inquire into the merits of the case, but only into the grounds of nullity which may affect the award. If it finds that any formality which has been omitted may be remedied without injustice to the parties, it may make such order as it considers necessary under the circumstances.

1965 (1st sess.), c. 80, a. 388.

389. *The award and the judgment of homologation are recorded by the clerk in the ordinary way.*

1965 (1st sess.), c. 80, a. 389; 1992, c. 57, s. 420.

390. *If the arbitrators delay in hearing the case or do not file their award within the time fixed, the court may either dismiss them and order that the case proceed in the ordinary way, but taking into account any evidence already heard, or make such other order as it considers appropriate; in either case the court adjudicates as to costs according to the circumstances.*

1965 (1st sess.), c. 80, a. 390; 1999, c. 40, s. 56.

391. *If for any reason which the court considers sufficient an arbitrator has ceased acting before the award is filed, the court may allot him a part of the agreed remuneration.*

1965 (1st sess.), c. 80, a. 391.

392. *The arbitrators must, in their award, adjudicate as to the costs, including their remuneration, taking into account the provisions of Chapter III of Title VII of Book II.*

1965 (1st sess.), c. 80, a. 392.

393. *The award, when homologated, may be appealed like any judgment of the Superior Court.*

1965 (1st sess.), c. 80, a. 393.

394. *The provisions of this chapter do not apply when the parties do not have the power to transact or when some matter of public interest is involved; nor do they apply to applications relating to filiation or to parental authority, to applications for separation from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union, for dissolution of legal persons or to annul letters patent.*

1965 (1st sess.), c. 80, a. 394; 1982, c. 17, s. 15; 1992, c. 57, s. 263; 1999, c. 40, s. 56; 2002, c. 6, s. 98.

CHAPTER II.1

REPRESENTATION AND HEARING OF A MINOR OR AN INCAPABLE PERSON OF FULL AGE

1992, c. 57, s. 264.

394.1. *Where, in a proceeding, the court ascertains that the interest of a minor or of a person of full age it considers incapable is at stake and that it is necessary for the safeguard of his interest that the minor or incapable person of full age be represented, it may, even of its own motion, adjourn the hearing of the application until an attorney is appointed to represent him.*

The court may also make any order necessary to ensure such representation, in particular, rule on the fees payable to the attorney and determine who will be responsible for their payment.

1992, c. 57, s. 264.

394.2. *To ensure proper representation of a minor or incapable person of full age, the court must, even of its own motion, in all cases where the interest of the minor or incapable person of full age is opposed to the interest of his legal representative, appoint a tutor or curator ad hoc.*

1992, c. 57, s. 264.

394.3. *Where the court hears a minor or a person of full age it considers incapable, he may be accompanied by a person capable of assisting or reassuring him.*

1992, c. 57, s. 264.

394.4. *Where the interest of a minor or incapable person of full age requires it, the court may, after advising the parties, examine him out of the presence of the parties.*

The deposition is taken down in stenography or recorded, unless waived by the parties. The minutes of the deposition, a transcript of the stenographer's notes or a copy of the recording is sent to the parties on request.

1992, c. 57, s. 264.

394.5. *Where the interest of a minor or of a person of full age it considers incapable requires it, the court may, after so advising all the parties, hear him where he resides or is confined, or in any other place the court considers appropriate.*

1992, c. 57, s. 264.

CHAPTER III

SPECIAL PROCEEDINGS RELATING TO PRODUCTION OF EVIDENCE

DIVISION I

GENERAL PROVISIONS

395. *The provisions of Sections III, V and VI of Chapter I and the provisions of Chapter II.1 of this Title govern, in so far as applicable, the cases covered in this chapter.*

The provisions of this chapter also apply, with the necessary modifications, to cases in which the defence is presented orally.

If any dispute arises during an examination of a witness not before a judge, it must be submitted as soon as possible to a judge for his decision, unless the parties agree to continue the examination under reserve of the objection, which is later decided by the trial judge.

1965 (1st sess.), c. 80, a. 395; 1992, c. 57, s. 265; 2002, c. 7, s. 74.

396. *Subject to article 398.1, the depositions taken by virtue of this chapter form part of the record.*

If the witness is in Québec and can be produced at the trial, he may be examined again, if any party so requires.

1965 (1st sess.), c. 80, a. 396; 1983, c. 28, s. 11.

DIVISION II

EXAMINATION ON DISCOVERY, MEDICAL EXAMINATION AND PRODUCTION OF DOCUMENTS

§ 1. — Examination on Discovery

396.1. *No examination on discovery is permitted where the amount claimed or the value of the property claimed is less than $25,000.*

2002, c. 7, s. 75.

396.2. *Examinations on discovery, whether before or after the filing of the defence, may only be held in accordance with the terms provided in the agreement between the parties or determined by the court, particularly as far as their number and length are concerned.*

2002, c. 7, s. 75.

396.3. *Before an examination on discovery is held, the parties may, by mutual consent, submit any foreseeable objection to the judge for a determination.*

2002, c. 7, s. 75.

396.4. *The court may, on an application, terminate an examination that it considers excessive, vexatious or useless, and rule on the costs.*

2002, c. 7, s. 75.

397. *The defendant may, before the filing of the defence and after two days' notice to the attorneys of the other parties, summon to be examined before the judge or clerk upon all facts relating to the issues between the parties or to give communication and allow copy to be made of any document relating to the issues:*

(1) the plaintiff, or his representative, agent or employee;

(2) in any civil liability action, the victim, and any person involved in the commission of the act which caused the injury;

(3) the person for whom the plaintiff claims as tutor or curator, or for whom he acts as prête-nom, or whose rights he has acquired by transfer, subrogation or other similar title;

(4) with the permission of the court and on such conditions as it may determine, any other person.

1965 (1st sess.), c. 80, a. 397; 1966, c. 21, s. 9; 1969, c. 81, s. 7; 1983, c. 28, s. 12; 1984, c. 26, s. 13; 1992, c. 57, s. 420; 1999, c. 40, s. 56; 2002, c. 7, s. 76.

398. *After defence filed, any party may, after two days' notice to the attorneys of the other parties, summon to be examined before the judge or clerk upon all facts relating to the issues between the parties or to give communication and allow copy to be made of any document relating to the issue:*

(1) any other party, or his representative, agent or employee;

(2) any person mentioned in paragraphs 2 and 3 of article 397;

(3) with the permission of the court and on such conditions as it may determine, any other person.

The defendant cannot, however, without permission of the judge or, in the case referred to in subparagraph 3 of the first paragraph, the court, examine under this article any person whom he has already examined under article 397.

1965 (1st sess.), c. 80, a. 398; 1983, c. 28, s. 13; 1984, c. 26, s. 14; 1992, c. 57, s. 420; 1999, c. 40, s. 56; 2002, c. 7, s. 77.

398.1. *A party having examined witnesses under article 397 or 398 may introduce as evidence the whole or abstracts only of the depositions taken, provided they have been communicated and filed in the record in accordance with the provisions of Section I of Chapter I.1 of this Title.*

However, on the motion of any other party, the court may order any abstract of the deposition which, in its opinion, cannot be dissociated from the abstracts already filed, to be added to the record.

1983, c. 28, s. 14; 1984, c. 26, s. 15; 1994, c. 28, s. 21; 2002, c. 7, s. 78.

398.2. *Article 398.1 applies also in the case of an examination made under article 93, except an examination concerning a detailed affidavit filed in a family matter. However, in the case of a motion other than a motion to institute proceedings, the whole or the abstracts of the depositions that one of the parties intends to file must be served on the other parties at least 10 days before the date of the hearing unless the court decides otherwise.*

1984, c. 26, s. 16; 1994, c. 28, s. 22; 1999, c. 46, s. 7.

§ 2. — Medical Examination

399. *In any case susceptible of appeal, when there is in issue the physical or mental condition of any party or of the person who suffered the injury which has given rise to the action, a party may summon at his expense such person by writ of subpoena to have a medical examination. Such writ must indicate the place where, and the day and hour when the person summoned must attend and the names of the experts entrusted with making the examination; it must be served at least 10 days before the date fixed for the examination, with a notice to the attorney of the person summoned.*

If the person examined so wishes, experts chosen by him may attend such examination.

The judge may however, on motion, for reasons considered valid, quash a writ issued under this article or amend its content.

1965 (1st sess.), c. 80, a. 399; 1969, c. 81, s. 8; 1972, c. 70, s. 15; 1992, c. 57, s. 266.

399.1. *When a person has a medical examination in accordance with article 399, the judge may, on motion, order such person to have another medical examination by one or more experts designated by the applicant, at his expense.*

The examination is held on the date, at the place and under the conditions determined in the judgment which orders it, and, if the person examined so wishes, in the presence of experts chosen by him.

1972, c. 70, s. 15.

399.2. *Notwithstanding the provisions contained in Section I of Chapter I.1 of this Title that pertain to the communication of exhibits, in the case of a motion other than a motion to institute proceedings, a copy of the reports must be served on the parties at least 10 days before the date of the hearing, unless the court decides otherwise.*

1984, c. 26, s. 17; 1994, c. 28, s. 23.

400. *The court may order an establishment governed by the Acts respecting health services and social services to allow a party to examine and make a copy of the medical record of the person examined or a person whose death has given rise to an action in civil liability.*

1965 (1st sess.), c. 80, a. 400; 1972, c. 70, s. 16; 1992, c. 57, s. 267.

§ 3. — Production of Documents

401. *(Repealed).*

1965 (1st sess.), c. 80, a. 401; 1983, c. 28, s. 15.

402. *If, after defence filed, it appears from the record that a document relating to the issues between the parties is in the possession of a third party, he may, upon summons authorized by the court, be ordered to give communication of it to the parties, unless he shows cause why he should not do so.*

The court may also, at any time after defence filed, order a party or a third person having in his possession any real evidence relating to the issues between the parties to exhibit it, preserve it or submit it to an expert's appraisal on such conditions, at such time and place and in such manner as it deems expedient.

1965 (1st sess.), c. 80, a. 402; 1992, c. 57, s. 268; 1994, c. 28, s. 24.

402.1. *Except with leave of the court, no expert witness may be heard unless his written report has been communicated and filed in the record in accordance with the provisions of Sections I and II of Chapter I.1 of this Title. However, in the case of a motion other than a motion to institute proceedings, a copy of the report must be served on the parties at least 10 days before the date of the hearing, unless the court decides otherwise.*

The filing in the record of the whole or abstracts only of the out of court testimony of an expert witness may stand in lieu of his written report.

1972, c. 70, s. 17; 1975, c. 83, s. 22; 1984, c. 26, s. 18; 1994, c. 28, s. 25.

403. *After the filing of the defence, a party may, by notice in writing, call upon the opposite party to admit the genuineness or correctness of an exhibit. A copy of the exhibit must be attached to the notice, except where the exhibit has already been communicated or in the case of real evidence; in the case of real evidence, the exhibit shall be put at the disposal of the opposite party.*

The genuineness or correctness of the exhibit is deemed admitted unless, within 10 days or such time as the judge may fix, the party called upon to admit its genuineness or correctness serves on the other party a sworn statement denying that the exhibit is genuine or correct, or specifying the reasons why he cannot so admit. However, if the ends of justice so require, the court may, before judgment is rendered, relieve the party of his default.

The unjustified refusal to admit the genuineness or correctness of an exhibit may result in a condemnation to the costs resulting therefrom.

1965 (1st sess.), c. 80, a. 403; 1992, c. 57, s. 269; 1994, c. 28, s. 26.

DIVISION III

EXAMINATION OF WITNESSES OUT OF COURT

404. *At any stage of the case, the parties may agree, or the court, if it sees fit to do so, may permit that a witness be heard out of court, provided that all the parties are present or duly summoned.*

Depositions must in that case be made by way of affidavits sufficiently detailed to establish all the facts necessary to support the conclusions sought or be taken down by stenography or in handwriting before a person authorized to administer oaths and be filed in the record to have the same force and effect as if they had been taken at the hearing.

Notwithstanding the foregoing, the court cannot maintain an application for the annulment of a marriage or a civil union nor, where the defendant has filed a defence, an application for separation from bed and board or divorce or for the dissolution of a civil union unless the evidence of the plaintiff has been given before the court.

1965 (1st sess.), c. 80, a. 404; 1968, c. 84, s. 4; 1982, c. 17, s. 16; 1986, c. 85, s. 2; 1988, c. 17, s. 3; 2002, c. 6, s. 99.

DIVISION IV

INTERROGATORIES UPON ARTICULATED FACTS

405. *After the filing of the defence or the filing of the inscription in the case of default to appear or to plead, the parties may be examined upon all articulated facts.*

1965 (1st sess.), c. 80, a. 405; 1992, c. 57, s. 271.

406. *Parties are summoned to answer the interrogatories upon articulated facts by means of an order of the clerk, obtained upon oral request, which requires the party to appear in person before the court, the judge or the clerk, to answer under oath the interrogatories which are annexed to the order.*

1965 (1st sess.), c. 80, a. 406; 1992, c. 57, s. 420; 1996, c. 5, s. 31.

407. *The order to appear and the interrogatories shall be served upon the party personally or at his residence and copies of both are left with his attorney.*

1965 (1st sess.), c. 80, a. 407.

408. *If the party cannot be served or does not reside within the jurisdiction of the court, the order may be served upon him at the office of his attorney or, if he has no attorney, in the manner determined by the judge.*

The attorney who is thus served may apply to have time granted to the party to appear; he may also, if he declares the place where the party is, ask that he be examined before the clerk of the district where he is, or under a rogatory commission.

1965 (1st sess.), c. 80, a. 408; 1992, c. 57, s. 420; 1996, c. 5, s. 32; 1999, c. 40, s. 56.

409. *When the order and interrogatories are served upon a legal person, general or limited partnership or an association within the meaning of the Civil Code, the answers may be either given by any person who holds a general or special authorization for that purpose, or determined by a special resolution and filed in the record by a person authorized.*

1965 (1st sess.), c. 80, a. 409; 1992, c. 57, s. 273.

410. *The interrogatories must be clear and precise, so that the absence of an answer can be taken as an admission of the facts mentioned therein.*

1965 (1st sess.), c. 80, a. 410.

411. *The default of the party to appear or to answer the interrogatories put to him is recorded against him, and the facts covered by the interrogatories are then held to be proved.*

The court may nevertheless require additional evidence. It may also, for cause shown and upon such conditions as it thinks fit, relieve the party of his default and allow him to answer the interrogatories.

1965 (1st sess.), c. 80, a. 411; 1983, c. 28, s. 16.

412. *The answers to the interrogatories are taken down in writing and signed by the party; they must be direct, categorical and precise, failing which they may be rejected and the facts covered by the interrogatories held to be proved.*

1965 (1st sess.), c. 80, a. 412.

413. *The judge, or the person before whom the party is summoned to appear, may put any other interrogatories he may deem necessary and pertinent, which the party must answer, failing which the facts covered by such interrogatories are also held to be proved.*

This article does not apply when the party summoned is a legal person and its answers have been determined by a special resolution.

1965 (1st sess.), c. 80, a. 413; 1992, c. 57, s. 274.

DIVISION V

PROOF BEFORE EXPERTS AND REFERENCES TO AUDITORS AND PRACTITIONERS

§ 1. — General Provisions

413.1. *Where the parties have each communicated an expert's report and the reports are contradictory, the court may, at any stage of the proceeding, even on its own initiative, order the experts concerned to meet, in the presence of the parties and attorneys who wish to attend, and reconcile their opinions, identify the points which divide them and report to the court and to the parties within the time determined by the court.*

2002, c. 7, s. 79.

414. *After issue joined, the court, if it is of opinion that the ends of justice will be better attained, may, even of its own motion:*

(1) order that any fact relating to the case be investigated, verified and determined by an expert whom it designates;

(2) refer to an accountant or practitioner the establishing or auditing of accounts or figures in any matter where accounts have to be rendered or settled and which require calculations to be made, or involve a partition of property.

1965 (1st sess.), c. 80, a. 414.

415. *The court may, exceptionally, if in its opinion the difficulty and importance of the case so require, appoint three experts, or three accountants or practitioners, rather than only one.*

1965 (1st sess.), c. 80, a. 415.

§ 2. — Experts

416. *The judgment appointing an expert must state clearly the duties of the person appointed and the time within which he must file his report.*

The clerk must, without delay, send to the person appointed a copy of the judgment.

1965 (1st sess.), c. 80, a. 416; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

417. *The grounds for recusing an expert are the same as those provided for judges in article 234.*

Recusation is urged by motion, and if it is held to be well founded the court replaces the person recused.

1965 (1st sess.), c. 80, a. 417.

418. *The expert, before entering upon his functions, must be sworn in writing before the judge or clerk to perform his duties faithfully and impartially. If he refuses or neglects to be sworn or to carry out his duties, any of the parties may request the court to replace him.*

1965 (1st sess.), c. 80, a. 418; 1992, c. 57, s. 420.

419. *The expert must give the parties at least five days' notice of the time and place at which he will begin to carry out his instructions.*

1965 (1st sess.), c. 80, a. 419.

420. *The expert may examine any thing or visit any place which he considers useful for the carrying out of his duties.*

He may summon witnesses by means of subpoenas issued by the clerk, administer the oath to them and hear their depositions which are taken down in writing and signed by the witness and countersigned by the expert, unless they have been taken down by a stenographer duly sworn. Mention must be made in the minutes of the relationship of the witnesses with the parties, and of the interest of each in the suit.

1965 (1st sess.), c. 80, a. 420; 1992, c. 57, s. 420.

421. *The expert must, before the expiry of the time fixed by the court, file in the office of the court a signed report of his proceedings and conclusions, to which is annexed evidence of his having been sworn and the documents and testimony which he has taken.*

The report must be sufficiently reasoned and detailed to enable the court to appreciate the facts.

If there are several experts and they are unanimous, they may make one and the same report.

1965 (1st sess.), c. 80, a. 421; 1999, c. 40, s. 56.

422. *The expert may demand that the amount of his remuneration, costs and disbursements be deposited in court before the opening of his report.*

If such deposit is not demanded, the expert has a joint and several recourse against all the parties to the suit for what is due him.

1965 (1st sess.), c. 80, a. 422.

423. *A party may request that the expert's report be rejected on the ground of irregularity or nullity. Unless the report is so questioned and rejected it forms, with the depositions and documents attached, part of the evidence in the case.*

The court is, however, not bound to adopt the opinion of the expert.

1965 (1st sess.), c. 80, a. 423.

424. *An expert who refuses or unduly delays to file his report, is guilty of contempt of court.*

1965 (1st sess.), c. 80, a. 424.

§ 3. — Reference to Auditors and practitioners

425. *Auditors and practitioners have the powers and are subject to the rules prescribed concerning experts, so far as applicable; they are bound to follow the directions of the court.*

1965 (1st sess.), c. 80, a. 425.

DIVISION VI

COMMISSION FOR THE EXAMINATION OF WITNESSES

426. *The court may, on application, appoint a commissioner to receive the testimony of any person who resides outside Québec or in a place too far distant from the place where the case is pending.*

1965 (1st sess.), c. 80, a. 426.

427. *The motion for a rogatory commission must be served on all the parties and, except under particular circumstances left to the discretion of the court, must be presented within 15 days after issue joined. It must contain the names of the proposed commissioner and of the persons to be examined.*

1965 (1st sess.), c. 80, a. 427.

428. *Any party may join in the application and submit the name of a commissioner and that of any other witness whom he wishes to have examined.*

1965 (1st sess.), c. 80, a. 428.

429. *The judgment which appoints a commissioner determines the witnesses to be examined and the manner in which they will be sworn, gives the instructions necessary to guide the commissioner in the carrying out of his duties and fixes the time within which the commission is to be returned. It may also fix an amount to cover the costs and disbursements of the commissioner, and order the applicant to deposit it with the clerk.*

1965 (1st sess.), c. 80, a. 429; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

430. *The commission for the examination of a person on active service in Her Majesty's armed forces outside Québec shall be addressed to the Judge-Advocate General to be executed by a person designated by him.*

1965 (1st sess.), c. 80, a. 430.

431. *The party who applies for a commission, and any parties who have joined in obtaining it, must see that it is transmitted and executed promptly.*

1965 (1st sess.), c. 80, a. 431.

432. *Any party wishing to be represented at the examination shall so advise the commissioner in good time and give him the name and address of a person who will represent him. The commissioner shall then give such person at least five days' notice of the time and place of such examination.*

1965 (1st sess.), c. 80, a. 432.

433. *Any party, if he sees fit to do so, may, after notice to the other parties, have interrogatories and cross-interrogatories admitted by the court and attached to the commission.*

In any event, whether or not there are interrogations formulated beforehand, the commissioner may put, and must allow the parties to put, any questions relevant to the case; he shall reserve any objections made by

the parties to the evidence, but the parties have always the right not to raise such objections except before the court.

1965 (1st sess.), c. 80, a. 433.

434. *The depositions are recorded in writing and signed by the witness and the commissioner, unless they are taken by a stenographer duly sworn.*

1965 (1st sess.), c. 80, a. 434.

435. *The commissioner is authorized to make a copy of any document exhibited by a witness who refuses to part with it.*

1965 (1st sess.), c. 80, a. 435.

436. *Within the time fixed in the judgment, the commissioner shall return to the clerk by registered or certified mail a certificate indorsed upon the commission attesting that he has carried out his duties as set forth in the minutes which he attaches and to which are attached the written depositions of the witnesses and the exhibits they have produced. Such return must be sealed and be indorsed with an indication of its contents and the title of the case.*

1965 (1st sess.), c. 80, a. 436; 1975, c. 83, s. 23; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

437. *Unjustified failure to return the commission cannot prevent the court from proceeding with the trial.*

1965 (1st sess.), c. 80, a. 437.

DIVISION VII

Repealed, 2002, c. 7, s. 80.

2002, c. 7, s. 80.

437.1. *(Repealed).*

1969, c. 80, s. 7; 1992, c. 57, s. 420; 1996, c. 5, s. 33; 2002, c. 7, s. 80.

CHAPTER IV

PERPETUATION OF EVIDENCE

438. *Anyone who, expecting to be a party to a legal proceeding, has reason to fear that some evidence that he will need may become lost or more difficult to present may, by motion, ask:*

(a) that the witnesses whose absence or incapacity he fears be heard before the hearing;

(b) that anything movable or immovable, the condition of which may affect the outcome of the expected legal proceeding, be examined by a person of his choice.

1965 (1st sess.), c. 80, a. 438.

439. *The motion must, in addition to the designation of the applicant and of his eventual opponent, contain:*

(a) a statement of the facts which make a legal proceeding seem likely, and its nature;

(b) the reasons for which the applicant fears that the evidence may be lost or become more difficult to present;

(c) the names and addresses of the witnesses to be heard, the facts upon which they will be questioned, the description and location of the thing to be examined, the purpose of the examination, and the names and address of the person who is to make it.

1965 (1st sess.), c. 80, a. 439.

440. *Any person who carries out on an immovable work which may damage a neighbouring immovable may ask for the examination of the latter without fulfilling the conditions of article 438. In such case, the information required by subparagraphs a and b of article 439 is not necessary.*

1965 (1st sess.), c. 80, a. 440.

441. *The motion is addressed to the court before which the legal proceeding foreseen by the applicant may be brought, and must be served upon the eventual opponent and upon the person in possession of the thing to be examined, at least five days before the date fixed for its presentation.*

1965 (1st sess.), c. 80, a. 441.

442. *If the motion is granted, the hearing of the witnesses and the examination provided for by article 438 take place at the time and place fixed in the judgment or agreed upon by the parties, who must be present or duly called.*

The hearing of the witnesses, which takes place before the clerk unless the court otherwise orders, is governed by the provisions of Chapter I and Chapter II.1 of this Title so far as they are applicable.

1965 (1st sess.), c. 80, a. 442; 1992, c. 57, s. 275, s. 420.

443. *Anyone who interferes with an examination authorized under this chapter is liable to the same penalties as a person who refuses to obey an order of the court.*

1965 (1st sess.), c. 80, a. 443.

444. *The depositions are retained by the clerk, for use in the expected legal proceeding for which they have been taken. When such proceeding is instituted, any party may ask that the depositions be filed in the record; but if the witnesses so heard can then be produced any party may ask that they be examined anew.*

1965 (1st sess.), c. 80, a. 444; 1992, c. 57, s. 420.

445. *The hearing of the witnesses in virtue of the provisions of this chapter does not affect any ground of objection that any party may later raise against the admissibility of the evidence so taken.*

1965 (1st sess.), c. 80, a. 445.

446. *The costs incurred by the application of the provisions of this chapter are paid by the applicant. However, if the legal proceeding for which a deposition has been taken is instituted, the cost of the deposition will form part of the costs of the case if it is filed in the record because of the absence of the deponent or at the demand of a party other than the one who had the deposition taken.*

1965 (1st sess.), c. 80, a. 446.

447. *No appeal lies from any judgment rendered under this chapter.*

1965 (1st sess.), c. 80, a. 447.

TITLE VI

DECISION UPON A QUESTION OF LAW: DECLARATORY JUDGMENT ON MOTION

CHAPTER I

DECISION UPON A QUESTION OF LAW

448. *Persons who are at variance upon a question of law which may give rise to an action between them, but who are in agreement as to the facts, may submit the dispute to the court for decision. The parties must file a joint motion to institute proceedings at the office of the court, stating the question at issue and the facts which give rise to it, and their respective conclusions. The parties must file a draft timetable agreement with the motion.*

1965 (1st sess.), c. 80, a. 448; 1982, c. 17, s. 17; 1992, c. 57, s. 276; 1996, c. 5, s. 36; 2002, c. 7, s. 81.

449. *(Repealed).*

1965 (1st sess.), c. 80, a. 449; 1996, c. 5, s. 37; 2002, c. 7, s. 82.

450. *(Repealed).*

1965 (1st sess.), c. 80, a. 450; 1996, c. 5, s. 38; 2002, c. 7, s. 83.

451. *A judgment rendered under this chapter has the same effects and is subject to the same remedies as any other final judgment.*

1965 (1st sess.), c. 80, a. 451; 1996, c. 5, s. 39.

452. *The parties to an action may, at any stage of the case, submit for the decision of the court any question of law resulting from the action, by means of a joint motion pursuant to article 88.*

1965 (1st sess.), c. 80, a. 452; 2002, c. 7, s. 84.

CHAPTER II

DECLARATORY JUDGMENT ON MOTION

453. *Any person who has an interest in having determined, for the resolution of a genuine problem, either his or her status or any right, power or obligation the person may have under a contract, a will or any other written instrument, a statute, an order in council, or a by-law or resolution of a municipality, may, by way of a motion to institute proceedings, ask for a declaratory judgment in that regard.*

1965 (1st sess.), c. 80, a. 453; 1992, c. 57, s. 277; 2002, c. 7, s. 85.

454. *The motion must state the matter in dispute and be served on the other parties and on all interested persons.*

1965 (1st sess.), c. 80, a. 454; 2002, c. 7, s. 86.

455. *(Repealed).*

1965 (1st sess.), c. 80, a. 455; 2002, c. 7, s. 87.

456. *A declaratory judgment rendered in accordance with this chapter has the same effect and is subject to the same recourses as any other final judgment.*

1965 (1st sess.), c. 80, a. 456; 1969, c. 80, s. 8.

TITLE VII

JUDGMENT

CHAPTER I

ACQUIESCENCE IN A DEMAND

1982, c. 17, s. 18.

457. *Except in actions for separation from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union or actions relating to filiation, the defendant may, at any stage of the proceedings, file in the office of the court an acquiescence in the whole or any part of the demand.*

1965 (1st sess.), c. 80, a. 457; 1982, c. 17, s. 19; 2002, c. 6, s. 100.

458. *Acquiescence must be in writing and signed by the defendant or by his attorney, who must annex thereto the special power of attorney he holds for that purpose.*

If the defendant appears at the office of the court to have his acquiescence taken down in writing, and is unknown to the clerk, the latter must require him to produce a copy of the summons, the counter-signature of his attorney, or some other satisfactory proof of his identity.

1965 (1st sess.), c. 80, a. 458; 1982, c. 17, s. 20; 1992, c. 57, s. 420.

459. *If acquiescence is unconditional in the whole of the demand, the clerk renders judgment immediately on inscription by one of the parties.*

1965 (1st sess.), c. 80, a. 459; 1982, c. 17, s. 21; 1992, c. 57, s. 420.

460. *If acquiescence is not unconditional in the whole of the demand, the plaintiff must, within 15 days after the service of the acquiescence upon him, give notice to the defendant of his acceptance or refusal.*

In case of acceptance, the clerk, upon inscription, renders judgment in conformity with the acquiescence.

In case of refusal, the case is proceeded with in the ordinary manner. However, the plaintiff, without waiting for the result of the trial, may obtain judgment for the amount mentioned in the acquiescence; the action is then proceeded with only for the balance. In all cases, if the court decides that the refusal was unjustified, it cannot award the plaintiff more costs than in case of acceptance.

A plaintiff who has not given notice either of acceptance or of refusal is deemed to have accepted; however, the court may relieve him of the consequences of his default, so long as judgment has not been rendered on the acquiescence.

1965 (1st sess.), c. 80, a. 460; 1982, c. 17, s. 22; 1992, c. 57, s. 420.

461. *If there are several defendants, and one or some only file an acquiescence, the court may render judgment in conformity therewith, upon inscription served on all the parties; but if it is of opinion that the case requires a uniform decision for all the defendants, whether by reason of the object of the demand, or in order to avoid contradictory judgments, it does not render judgment immediately but orders that the action be decided by one judgment as against all the defendants.*

1965 (1st sess.), c. 80, a. 461; 1982, c. 17, s. 23.

CHAPTER II

GENERAL RULES AS TO JUDGMENT

462. *No action will be dismissed merely because it is intended to obtain a declaratory judgment; but the court may, if it is of opinion that the interest of the plaintiff is insufficient, or that a judgment will not put an end to the uncertainty or controversy which gave rise to the action, refuse to render judgment.*

1965 (1st sess.), c. 80, a. 462.

463. *A judge who has taken a case under advisement may, even of his own motion, by a judgment giving reasons, order the reopening of the hearing, for such purposes and upon such conditions as he may determine. The clerk must forthwith communicate such judgment to the chief justice and to the attorneys of the parties.*

Any other order preventing judgment from being rendered must also give the reasons therefor and be communicated to the same persons.

1965 (1st sess.), c. 80, a. 463; 1992, c. 57, s. 420.

464. *When a judge ceases to hold office, retires, becomes ill or unable to act, or dies, the chief justice may order that any case of which such judge was seized be continued and terminated by another judge or replaced on the roll to be heard again.*

If the case was taken under advisement it is entrusted to another judge or replaced on the roll in accordance with the first paragraph, unless, where the judge seized of the case has retired or ceased to hold office, the chief justice requests the latter judge to render judgment within 90 days. Upon the expiry of that time, the chief justice proceeds in accordance with the first paragraph.

However, if a judge ceases to hold office because of an appointment to another court, the judge may, with the agreement of the chief judges or chief justices of the courts concerned, continue and terminate any case of which the judge was seized at the time of the appointment. Failing that, the procedure set out in the first two paragraphs is followed.

1965 (1st sess.), c. 80, a. 464; 1969, c. 81, s. 9; 1972, c. 70, s. 18; 1975, c. 83, s. 24; 1999, c. 40, s. 56; 2005, c. 26, s. 1.

465. *A judgment on the merits must be rendered within six months after the case is taken under advisement, or within four months after the case is taken under advisement in a small claims matter. An interlocutory judgment, a judgment on the merits in an adoption matter or a judgment ruling on the custody of a child or the support to be paid for the benefit of a child must be rendered within two months after the case is taken under advisement and a judgment by default must be rendered within 30 days after the record is complete.*

Where the judge seized of a case or matter fails to render a judgment within the time limit prescribed by the first paragraph, the chief justice or judge may, on his own initiative or on a motion by one of the parties, remove the case or matter from the judge and order that it be assigned to another judge or re-entered on the roll.

Before granting an extension or removing a case or matter from the judge who failed to render a judgment within the time prescribed, the chief justice or judge shall take account of the circumstances and of the interests of the parties.

The chief justice or judge or, at his request, the senior associate chief justice or judge shall exercise, personally, the powers and duties conferred on the chief justice or judge by this article.

In the first week of each month, the clerk must give to the chief justice or judge a list of the cases or matters in his district, of whatever nature they may be, which have been under advisement for five months or more and, in a small claims matter, for three months or more.

1965 (1st sess.), c. 80, a. 465; 1993, c. 30, s. 5; 1992, c. 57, s. 420; 2002, c. 7, s. 88.

466. *The judge called upon to continue a case or matter assigned to him or to hear a case or matter re-entered on the roll pursuant to articles 464 and 465 may, with the consent of the parties, limit the proof to the transcription of the stenographic notes, provided that, where he considers the notes to be insufficient, he recalls a witness or requires any other proof.*

He shall rule on the costs, including those relating to the original inquiry and hearing, according to circumstances, and may, in addition, take any other measure he considers fair and appropriate. Where, for the purposes of the first paragraph, the stenographic notes must be transcribed, the transcription costs shall be paid by the Government unless the judge orders otherwise, in particular, when the recourse is manifestly unfounded or frivolous and excessive or dilatory.

1965 (1st sess.), c. 80, a. 466; 1993, c. 30, s. 5; 1993, c. 72, s. 8.

467. *The death of the parties or of their attorneys cannot delay judgment in a case which is under advisement.*

1965 (1st sess.), c. 80, a. 467; 1975, c. 83, s. 25.

468. *The court cannot adjudicate beyond the conclusions; however, it may correct incorrect terminology in the conclusions, in order to give to them their true designation in the light of the facts alleged.*

1965 (1st sess.), c. 80, a. 468.

469. *Every judgment involving a condemnation must be susceptible of execution. Every judgment for damages must contain a liquidation thereof; if it contains a joint and several condemnation against the persons responsible for the injury, it shall, if the evidence permits, determine as between such persons only, the share of each in the condemnation.*

1965 (1st sess.), c. 80, a. 469; 1992, c. 57, s. 278.

469.1. *Where a judgment awarding damages for bodily injury reserves the right of the plaintiff to claim additional damages, the judgment specifies the matter to which the claim may pertain and the time within which the application may be made.*

The judgment is executory, notwithstanding appeal, where the appeal pertains exclusively to the decision of the court to reserve the right of the plaintiff to claim additional damages or to the time allowed for the exercise of the remedy.

An appeal from the judgment on the original application for damages does not exempt the plaintiff from the obligation to file an application for additional damages, within the period of time fixed in the judgment.

1992, c. 57, s. 279.

470. *A judgment in respect of movable or immovable real rights must contain a description of the property involved so as to permit the publication of the rights in the property, where applicable.*

A judgment condemning a party to the restitution of fruits and revenues must order their liquidation, by experts if necessary; the party condemned is bound to produce all supporting documents.

1965 (1st sess.), c. 80, a. 470; 1992, c. 57, s. 280.

471. *A judgment must be signed by the person who rendered it. However, in family cases, the clerk may sign the judgment rendered by a judge.*

In contested suits where judgment is rendered after taking the case under advisement, it contains, in addition to the conclusions, a concise statement of the reasons on which the decision is based.

When a judge dies, is absent, is unable to act or retires after he has rendered judgment in open court and before he has signed such judgment, the chief justice of such court or a judge designated by him may sign such judgment.

1965 (1st sess.), c. 80, a. 471; 1972, c. 70, s. 19; 1977, c. 73, s. 15; 1982, c. 17, s. 24; 1989, c. 6, s. 2; 1992, c. 57, s. 420.

472. *Judgments are rendered by being read out in open court, or by depositing the judgment in the office of the court on the date which it bears.*

The conclusions of a judgment rendered in open court cannot be changed by the judgment deposited later.

1965 (1st sess.), c. 80, a. 472.

473. *A judgment, unless it is in recognition of a hypothec against a defendant residing in Québec, must be served on the losing party only if the judge who rendered it so orders, or if some provision of law so requires.*

However, as soon as the original of the judgment in a contested matter which has been taken under advisement has been deposited in the office of the court, the clerk must, unless the rules of practice otherwise provide, notify the parties and their attorneys.

1965 (1st sess.), c. 80, a. 473; 1975, c. 83, s. 26; 1992, c. 57, s. 281, s. 420; 1995, c. 39, s. 1.

474. *Every judgment must be entered without delay in the register of the court; the clerk retains the judgment and issues copies on demand.*

In cases of difference between the judgment and the entry thereof in the register, the judgment is to be followed; and the court may, without any formality, order the necessary corrections.

1965 (1st sess.), c. 80, a. 474; 1992, c. 57, s. 420.

475. *A judgment in which there is an error in writing or calculation or any other clerical error may be corrected by the judge or clerk who rendered it. A judgment which, by obvious inadvertence, has granted more than was demanded or has omitted to adjudicate upon part of the demand may also be so corrected.*

Such correction may be made of the judge's or clerk's own motion so long as the execution has not been commenced; it may be made on motion of one of the parties at any time, unless the judgment has been appealed.

If the judge or clerk who rendered the judgment is no longer in office or is absent or unable to act, the motion must be made to the court.

The time limits for appeal from and for execution of a corrected judgment only run from the date of the correction, if it affects the conclusions.

1965 (1st sess.), c. 80, a. 475; 1983, c. 28, s. 17; 1984, c. 26, s. 19; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

476. *A party may renounce rights arising from a judgment rendered in his favour, by filing in the office of the court a total or partial renunciation signed by him or by his special attorney. A total renunciation accepted by the opposite party places the case in the position it was in immediately before the judgment.*

1965 (1st sess.), c. 80, a. 476.

CHAPTER III

COSTS

477. *The losing party must pay all costs, including the costs of the stenographer, unless by decision giving reasons the court reduces or compensates them, or orders otherwise.*

As well, the court may, by a decision giving reasons, reduce the costs relating to experts' appraisals requested by the parties, particularly if, in the opinion of the court, there was no need for the appraisal, the costs are unreasonable or a single expert's appraisal would have been sufficient.

In a personal action, and subject to article 988, the amount of the costs of suit, except costs of execution, that the defendant who loses may be required to pay shall not exceed the amount of the condemnation, if that is not greater than the amount contemplated in paragraph a of article 953, unless the court, by judgment giving reasons, orders otherwise.

1965 (1st sess.), c. 80, a. 477; 1975, c. 83, s. 27; 1977, c. 73, s. 16; 1983, c. 28, s. 18; 1995, c. 39, s. 2; 2002, c. 7, s. 89.

478. *Any person administering the property of another, who abuses his powers by carrying on proceedings which are clearly unfounded, may be condemned personally to costs, without being entitled to reimbursement.*

1965 (1st sess.), c. 80, a. 478.

478.1. *The costs of joint actions are shared equally by the parties, unless they have agreed to the contrary or the court, by judgment giving reasons, orders otherwise.*

Similarly, costs resulting from the decision of the court to allow a child to be represented by an attorney in family proceedings are shared equally by the parties, unless the court, by judgment giving reasons, orders otherwise.

In any proceedings other than family proceedings, the costs relating to the representation by an attorney of a minor, or a person of full age it considers incapable are awarded by the court according to the circumstances.

1982, c. 17, s. 25; 1992, c. 57, s. 283.

479. *Every condemnation to costs involves, by operation of law, distraction in favour of the attorney of the party to whom they are awarded. Nevertheless the party himself may execute for the costs if the consent of his attorney appears on the writ of execution.*

1965 (1st sess.), c. 80, a. 479; 1981, c. 14, s. 13.

480. *The party entitled to costs prepares a bill thereof in accordance with the tariffs in force, and has it served upon the party who owes the costs, if the latter has appeared, with a notice of at least five days of the date when it will be presented for taxation to the clerk; the latter may require proof to be made by affidavit or by witnesses.*

The taxation may be revised by the judge within 30 days, upon motion served on the opposite party. The judgment thus rendered is final and subject to appeal in accordance with the rules provided in article 26.

However, saving the debtor's contingent right to recover, the motion for revision or the appeal from the judgment on that motion does not suspend execution unless the amount of the factum as taxed or as revised exceeds $10,000, in which case the execution is suspended in respect of the excess.

1965 (1st sess.), c. 80, a. 480; 1982, c. 32, s. 34; 1992, c. 57, s. 420.

481. *Costs bear interest from the date of the judgment granting them.*

1965 (1st sess.), c. 80, a. 481.

TITLE VIII

Repealed, 2002, c. 7, s. 90.

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.1. *(Repealed).*

1996, c. 5, s. 40; 1999, c. 46, s. 8; 2002, c. 7, s. 90.

481.2. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.3. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.4. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.5. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.6. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.7. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.8. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.9. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.10. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.11. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.12. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.13. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.14. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.15. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.16. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

481.17. *(Repealed).*

1996, c. 5, s. 40; 2002, c. 7, s. 90.

BOOK III

REMEDIES AGAINST JUDGMENTS

TITLE I

REVOCATION OF JUDGMENT

CHAPTER I

REVOCATION OF JUDGMENT AT THE REQUEST OF ONE OF THE PARTIES

482. *A party condemned by default to appear or to plead may, if he was prevented from filing his defence by surprise, by fraud or by any other reason considered sufficient, request that the judgment be revoked and that the action be dismissed.*

The motion, addressed to the court which rendered the judgment, must contain not only the grounds for revocation of judgment, but also the grounds of defence to the action.

1965 (1st sess.), c. 80, a. 482.

483. *Likewise, where there is no other useful recourse against a judgment, the court which rendered it may revoke it at the request of one of the parties, in the following cases:*

(1) When the procedure prescribed has not been followed and the resulting nullity has not been covered;

(2) When the judgment has decided beyond the conclusions, or when it has failed to rule on one of the essential grounds of the suit;

(3) When, in the case of a minor or person of full age under tutorship or curatorship, no valid defence has been produced;

(4) When judgment has been rendered upon an unauthorized consent or tender subsequently disavowed;

(5) When judgment has been rendered upon documents whose falsity has only been discovered afterwards, or following fraud of the adverse party;

(6) When, since the judgment, decisive documents have been discovered whose production had been prevented by a circumstance of irresistible force or because of the act of the adverse party;

(7) When, since the judgment, new evidence has been discovered and it appears that:

(a) if it had been brought forward in time, the decision would probably have been different;

(b) it was known neither to the party nor to his attorney or agent and

(c) it could not, with all reasonable diligence, have been discovered in time.

1965 (1st sess.), c. 80, a. 483; 1989, c. 54, s. 134.

484. *The motion in revocation, served on all the parties in the record with notice of the day when it will be presented to a judge for reception, must be filed within 15 days counting, according to the circumstances, from the day when the party acquired knowledge of the judgment, when the cause preventing production of the defence was removed, when he acquired knowledge of the new evidence, of the falsity of the document or of the fraud of the opposite party, when the conclusive document was discovered, or when the judgment was rendered disavowing the unauthorized act.*

In the case of a minor, contemplated in paragraph 3 of article 483, the time limit runs from the day of service of the judgment effected since he attained majority.

The time limit of 15 days is peremptory; nevertheless the court may, on motion and provided that not more than six months have elapsed since judgment, relieve from the consequences of his default the party who shows that, in fact, it was impossible for him to act sooner.

1965 (1st sess.), c. 80, a. 484; 1999, c. 40, s. 56.

484.1. *In the case provided for in article 198.1, the judgment cannot be revoked, on the motion of the party condemned by default to appear or to plead made within one year from the date of judgment, unless that party proves that, by no fault of his own, he did not acquire knowledge of the proceedings in time to file a defence or to exercise a recourse against the decision and unless the grounds of his defence do not appear unfounded.*

1985, c. 29, s. 10.

485. *The motion in revocation does not suspend the execution until it has been received, unless a judge gives a special order which, in case of urgency, may be given without prior notice.*

1965 (1st sess.), c. 80, a. 485.

486. *The officer charged with executing the judgment, and on whom has been served a copy of the motion in revocation and of the certificate attesting that it has been received, is required to suspend, and to return to the office of the court without delay, the writ of execution and the motion which was served on him.*

1965 (1st sess.), c. 80, a. 486.

487. *The motion made in virtue of article 482 forms part of the proceedings in the original suit and is subject to the same rules. The party who produced it is liable for all the costs resulting from his default, whatever judgment is rendered.*

1965 (1st sess.), c. 80, a. 487.

488. *If the grounds invoked in support of a motion made in virtue of article 483 are judged to be sufficient, the parties are placed in the position where they were previously, and the procedure follows the rules of the*

original instance. The court may also, if it sees fit, pronounce at the same time upon the motion in revocation and on the original demand. In all cases it adjudicates as to costs in accordance with the circumstances.

1965 (1st sess.), c. 80, a. 488.

CHAPTER II

REVOCATION OF JUDGMENT AT THE REQUEST OF A THIRD PARTY, OR OPPOSITION BY A THIRD PARTY

489. *Every person whose interests are affected by a judgment rendered in a suit in which neither he nor his representatives were summoned, may, by motion to the court which rendered it, demand that it be revoked so far as it prejudices his rights.*

The motion must be served on all the parties in the suit or, if it is made less than a year after the judgment, upon the attorneys who represented them in the suit; it does not suspend execution unless a judge so orders.

1965 (1st sess.), c. 80, a. 489.

490. *The motion is proceeded upon in accordance with the rules applicable to the original suit.*

1965 (1st sess.), c. 80, a. 490.

TITLE II

APPEAL

491. *Saving contrary provisions of the law in respect of certain matters, appeal to the Court of Appeal is subject to the following rules.*

1965 (1st sess.), c. 80, a. 491.

492. *Any person who was a party to an action in the court of first instance, personally and for his own account, or as a representative and for the account of others, or through a legal representative, has the capacity to appeal.*

The Attorney General may, ex officio, appeal from a final judgment rendered in an action raising a ground of public order, as if he were a party to the action.

When several persons have together lost an action in the pursuit of a common interest, each has the capacity to appeal and to prosecute the appeal, in spite of the inaction of the others or of their decease.

1965 (1st sess.), c. 80, a. 492.

493. *When a party dies or becomes incapable, his right of appeal is exercised by his legal representatives.*

If an appeal is to be brought by the liquidators of a succession and they or some of them are deceased or have been replaced, the appeal is brought by the liquidators then in office.

1965 (1st sess.), c. 80, a. 493; 1992, c. 57, s. 284.

494. *An application for leave to appeal in the cases contemplated in the second paragraph of article 26 and in article 511 must be presented by motion accompanied by a copy of the judgment and of the documents of the contestation, if they are not reproduced in the judgment. It must indicate the duration of the proof and hearing in first instance, the conclusions sought by the appellant and a detailed statement of the grounds which the appellant intends to set up.*

The detailed statement of the grounds must refer to the documentary evidence or the testimonies in respect of which the appellant claims that the judge in first instance committed a manifest error. It must also state in what way the errors of law or fact found are significant to the point of invalidating the judgment in first instance. Upon presentation of the application, the judge may, where so justified by serious reasons, authorize the filing of an additional statement within the time he determines.

The motion must be served on the adverse party and filed with the office of the court within 30 days of the date of judgment or, in the case of an application for leave to appeal from a judgment ruling on a motion to quash a seizure before judgment, within 10 days of the date of judgment; it must be presented to a judge of the Court of Appeal as soon as possible.

If the application is granted, the judgment authorizing the appeal shall stand for the inscription in appeal. The clerk of appeals shall transmit a copy of the judgment without delay to the judge whose judgment is appealed from and to the office of the court in first instance; he shall also transmit a copy, without delay, to the parties or their attorneys.

Every other appeal must be brought within 30 days of the date of judgment unless in the case of subparagraph 2 of the first paragraph of article 26 a shorter time is prescribed in another Act.

Such time limits are peremptory and their expiry extinguishes the right of appeal.

However, if a party dies before the expiry of such time without having appealed, the time limit for appeal runs against his legal representatives only from the day when the judgment is served upon them, which may be done in accordance with the provisions of article 133.

The time limit for appeal runs against a party condemned by default only from the expiry of the time within which he could demand the revocation of the judgment.

1965 (1st sess.), c. 80, a. 494; 1969, c. 80, s. 9; 1982, c. 32, s. 35; 1983, c. 28, s. 19; 1989, c. 41, s. 1; 1992, c. 57, s. 285; 1993, c. 30, s. 6; 1995, c. 2, s. 3; 1995, c. 39, s. 3; 1999, c. 40, s. 56; 2002, c. 7, s. 91.

495. *The appeal is brought by depositing at the office of the court of first instance, within the time limit provided by article 494, a duplicate and two copies of an inscription which has been served upon the adverse party or his attorney.*

If the adverse party is not represented by attorney, and impossibility of service is established in conformity with article 123, a judge of the court of first instance may prescribe a different mode of service and, if necessary, permit that it be effected even after the expiry of the time limit for appeal.

1965 (1st sess.), c. 80, a. 495; 1979, c. 37, s. 16; 1999, c. 40, s. 56.

495.1. *Without prejudice to the right to appeal in the manner and within the time prescribed by articles 494, 495 and 495.2, any appeal from a judgment in an action in warranty or in a recursory action must be brought, in the manner prescribed by articles 494, 495 and 495.2, within 10 days from the filing, at the office of the court of first instance, of the judgment authorizing the appeal from the judgment in the initial action or of the inscription in appeal from the judgment in the initial action.*

1993, c. 30, s. 7.

495.2. *If the appellant or his attorney intends to use a deposition in support of the appeal, the appeal is regularly brought only if the appellant or his attorney causes to be served on the adverse party or his attorney and files at the office of the court, within 45 days after the judgment appealed from or, in the case of an appeal with leave, within 15 days after the judgment authorizing the appeal, a written statement in which he or his attorney certifies that he has directed a stenographer to transcribe the stenographic notes. The second paragraph of article 495 applies to the service of the statement.*

1993, c. 30, s. 7; 2002, c. 7, s. 92.

496. *The inscription in appeal must contain the description of the parties, the name of the court that rendered the judgment, the date of judgment, the duration of the proof and hearing in first instance, the conclusions sought by the appellant and a detailed statement of the grounds he intends to set up.*

The detailed statement of the grounds must refer to the documentary evidence or the testimonies in respect of which the appellant claims that the judge in first instance committed a manifest error. It must also state in what way the errors of law or fact found are significant to the point of invalidating the judgment in first instance.

Where the appellant is unable to state in detail all the grounds he intends to set up within the time prescribed in article 494, a judge of the Court of Appeal may, on a motion, where so justified by serious reasons, authorize the filing of an additional statement within such time as he determines.

1965 (1st sess.), c. 80, a. 496; 1979, c. 37, s. 17; 1993, c. 30, s. 8.

496.1. *Unless otherwise provided, every application presented in court must be accompanied with a notice of the date of presentation and must have been served at least five clear juridical days before that date, except in case of urgency, where a judge of the court may reduce that period.*

1993, c. 30, s. 9.

497. *Saving the cases where provisional execution is ordered and where so provided by law, an appeal regularly brought suspends the execution of judgment.*

However, a judge of the Court of Appeal may, on a motion, for a special reason other than those set out in subparagraphs 4.1 and 5 of the first paragraph of article 501, order the appellant to furnish, within the time fixed in the order, security in a specified amount to guarantee in whole or in part the payment of the costs of appeal and the amount of the condemnation, if the judgment is upheld.

If the appellant does not furnish security within the fixed time, a judge of the Court of Appeal may, upon motion, dismiss the appeal.

1965 (1st sess.), c. 80, a. 497; 1979, c. 37, s. 18; 1982, c. 32, s. 36; 1993, c. 30, s. 10; 1999, c. 40, s. 56; 2002, c. 7, s. 93.

498. *As soon as the inscription in appeal is filed, the clerk must transmit the original of the inscription and a certified copy of the plumitif to the Appeal Office at Québec or Montréal, as the case may be, and a copy of the inscription to the judge whose judgment is appealed from.*

The clerk must, at the request of a judge of the Court of Appeal, transmit without delay the record of the case to the Appeal Office together with a list of the documents therein and a copy of the entries made in the registers.

1965 (1st sess.), c. 80, a. 498; 1979, c. 37, s. 19; 1992, c. 57, s. 420; 1995, c. 39, s. 4.

499. *Within 10 days following receipt at the Appeals Office of the inscription or, as the case may be, within 10 days following receipt by the respondent of the copy of the judgment authorizing the appeal, the respondent must file a written appearance with the Appeals Office.*

Before such appearance, the proceedings intended for the respondent may be served upon the attorney who represented the respondent in the court of first instance, failing a provision of law which requires service on the party himself.

1965 (1st sess.), c. 80, a. 499; 1982, c. 32, s. 37; 1989, c. 41, s. 2.

500. *Without prejudice to his right to bring an appeal himself in the manner and within the time limit prescribed by articles 494, 495 and 495.2, the respondent may make an incidental appeal, without formality other than a declaration, served on the adverse party and filed at the same time as his written appearance,*

that he will demand the reversal, in his favour, of the judgment appealed from. Such declaration must set out the conclusions sought by the respondent and a detailed statement of the means he intends to set up.

1965 (1st sess.), c. 80, a. 500; 1979, c. 37, s. 20; 1993, c. 30, s. 11.

501. *Within 10 days following the expiration of the time fixed for appearance, the respondent may by motion ask for the dismissal of the appeal by reason of:*

(*1*) *an irregularity in the bringing of the appeal, when it causes him a prejudice;*

(*2*) *the non-existence or forfeiture of the right of appeal;*

(*3*) *acquiescence in the judgment appealed from;*

(*4*) *renunciation of the judgment;*

(*4.1*) *the fact that the appeal has no reasonable chance of success;*

(*5*) *its improper or dilatory nature.*

Instead of dismissing the appeal for a reason set out in subparagraph 4.1 or 5 of the first paragraph, the Court may subject the appeal to such conditions as it may determine, particularly that the appellant furnish security pursuant to article 497.

The Court may dismiss a motion for a reason set out in subparagraph 4.1 or 5 of the first paragraph without hearing the parties.

Service of a motion requesting the dismissal of the appeal suspends the 45-day period prescribed by article 495.2 for the provision of a statement certifying that a stenographer has been directed to transcribe the notes, until the decision on the motion.

The irregularity of the appeal for any of the grounds provided in subparagraphs 2, 3, 4, 4.1 and 5 of the first paragraph is not covered by the mere failure to invoke it within the time fixed; but if an appeal is dismissed on a motion made beyond such time, the costs shall be the same as if it had been made within the time fixed, unless the court otherwise decides.

1965 (1st sess.), c. 80, a. 501; 1982, c. 32, s. 38; 1995, c. 2, s. 4; 1999, c. 40, s. 56; 2002, c. 7, s. 94; 2002, c. 54, s. 3.

502. *At any stage of the case, the court or, between sessions, one of its judges, may permit the correction, within such time and under such conditions as it or he may determine, of any irregularity whatever in the procedure of appeal, provided, however, that the inscription in appeal has been duly served and filed.*

1965 (1st sess.), c. 80, a. 502; 1999, c. 40, s. 56.

503. *Within 120 days of the filing of the inscription or of the judgment rendered on a demand made under article 501, the appellant must file seven copies of his factum in the office of the court and serve two copies of it on the respondent.*

1965 (1st sess.), c. 80, a. 503; 1979, c. 37, s. 21; 1982, c. 32, s. 39; 1993, c. 30, s. 12.

503.1. *Where the factum is not served and filed within the time prescribed by article 503, the appeal is deemed abandoned unless an application for an extension is served and filed at the office of the court by the appellant before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.*

Where the appellant has not, within the allotted time, filed and served his factum and no application for an extension, or motion under article 505.1, is pending, the clerk of the Court of Appeal shall record the default and issue a certificate stating that the appeal is abandoned with costs.

1979, c. 37, s. 21; 1982, c. 32, s. 40; 1993, c. 30, s. 13; 1995, c. 2, s. 5.

503.2. *(Replaced).*

1979, c. 37, s. 21; 1982, c. 32, s. 40; 1993, c. 30, s. 13; 1995, c. 2, s. 5.

503.3. *(Replaced).*

1979, c. 37, s. 21; 1982, c. 32, s. 40; 1993, c. 30, s. 13; 1995, c. 2, s. 5.

504. *When more than one party has appealed from the same judgment, all appeals are joined.*

1965 (1st sess.), c. 80, a. 504; 1979, c. 37, s. 22; 1982, c. 32, s. 41.

504.1. *Within 90 days of the filing in the office of the court of his factum by the appellant, the respondent must file seven copies of his factum and serve two copies thereof on the appellant.*

1982, c. 32, s. 42; 1995, c. 2, s. 6.

505. *Where the respondent does not file his factum within the time prescribed by article 504.1, he is foreclosed from filing it unless an application for an extension is served and filed at the office of the court by him before the expiry of the prescribed time. The extension may be granted, on a motion, by a judge of the Court of Appeal for a period which, barring exceptional circumstances owing to the nature of the case, may not exceed 30 days.*

Where the respondent fails to file his factum within the allotted time, the Court may refuse to hear him. If the respondent makes an incidental appeal but does not act within the time allotted for the filing of his factum, the incidental appeal is deemed abandoned.

1965 (1st sess.), c. 80, a. 505; 1975, c. 83, s. 28; 1979, c. 37, s. 23; 1982, c. 32, s. 43; 1993, c. 30, s. 14; 1995, c. 2, s. 7.

505.1. *A judge of the Court of Appeal may, on a motion filed before the expiry of the time prescribed by article 503 and with the consent of the appellant and the respondent, fix another time for the filing of their factums.*

1995, c. 2, s. 7.

506. *When, notwithstanding his diligence and for a reason not imputable to him, the appellant cannot obtain within a reasonable time the transcript of the stenographer's notes, the Court of Appeal may order that the case be restored to the same state as before the trial.*

1965 (1st sess.), c. 80, a. 506; 1999, c. 40, s. 56.

507. *The parties set out in their factum the subject at issue, their pretensions and conclusions. Each party must attach to his factum a copy of the documents and extracts from the evidence that are necessary to determine the questions at issue.*

The appellant must also attach to his factum copy of the proceedings of the joined issue, the judgment appealed from and, where that is the case, the notes filed by the judge or, if they were given orally, the transcription or the translation of the reasons of the judgment.

The factums must be prepared in the manner provided by the rules of practice. They may be prepared and filed in computerized form in whole or in part provided it is agreed by all parties and authorized by a judge of the Court of Appeal.

1965 (1st sess.), c. 80, a. 507; 1975, c. 83, s. 29; 1979, c. 37, s. 24; 1982, c. 32, s. 44; 1999, c. 46, s. 9.

507.0.1. *In family matters, written arguments, instead of factums, are filed by the parties together with the other documents relevant to the appeal, according to the procedure prescribed by the Rules of practice of the Court of Appeal in civil matters. The date and time of the appeal hearing are determined by the judge or the clerk, and a schedule for the filing of the arguments and other documents is determined with the parties by the judge or the clerk.*

However, a judge of the Court of Appeal may order that the appeal be conducted according to the ordinary rules if, in the judge's opinion, it is warranted by the complexity of the case or by special circumstances.

1999, c. 46, s. 10.

507.1. *The clerk of appeals must place an appeal on the court roll as soon as it is ready to be so placed.*

1979, c. 37, s. 25.

507.2. *If the appeal is not ready to be placed on the court roll in the year following the filing of the inscription in appeal, the clerk of appeals gives the attorneys or the party who does not have an attorney a notice of not less than 60 days to the effect that the case has been placed on a special roll.*

If the appeal is still not ready to be placed on the court roll on the date fixed in the notice, the chief justice or any other judge he may designate, after giving the parties the opportunity to be heard, declares the appeal abandoned, unless one of the parties submits a valid excuse, in which case he makes such order as he deems appropriate.

1979, c. 37, s. 25; 1982, c. 32, s. 45; 1995, c. 39, s. 5.

508. *(Repealed).*

1965 (1st sess.), c. 80, a. 508; 1979, c. 37, s. 26.

508.1. *A judge may at any time preside a settlement conference to assist the parties in resolving their dispute. The judge enjoys judicial immunity while presiding such a conference. The conference is held in private, at no cost to the parties and without formality.*

A settlement conference may only be held at the written joint request of the parties. The filing of such a request suspends the running of the time limits prescribed by this Title.

A settlement conference is confidential and is governed by the rules defined by the judge and the parties. The judge who presides the conference cannot take part in any hearing relating to the matter.

Any transaction resolving the matter is sent by the clerk to a panel of the court so that it may be homologated and rendered enforceable.

2002, c. 7, s. 95.

508.2. *At any stage of a proceeding, a judge may, on his or her own initiative or at the request of a party, convene the parties to confer with them on the possibility of better defining the matters really at issue and on possible ways of simplifying proceedings and shortening the hearing.*

After giving the parties the opportunity to make representations, the judge may, as appropriate, limit the pleadings and other documents to be filed, shorten or extend the time limits prescribed by this Code,

determine time limits, including those for the filing of pleadings and other documents, lift the requirement to file a factum and allow the parties to proceed on the basis of an argumentation plan, and determine a hearing date.

2002, c. 7, s. 95.

508.3. *The judge may, on his or her own initiative or at the request of a party, use any appropriate means of communication to hold a settlement conference, provided all parties consent.*

2002, c. 7, s. 95.

508.4. *A settlement conference is held without formality and requires no prior written documents.*

2002, c. 7, s. 95.

508.5. *At any time during the proceeding, a party may apply to the chief justice, or to a judge designated by the chief justice, for directions in relation to the appeal.*

2002, c. 7, s. 95.

509. *In appeal, a judge hears all incidental proceedings provided for in Title IV of Book II to the extent that they are applicable.*

In exceptional circumstances, the Court may, if the interests of justice so require, allow a party to adduce, in such manner as the Court directs, indispensable new evidence.

Applications under this article are presented by motion, and the procedure is the same as in first instance, in the absence of rules of practice to the contrary.

During the hearing of such an application, any party may submit relevant evidence, and the judge or the Court, as the case may be, may return the case to the court of first instance so that further proof relating to the application may be made.

If, in the judge's opinion, the interests of justice so require, the judge may refer an application to the Court.

1965 (1st sess.), c. 80, a. 509; 1982, c. 32, s. 46; 1999, c. 46, s. 11.

509.1. *The clerk of the Court of Appeal may hear motions to cease representing a party and attorney substitution motions as well as motions provided for in articles 496, 503.1 and 505.*

If, in the clerk's opinion, the interests of justice so require, the clerk may refer a motion to a judge.

A decision rendered by the clerk may be revised by a judge, upon an application setting out the grounds relied on, served upon the adverse party and filed at the office of the court within ten days from the date of the decision. If the decision is quashed, matters are restored to the state in which they were before it was rendered.

1999, c. 46, s. 11.

510. *Appeal from a final judgment of the Court of Québec is subject to the same rules as appeal from a final judgment of the Superior Court.*

1965 (1st sess.), c. 80, a. 510; 1988, c. 21, s. 66.

510.1. *Where the judgment appealed from reserved the right of the plaintiff to claim additional damages for bodily injury, a judge of the Court of Appeal may, on application and if it is imperative to do so, order the suspension of the hearing of the appeal from the initial judgment for the period and on the conditions he*

determines, so that the appeal from that judgment and the appeal from the judgment ruling on the application for additional damages be heard jointly.

1992, c. 57, s. 286.

511. *An appeal lies from an interlocutory judgment only on leave granted by a judge of the Court of Appeal if he is of opinion that the case is one that is contemplated in article 29 and that the pursuit of justice requires that leave be granted; the judge must then order the continuation or suspension of the proceedings in first instance.*

However, an appeal from an interlocutory judgment dismissing an objection to evidence based on article 308 of this Code or on section 9 of the Charter of human rights and freedoms (chapter C-12) is not subject to a leave. Furthermore, the appeal does not suspend the proceedings but the judge of first instance cannot render final judgment or hear the evidence contemplated by the objection until appeal from the interlocutory judgment is decided.

Appeal from an interlocutory judgment is subject to the rules applicable to a final judgment; however, the parties are not required to file a factum, unless a judge decides otherwise. The appeal is heard on the date determined by the judge in cases where leave is required and on the date determined by the clerk in other cases.

1965 (1st sess.), c. 80, a. 511; 1979, c. 37, s. 27; 1982, c. 32, s. 47; 1983, c. 28, s. 20; 1986, c. 55, s. 2; 2002, c. 7, s. 96.

512. *A judge of the Court of Appeal, at the request of any party, or the clerk of appeals, with the consent of all the parties, may at any time strike a matter from the court roll and refer the hearing thereof to a later sitting.*

1965 (1st sess.), c. 80, a. 512.

513. *The court sits with three judges, but the chief justice may increase this number when he deems it proper. Nevertheless, fewer than three judges may open and adjourn the sittings of the court, call the parties, record appearances and defaults and do any acts which do not require the exercise of judicial discretion.*

The chief justice may, whenever the dispatch of business so requires, order that the court sit in several divisions at one time, at Québec or at Montréal.

1965 (1st sess.), c. 80, a. 513.

514. *To ensure the proper dispatch of business of the Court of Appeal, the Chief Justice or, in his absence, the senior puisne judge may ask in writing the Chief Justice of the Superior Court to designate one or more judges of that court to sit in the Court of Appeal as judges ad hoc. A judge ad hoc shall have all the powers and duties of a puisne judge of the Court of Appeal.*

1965 (1st sess.), c. 80, a. 514; 1987, c. 48, s. 2.

515. *A judge cannot hear in appeal a matter that he has judged in first instance.*

1965 (1st sess.), c. 80, a. 515.

516. *A judgment cannot be rendered unless the majority of the judges who heard the case concur therein.*

It may be rendered in open court by the judge who presided over the court at the hearing, even in the absence of the other judges; it may also be deposited at the office of the court, under the signature of at least the majority of the judges who heard the appeal. In all cases, the clerk must without delay give to all the parties notice that judgment has been rendered.

1965 (1st sess.), c. 80, a. 516.

517. *If a judge who heard the case is appointed to another court, if he has obtained leave of absence or is absent by reason of sickness or some other circumstance, he may nevertheless participate in the judgment.*

The impossibility for any of the judges to make his decision known does not prevent the others from rendering judgment, if they are sufficient in number.

1965 (1st sess.), c. 80, a. 517.

518. *When by reason of the absence, disqualification or incapacity of a judge, or for any other reason, a new hearing is required, it may be ordered by the other judges or by any of them.*

1965 (1st sess.), c. 80, a. 518.

519. *Every judgment must contain, apart from the conclusions, the names of the judges who heard the case, with mention of those who did not share the opinion of the majority, and must adjudicate upon the costs; it must moreover set out reasons for judgment, unless it refers to written opinions that the judges have filed in the record.*

1965 (1st sess.), c. 80, a. 519.

520. *A judgment in which there is an error in writing or calculation, or any other clerical error, may be corrected by the court, as may likewise be corrected a judgment which, by obvious inadvertence, has granted more than was demanded, or has omitted to adjudicate upon part of the demand.*

1965 (1st sess.), c. 80, a. 520.

521. *Costs are taxed by the clerk of appeals; the taxation may nevertheless be revised, within 30 days, by a judge of the Court of Appeal, upon motion of which notice must be given to the adverse party. Such revision neither halts nor suspends execution of the judgment.*

1965 (1st sess.), c. 80, a. 521.

522. *Judgment is executed, for both principal and costs, by the court of first instance, unless there is an appeal to the Supreme Court of Canada.*

A copy of the judgment of the Court of Appeal, and the record of the case if the latter was transmitted to the Appeal Office, must be transmitted to the office of the court in which the judgment appealed from was rendered.

1965 (1st sess.), c. 80, a. 522; 1995, c. 39, s. 6.

522.1. *The Court of Appeal or one of its judges may, subject to the conditions the Court or the judge deems appropriate, order suspension of the execution of a judgment of the Court, on a motion of a party who establishes his intention to apply for leave to appeal to the Supreme Court of Canada.*

1995, c. 2, s. 8.

523. *The Court of Appeal may, notwithstanding the expiry of the time allowed by article 494, but provided that more than six months have not elapsed since the judgment, grant special leave to appeal to a party who shows that in fact it was impossible for him to act sooner. However such leave cannot be granted in respect of a judgment rendered in the circumstances contemplated in article 198.1.*

1965 (1st sess.), c. 80, a. 523; 1985, c. 29, s. 11; 1999, c. 40, s. 56; 1999, c.46, s. 12; 2002, c. 7, s. 97.

523.1. *Where the sole object of an appeal is to obtain an increase in the amount awarded by the judgment or a reduction of the amount of the condemnation, a judge of the Court of Appeal may, on application, order the condemned party to execute the judgment up to the amount that is not under appeal.*

1992, c. 57, s. 287.

524. *The Court may, ex officio or on motion of a party, declare dilatory or abusive an appeal that it dismisses or declares abandoned.*

It may condemn the appellant to pay the damages caused by the appeal if their amount appears in the record or is accepted by the parties.

In other cases, the respondent may, within 60 days of the date of the judgment of the Court of Appeal, claim damages from the appellant, by motion addressed to the Superior Court or the Court of Québec, according to the amount claimed. Upon receipt of a copy of the motion, the clerk of appeals transmits the record to the office of the court to which the motion is addressed.

1965 (1st sess.), c. 80, a. 524; 1979, c. 37, s. 28; 1988, c. 21, s. 66.

BOOK IV

EXECUTION OF JUDGMENTS

TITLE I

VOLUNTARY EXECUTION

CHAPTER I

PUTTING IN SECURITY

525. *Every judgment ordering security must fix the amount up to which the surety must be liable and the time within which it shall be offered.*

1965 (1st sess.), c. 80, a. 525; 1999, c. 40, s. 56.

526. *A notice mentioning the names, residence and occupation of the surety, and the date and hour when he will be offered at the office of the court, must be served on the opposite party.*

1965 (1st sess.), c. 80, a. 526.

527. *A surety may be objected to if he has not the qualifications required by law, or if he is insufficient.*

1965 (1st sess.), c. 80, a. 527.

528. *Whether objected to or not, the surety may be required to justify his sufficiency under oath and, except where the law requires only personal justification, he may, if objected to, be required to declare his real property and produce his titles thereto.*

1965 (1st sess.), c. 80, a. 528.

529. *The contestation takes place without written pleadings; it is decided summarily by the clerk upon documents and affidavits.*

1965 (1st sess.), c. 80, a. 529; 1992, c. 57, s. 420.

530. *If the surety is accepted, the bond is drawn up and executed in conformity with the judgment, notwithstanding opposition or appeal, and without prejudice thereto.*

1965 (1st sess.), c. 80, a. 530.

531. *The rules of this chapter apply with the necessary modifications when the person bound to furnish a surety avails himself of his right to offer any other sufficient security instead.*

1965 (1st sess.), c. 80, a. 531; 1992, c. 57, s. 288.

CHAPTER II

ACCOUNTING

532. *Every judgment ordering an account must fix a time limit for rendering it.*

1965 (1st sess.), c. 80, a. 532; 1999, c. 40, s. 56.

533. *The account must be filed in court within the time fixed; it must be supported by the affidavit of the accounting party and accompanied with supporting vouchers; a copy must be served on the opposite party.*

1965 (1st sess.), c. 80, a. 533; 1999, c. 40, s. 56.

534. *The account must be divided into two parts, one for revenue, the other for expenditure, and must close with a recapitulation establishing the balance between revenue and expenditure.*

The account is prepared according to generally recognized accounting principles and those provided in the Civil Code in Title VII of the Book on Property, dealing with the Administration of property of others. Receivables are entered under revenue and the cost of preparing and verifying the account and required copies is entered under expenditure, but not so the costs of the judgment ordering the accounting, except with the permission of the court.

1965 (1st sess.), c. 80, a. 534; 1992, c. 57, s. 289.

535. *At any time after the filing of an account, the party to whom it is rendered may summon the accounting party, or his bookkeeper, authorized representative or manager, to appear before the judge or the clerk to be examined as a witness on any fact relating to the account.*

1965 (1st sess.), c. 80, a. 535; 1992, c. 57, s. 420.

536. *If the account shows an excess of revenue over expenditure, the party to whom it is rendered may obtain and execute judgment for the balance, saving his right to contest the remainder of the account.*

1965 (1st sess.), c. 80, a. 536; 1992, c. 57, s. 290.

537. *The account is held to be admitted if the party accounted to has not contested it within 15 days of the date of filing, and the contestation is held to be well founded if the accounting party has not filed his answers within 15 days of the service upon him of the contestation. The court may, however, for a valid reason relieve a party from the consequences of his default.*

After issue is joined by the filing of the answers, the parties proceed to trial in the ordinary way.

1965 (1st sess.), c. 80, a. 537.

538. *The judgment upon the account must contain a computation of the revenue and expenditure, and establish the balance, if any.*

1965 (1st sess.), c. 80, a. 538; 1992, c. 57, s. 291.

539. *If the account is not filed within the time fixed, the plaintiff may prepare it himself, in accordance with the provisions of article 534, and attest its correctness by his affidavit; he may then inscribe for judgment, and the defendant may not contest the account.*

1965 (1st sess.), c. 80, a. 539; 1999, c. 40, s. 56.

CHAPTER III

SURRENDER

540. *The voluntary execution of any judgment ordering the delivery of a movable or an immovable is effected by delivering the movable or surrendering the immovable, in such a manner that the party entitled thereto may become seized or take possession of it, unless the judgment otherwise provides.*

1965 (1st sess.), c. 80, a. 540; 1992, c. 57, s. 292.

541. *Subject to the rules relating to the exercise of hypothecary rights, a person who wishes to execute voluntarily a judgment ordering him to surrender an immovable subject to a hypothec must file in the office of the court a declaration to that effect and must relinquish possession of the immovable to the Minister of Revenue to whom he must give notice; upon the service of the notice the Minister of Revenue becomes a party to the case.*

1965 (1st sess.), c. 80, a. 541; 1992, c. 57, s. 293; 2005, c. 44, s. 54.

542. *The Minister of Revenue collects the fruits and revenues due and accrued from the time of the surrender, and may grant leases of the immovable if the sale is delayed for any considerable time.*

All the fruits and revenues are immobilized and distributed in the same manner as the sale price of the immovable.

1965 (1st sess.), c. 80, a. 542; 2005, c. 44, s. 54.

TITLE II

COMPULSORY EXECUTION

CHAPTER I

PRELIMINARY PROVISIONS

DIVISION I

EXAMINATION OF DEBTOR AFTER JUDGMENT

543. *When a judgment has become executory, the creditor may summon the debtor to appear before the judge or the clerk, either of the district where the judgment was rendered or of the district where the debtor has his residence, to be examined as to all the property that he possesses or has possessed since the incurring of the obligation which was the basis of the judgment, and as to his sources of revenue.*

When the debtor is a legal person, the summons must be given to one of its senior officers; when the debtor is a foreign partnership or legal person doing business in Québec, it must be given to its agent.

1965 (1st sess.), c. 80, a. 543; 1992, c. 57, s. 294, s. 420; 1999, c. 40, s. 56.

544. *The judge may, at the instance of the creditor, order the debtor to produce any book or document relating to the matters which may be the subject of the examination and permit the examination before the clerk of any person capable of giving information about such matters.*

1965 (1st sess.), c. 80, a. 544; 1992, c. 57, s. 420.

545. *The provisions of articles 280 to 284 and 293 to 331 apply, so far as may be, to the cases mentioned in articles 543, 544 and 546.1.*

Any dispute arising during the examination of the witness must be submitted as soon as possible for decision to the judge in chambers.

1965 (1st sess.), c. 80, a. 545; 1980, c. 21, s. 2.

546. *The costs of an examination under this section form part of the costs of execution, unless the judge orders otherwise.*

1965 (1st sess.), c. 80, a. 546.

546.1. *Where a judgment awarding support has become executory, a judge or, if the matter has not been referred to a judge, the clerk may, on the motion of the person entitled to support and if circumstances justify it, order a person to furnish the person entitled to support with the information he has on the residence and place of work of the debtor in default and, if need be, allow him to be interrogated to that effect before the clerk.*

This article applies notwithstanding any inconsistent provision of a general law or special Act providing for the confidentiality or non-disclosure of certain information or documents. It does not, however, apply to a person who has received the information in the practice of his profession and who is bound to the debtor by professional secrecy.

1980, c. 21, s. 3; 1983, c. 28, s. 21; 1992, c. 57, s. 420.

DIVISION II

PROVISIONAL EXECUTION

547. *Notwithstanding appeal, provisional execution applies in respect of all the following matters unless, by a decision giving reasons, execution is suspended by the court:*

(a) possessory actions;

(b) liquidation of a succession, or making an inventory;

(c) urgent repairs;

(d) ejectment, when there is no lease or the lease has expired or has been cancelled or annulled;

(e) appointment, removal or replacement of tutors, curators or other administrators of the property of others, or revocation of the mandate given to a mandatary in anticipation of the mandator's incapacity;

(f) accounting;

(g) alimentary pension or allowance or custody of children;

(h) judgments of sequestration;

(i) (subparagraph repealed);

(j) judgments with regard to an improper use of procedure.

In addition, the court may, upon application, order provisional execution in case of exceptional urgency or for any other reason deemed sufficient in particular where the fact of bringing the case to appeal is likely to cause serious or irreparable injury, for the whole or for part only of a judgment.

In the cases provided for in this article, the court may, upon application, make provisional execution conditional upon the furnishing of security.

1965 (1st sess.), c. 80, a. 547; 1992, c. 57, s. 295; 1993, c. 30, s. 15; 1994, c. 28, s. 27; 1995, c. 2, s. 9; 2002, c. 7, s. 98; 2009, c. 12, s. 5.

548. *Provisional execution cannot be ordered for costs, even when they are awarded in lieu of damages.*

1965 (1st sess.), c. 80, a. 548.

549. *If provisional execution has not been ordered by the judgment itself, it cannot thereafter be allowed except on appeal as provided in article 550.*

1965 (1st sess.), c. 80, a. 549.

550. *A judge of the Court of Appeal may on motion order provisional execution, with or without security, when it has not been ordered or has been dismissed in the judgment appealed from, or cancel or suspend provisional execution, when it has been ordered or when provided by law, or order that security be given by any party who was exempted from doing so by the court of first instance.*

The judge to whom the motion is presented may refer it to the court if it is then in session.

1965 (1st sess.), c. 80, a. 550; 1993, c. 30, s. 16.

551. *Provisional execution cannot take place until after the service upon the opposite party of the judgment which orders it.*

1965 (1st sess.), c. 80, a. 551.

DIVISION III

EXEMPTIONS FROM SEIZURE

552. *The debtor must be permitted to select from among his property and withdraw from seizure:*

(1) The movable property which furnishes his main residence, used by and necessary for the life of the household, up to a market value of $6,000 established by the seizing officer;

(2) The food, fuel, linens and clothing necessary for the life of the household;

(3) The instruments of work needed for the personal exercise of his professional activity.

Nevertheless, with the exception of the property mentioned in subparagraph 2 of the first paragraph, the property referred to in the first paragraph may be seized and sold for the amounts owed on the price of the property or by a creditor holding a hypothec thereon, as the case may be. However, if the debtor is a fisherman, his fishing boats and equipment cannot be seized or sold between 1 May and 1 November.

The valuation of the seizing officer may be revised by the court; if the court is of the opinion that the value of the property left to the debtor is below the value permitted, it may allow the debtor to choose and take from among the seized property that which is required to make up the difference.

Any renunciation of the exemptions from seizure resulting from this article is null.

1965 (1st sess.), c. 80, a. 552; 1969, c. 80, s. 10; 1972, c. 70, s. 20; 1977, c. 73, s. 17; 1986, c. 55, s. 3; 1992, c. 57, s. 296.

553. *The following are exempt from seizure:*

(1) Consecrated vessels and things used for religious worship;

(2) Family papers and portraits, medals and other decorations;

(3) Property declared by a donor or testator to be exempt from seizure, which may however be seized by creditors posterior to the gift or to the opening of the legacy, with the permission of the judge and to the extent that he determines;

(4) Judicially awarded support and sums given or bequeathed as support, even if not declared to be exempt from seizure by the instrument evidencing the gift or bequest;

(5) Books of account, titles of debt and other papers in the possession of the debtor, saving the things mentioned in article 570;

(6) Contingent emoluments and fees due to ecclesiastics and ministers of religion by reason of their current services, and the income of their clerical endowment;

(7) Benefits payable under a supplemental pension plan to which an employer contributes on behalf of his employees or under a voluntary retirement savings plan governed by the Voluntary Retirement Savings Plans Act (chapter R-17.0.1), other amounts declared unseizable by an Act governing such plans and contributions paid or to be paid into such plans;

(8) Periodic disability benefits under a contract of accident and sickness insurance;

(9) Reimbursement of expenses incurred under a contract of accident and sickness insurance;

(9.1) Property of a person that he requires to compensate for a handicap;

(10) (Subparagraph repealed);

(11) All gross salaries and wages to the extent of 70% of the excess over the following unseizable portion:

(a) $180 per week, plus $30 per week for each dependant in excess of two, if the debtor is supporting his or her spouse, has a dependent child, or is the main support of a relative; or

(b) $120 per week in all other cases.

The person of the opposite or the same sex with whom the debtor has been cohabiting for three years or for one year if a child has issued from their union is considered to be the de facto spouse of the debtor, provided the debtor is neither married nor in a civil union.

In calculating salaries and wages account must be taken of any remuneration in money, kind or services, paid for services rendered under a contract of employment, of enterprise, for services or of mandate, excepting:
(a) the contributions of the employer to pension, insurance or social welfare funds;
(b) the value of the food and lodging supplied or paid for by the employer on the occasion of travelling while carrying out work;
(c) passes given by a transportation undertaking to its employees;

(11.1) 50% of sums payable under the Family Orders and Agreements Enforcement Assistance Act (Revised Statutes of Canada, 1985, chapter 4, 2nd Supplement);

(12) Anything declared unseizable by law.

However, notwithstanding any contrary provision of a general law or special Act, any income referred to in paragraph 4, 6, 8 or 11, as well as any amount mentioned in paragraph 7, is unseizable, in the case of

effecting partition of a family patrimony or of a debt for support or a compensatory allowance between married or civil union spouses, to the extent of 50%.

1965 (1st sess.), c. 80, a. 553; 1974, c. 70, s. 469; 1977, c. 73, s. 18; 1979, c. 37, s. 29; 1980, c. 21, s. 4; 1982, c. 17, s. 26; 1982, c. 58, s. 21; 1986, c. 55, s. 4; 1988, c. 17, s. 4; 1989, c. 55, s. 30; 1992, c. 57, s. 297; 1999, c. 14, s. 9; 2002, c. 6, s. 101; 2013, c. 26, s. 131.

553.1. *Works of art or historical property brought into Québec and placed or intended to be placed on public exhibit in Québec are also exempt from seizure, if the Government declares them so, and for such time as it determines. Such works or property must not have been originally conceived, produced or created in Québec.*

The order in council passed in virtue of the first paragraph comes into force on its publication in the Gazette officielle du Québec.

Exemption from seizure as prescribed in this article does not prevent the execution of judgments rendered to give effect to service contracts relating to the transportation, warehousing and exhibition of the works and property referred to in the first paragraph.

1976, c. 48, s. 1.

553.2. *An immovable serving as the principal residence of the debtor is also exempt from seizure where the amount of the claim is less than $10,000, except where*

(1) the claim is secured by a prior claim or legal or conventional hypothec on the immovable other than a legal hypothec securing a claim arising out of a judgment;

(2) the claim is a claim for support;

(3) the immovable is already validly under seizure.

For the purposes of this article, the amount of the claim is that of the judgment under which the immovable could be seized, including interest accrued from the date of the judgment, but not including costs.

1986, c. 55, s. 5; 1989, c. 55, s. 31; 1992, c. 57, s. 298; 1996, c. 5, s. 41.

DIVISION IV

Repealed, 1995, c. 18, s. 80.

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.3. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.4. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.5. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.6. *(Repealed).*

1988, c. 56, s. 1; 1993, c. 72, s. 20; 1995, c. 18, s. 80.

553.7. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.7.1. *(Repealed).*

1993, c. 72, s. 20; 1995, c. 18, s. 80.

553.8. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

553.9. *(Repealed).*

1988, c. 56, s. 1; 1988, c. 51, s. 108; 1992, c. 44, s. 81; 1994, c. 12, s. 67; 1995, c. 18, s. 80.

553.10. *(Repealed).*

1988, c. 56, s. 1; 1995, c. 18, s. 80.

CHAPTER II

GENERAL RULES AS TO COMPULSORY EXECUTION

554. *Judgments containing a condemnation cannot be executed except by a bailiff, sheriff or a sheriff's officer in virtue of a writ in the name of the Sovereign.*

Unless specifically otherwise provided, any sheriff or bailiff may execute a writ anywhere in Québec.

The taxable costs of execution are the costs chargeable by a bailiff pursuant to the regulation made under section 13 of the Court Bailiffs Act (chapter H-4.1).

1965 (1st sess.), c. 80, a. 554; 1966, c. 21, s. 10; 1979, c. 37, s. 30; 1982, c. 32, s. 48; 1989, c. 6, s. 3; 1989, c. 57, s. 37; 1995, c. 41, s. 19.

555. *The writ must mention the date of the judgment to be executed and the amount of the condemnation; it is prepared by the seizing creditor, and signed and issued by the clerk of the district where the judgment was rendered.*

1965 (1st sess.), c. 80, a. 555; 1979, c. 37, s. 31; 1992, c. 57, s. 420.

556. *On proof that a writ of execution has been lost or destroyed, the clerk may issue a new one or, if a seizure has already been made, a writ commanding the competent officer to sell the property seized.*

The clerk may also issue the last-named writ where the seizure was made before the judgment to be executed was rendered.

1965 (1st sess.), c. 80, a. 556; 1987, c. 48, s. 3; 1992, c. 57, s. 420.

557. *In the event of the death of the debtor, the execution commenced upon his property is continued upon the property of his succession.*

If execution has not been commenced against the debtor, a judgment cannot, on pain of nullity, be executed against the debtor's heirs or legatees by particular title or against the liquidator of the succession until 10 days after service. Where service is made upon the liquidator or, if he is unknown, upon the heirs or legatees by particular title according to article 133, the execution is limited to the property of the succession.

1965 (1st sess.), c. 80, a. 557; 1992, c. 57, s. 299; 1999, c. 40, s. 56.

558. *A judgment rendered against the representative of an incapable person in that capacity cannot be executed against the incapable person when he has become capable until 10 days after it has been served upon him.*

1965 (1st sess.), c. 80, a. 558.

559. *A judgment rendered in favour of a legal representative may be executed in his name, even after his functions have terminated. In such case the writ must contain the name and address of the person upon whose requisition it was issued.*

1965 (1st sess.), c. 80, a. 559.

560. *A judgment which does not order a thing purely personal to the creditor may be executed in his name even after his death; but, if any contestation arises upon the execution, his representatives must intervene.*

1965 (1st sess.), c. 80, a. 560.

561. *When the judgment orders the performance of any physical act, the officer charged with its execution may use force if necessary for that purpose, observing all prescribed formalities.*

1965 (1st sess.), c. 80, a. 561.

562. *The first seizure in execution of a judgment must be preceded by a demand of payment, when it is made at the debtor's domicile or residence or in his presence, and mention of such demand must be made in the minutes of seizure.*

1965 (1st sess.), c. 80, a. 562.

563. *Any contestation of a seizure of property in execution is within the jurisdiction of the court which rendered the judgment.*

1965 (1st sess.), c. 80, a. 563; 1992, c. 57, s. 300.

564. *Incidental applications relating to the execution of judgments are made by way of a motion in accordance with articles 78 and 88.*

Unless otherwise provided, the special clerk is competent to hear such applications if they are not contested.

1965 (1st sess.), c. 80, a. 564; 1988, c. 21, s. 66; 1992, c. 57, s. 301.

CHAPTER III

COMPULSORY EXECUTION IN MOVABLE OR IMMOVABLE REAL ACTIONS

565. *When a party condemned to deliver or surrender property, movable or immovable, fails to do so within the prescribed time, the plaintiff may be placed in possession in virtue of a writ ordering that the defendant be expelled or that the property be taken from him, as the case may be.*

In no case may a writ of expulsion be executed on a Saturday or on a non-juridical day, nor unless prior notice of at least two clear juridical days has been served on the defendant. A judge may, however, give an authorization written and signed with his own hand to disregard a requirement of this paragraph.

1965 (1st sess.), c. 80, a. 565; 1986, c. 55, s. 6; 1999, c. 40, s. 56; 1999, c. 46, s. 13.

566. *The officer entrusted with the execution of the writ must be accompanied by a witness, and must draw up a minute of his proceedings.*

1965 (1st sess.), c. 80, a. 566.

567. *Contestations on the execution of a writ issued under article 565 are subject to the rules and time limits provided for the contestation of a seizure in execution.*

1965 (1st sess.), c. 80, a. 567; 1999, c. 40, s. 56.

CHAPTER IV

COMPULSORY EXECUTION IN PERSONAL ACTIONS

DIVISION I

GENERAL PROVISIONS

568. *A judgment for the payment of a sum of money cannot be executed before the expiry of the time limit for appeal; if it is not susceptible of appeal or was rendered by default to appear or to plead, it becomes executory after the expiry of 10 days from the date thereof.*

Nevertheless, the creditor may, upon motion accompanied by an affidavit alleging circumstances under which a writ of seizure before judgment might issue, obtain from a judge authorization to seize before the expiry of such time, but the sale of the property seized cannot take place any sooner than if the writ of execution had issued after the expiry of the time limit for appeal.

1965 (1st sess.), c. 80, a. 568; 1999, c. 40, s. 56.

569. *A creditor may seize and sell the movable property of his debtor which is in the possession of the latter, that in his own possession and that in the possession of third parties who consent thereto.*

He may, in all cases, seize by garnishment in the hands of a third party sums and effects due or belonging to the debtor.

He may also seize in execution the immovable property in the possession of the debtor.

1965 (1st sess.), c. 80, a. 569; 1992, c. 57, s. 302.

570. *Bonds, debentures, promissory notes and other instruments payable to order or to bearer, and currency, may be seized like other movable property; shares of business corporations are seized in accordance with the provisions of Section III of this chapter.*

1965 (1st sess.), c. 80, a. 570; 2009, c. 52, s. 544.

571. *Movables which are immovables by virtue of article 903 of the Civil Code can only be seized with the immovable to which they are attached or joined; they may, however, be seized separately by a prior or hypothecary creditor, or by another creditor if they do not belong to the owner of the immovable.*

1965 (1st sess.), c. 80, a. 571; 1992, c. 57, s. 303.

572. *A creditor may exercise at the same time the different means of execution allowed him by law.*

If he has caused the movable and the immovable property of the debtor to be seized under the same writ, he cannot proceed to the sale of the immovables until after the movable property has been discussed.

1965 (1st sess.), c. 80, a. 572.

573. *When the creditor has received part of his judgment claim, he must make mention of it on the back of the writ of execution.*

1965 (1st sess.), c. 80, a. 573.

574. *Unless the judgment debtor consents, the sale must not proceed beyond the amount necessary to pay the debt in principal, interest and costs. To this end the debtor has a right to determine the order in which the property seized is put up for sale.*

1965 (1st sess.), c. 80, a. 574.

575. *If the things seized are wholly or partly of a perishable nature or liable to depreciate rapidly, or if the cost of their custody or maintenance is out of proportion to their value, the judge may order them to be sold forthwith without other formalities than those that he prescribes, and the proceeds of the sale deposited in court.*

1965 (1st sess.), c. 80, a. 575.

576. *All proceedings relating to the compulsory execution of judgments are heard and decided by preference.*

1965 (1st sess.), c. 80, a. 576.

577. *The adjudication of property under execution transfers the ownership thereof to the purchaser from its date.*

1965 (1st sess.), c. 80, a. 577.

578. *When the insolvency of the debtor is alleged, the distribution of the moneys levied cannot take place until his creditors generally have been called in by public notice given in accordance with article 139.*

The distribution is made pro rata between the ordinary creditors who have filed their claims, which must state the name, occupation and residence of the claimant and the nature and amount of his claim, and be supported by an affidavit that the amount claimed is due, and by vouchers if any.

1965 (1st sess.), c. 80, a. 578.

579. *In a seizure of movable property, a judge may, on motion, give such orders as are necessary to render effective the execution, even if they derogate from any provision of articles 605, 606, 608 and 610; he may also authorize the seizing officer, or any other person, to sign any documents upon which the debtor's signature may be required in order to complete the sale or perfect the title of the purchaser.*

1965 (1st sess.), c. 80, a. 579.

DIVISION II

SEIZURE IN EXECUTION OF MOVABLE PROPERTY

§ 1. — Seizure

580. *The writ of seizure of movable property in execution orders the competent officer to levy against the movable property of the debtor the amount of the debt in principal, interest and costs, including those of the execution.*

1965 (1st sess.), c. 80, a. 580.

580.1. *The writ must also contain, in easily legible type, the text determined by the Minister of Justice.*

1975, c. 83, s. 30; 2002, c. 7, s. 99.

580.2. *The seizing officer must, before making the seizure, read the text provided for in article 580.1 to the debtor if he is present.*

1975, c. 83, s. 30.

581. *The seizure cannot be made on a non-juridical day, or between 8:00 p.m. and 7:00 a.m., except, in cases of fraudulent removal or when the property is found upon the highway, or with the leave of the clerk, obtained without formality and written on the original and the copies of the writ.*

A seizure not completed by 8:00 p.m. may be continued on the following juridical day, upon affixing seals or placing guards.

However, on premises used for commercial, industrial or professional purposes, a seizure begun during legal hours may be continued after such hours and without formality, if the seizing officer considers it necessary in the interest of the parties.

1965 (1st sess.), c. 80, a. 581; 1975, c. 83, s. 31; 1992, c. 57, s. 420.

582. *If the seizing officer cannot have the doors opened or if he finds some object locked, he must draw up a minute of the fact and on being shown the minute the clerk may order the opening to be effected by all necessary means in the presence of two witnesses. The order must appear on the original of the minute, which must then be filed in the office of the court. An entry of the order must also be made on the copies of the writ.*

By the order provided for in the first paragraph, and without other formality, the seizing officer is authorized to open, by all necessary means, any locked or bolted door of a room situated on the premises or in a dependency, in the presence of two witnesses.

1965 (1st sess.), c. 80, a. 582; 1975, c. 83, s. 32; 1983, c. 28, s. 22; 1992, c. 57, s. 420.

582.1. *The leave and the order provided for by articles 581 and 582 may be obtained from the clerk of the district of the place in which the seizure is made, if such district is not that is which the writ was issued.*

1975, c. 83, s. 33; 1992, c. 57, s. 420.

583. *Subject to articles 583.1 and 583.3, the seizing officer must entrust the property seized to the debtor, who must accept it. If the debtor is a legal person, the seizing officer may entrust the property to the senior officers or to one of them.*

The debtor so constituted guardian cannot remove or damage the property, on pain of contempt of court and damages.

1965 (1st sess.), c. 80, a. 583; 1975, c. 83, s. 34; 1977, c. 73, s. 19; 1992, c. 57, s. 304.

583.1. *The judge or the clerk may, upon request of the seizing creditor, order that the property seized or to be seized be entrusted in whole or in part to a guardian other than the debtor, if it is impossible to entrust it to the debtor or for any other cause considered sufficient.*

1975, c. 83, s. 34; 1977, c. 73, s. 20; 1992, c. 57, s. 420.

583.2. *The guardian, if he or she is not the debtor, must be solvent.*

The seizing creditor, his or her attorney, the seizing officer and their own spouses, relatives or connections to the degree of first cousin are not qualified to act as guardian.

1975, c. 83, s. 34; 1977, c. 73, s. 21; 2002, c. 6, s. 102.

583.3. *If the property seized or to be seized is in possession of the seizing creditor or of a third person who consents to the seizure and such possessor is solvent, the seizing officer is not bound to entrust the property seized to the debtor and may appoint such possessor guardian.*

1977, c. 73, s. 22; 1983, c. 28, s. 23.

584. *The judge or clerk may, in the interest of the parties and upon application of the seizing creditor or of the guardian other than the debtor, authorize such guardian to remove the property seized or to be seized to keep it in his charge, to place guards or to place it under lock and key.*

1965 (1st sess.), c. 80, a. 584; 1975, c. 83, s. 35; 1977, c. 73, s. 23; 1992, c. 57, s. 420.

585. *If the guardian other than the debtor becomes insolvent or requests his discharge because the sale has not taken place on the date mentioned in the minutes of seizure or for any other cause considered sufficient, the judge or the clerk may permit that he be replaced; if a new guardian is appointed, the property seized is then placed under his care by the seizing officer, who makes a verification thereof and draws up minutes of the whole.*

1965 (1st sess.), c. 80, a. 585; 1975, c. 83, s. 36; 1977, c. 73, s. 24; 1992, c. 57, s. 420.

586. *If the seizing officer cannot find a solvent guardian, he may, after serving the minutes of seizure upon the debtor, remove the things to a place of safety, until he obtains such a guardian.*

1965 (1st sess.), c. 80, a. 586.

587. *The officer who finds that property already under seizure has been placed under the care of a guardian other than the debtor must appoint the same guardian, who must accept such appointment.*

However, if such guardian is not sufficiently solvent in regard to the amount of the debt, the officer may, with the authorization of the clerk, appoint a new guardian. Such appointment discharges the first guardian.

Notice of the second seizure and, as the case may be, of the application for the appointment of a new guardian, must be given forthwith to the first seizing officer and to the first seizing creditor, who may oppose such application.

1965 (1st sess.), c. 80, a. 587; 1975, c. 83, s. 37; 1977, c. 73, s. 25; 1992, c. 57, s. 420.

588. *If there has been an attachment before judgment, no verification is necessary, but it is sufficient to give notice to the debtor and to the guardian of the place, day and hour of sale, as prescribed in article 592 and to publish or post the notice required by article 594.*

1965 (1st sess.), c. 80, a. 588.

589. *The seizing officer may at any time demand from the seizing creditor advances of money, fixed by the clerk, to cover the costs of safekeeping; if such advances are not paid, the seizure is discharged.*

However, where the Minister of Revenue acts as seizing creditor pursuant to the Act to facilitate the payment of support (chapter P-2.2), no advance of money may be demanded by the seizing officer.

1965 (1st sess.), c. 80, a. 589; 1982, c. 32, s. 49; 1992, c. 57, s. 420; 1995, c. 18, s. 81.

590. *The seizure is recorded in minutes prepared by the seizing officer and containing:*

(a) the date and nature of the writ of execution;

(b) the day and hour of the seizure;

(c) a description of the things seized, and, in the case of items of merchandise, their quantity, weight and measure;

(d) the name and signature of the guardian, and, in the case of article 582, the signatures of the witnesses;

(e) a list and the market value of the movable property left to the debtor in accordance with article 552, where the value of the things seized is insufficient to pay the claim of the seizor.

The debtor, if present, must be called upon to sign the minutes which must mention that he was so called upon, and what answer he made, or that he was absent.

1965 (1st sess.), c. 80, a. 590; 1992, c. 57, s. 305.

591. *If currency is seized, the number and denominations of the coins and notes must be mentioned in the minutes, and it must forthwith be deposited in court.*

1965 (1st sess.), c. 80, a. 591.

592. *The seizing officer prepares his minutes in triplicate; he indicates on each triplicate the place, day and hour of the sale, except in the cases to which articles 592.2 to 592.4 apply.*

He gives a triplicate of the minutes to the debtor, together with a copy of the writ and, as the case may be, a copy of the authorization obtained for the appointment of a guardian.

If a guardian other than the debtor has been appointed, the officer gives a triplicate of the minutes to such guardian, together with a copy of the order for his appointment.

1965 (1st sess.), c. 80, a. 592; 1975, c. 83, s. 38; 1992, c. 57, s. 306.

592.1. *If the debtor has no known residence, domicile or business establishment in the district in which the judgment was rendered, the seizing officer may serve the documents provided for in article 592 upon him at his last known address in Québec or send them to him by registered or certified mail.*

If the debtor has no known address in Québec, the documents are left at the office of the court.

1975, c. 83, s. 38; 1999, c. 40, s. 56.

592.2. *Where the property seized is the property of an enterprise and includes a property or a group of properties of which the market value is estimated to be $6,000 or more according to the valuation of the seizing officer, the seizing officer must obtain from the registrar a certified statement of the rights granted by the debtor on the property or group of properties and registered in the register of personal and movable real rights.*

Where the property seized is not the property of an enterprise, the seizing officer must also obtain such a certified statement if the property includes a road vehicle or other movable property, or a group of such properties, which, according to the regulation under article 2683 of the Civil Code, may be hypothecated and of which the market value is estimated to be $1,000 or more according to the valuation of the seizing officer.

1992, c. 57, s. 307; 1998, c. 5, s. 21.

592.3. *Where the seizing officer ascertains that rights have been granted by the debtor in the seized property, he must, under penalty of all damages, promptly serve on the holders of published rights, at the address registered in the register of personal and movable real rights, a certified copy of his minutes of seizure and the notice of sale; he must also inform the seizing creditor of the existence of the rights granted by the debtor.*

1992, c. 57, s. 307.

592.4. *Where seized property is charged with a hypothec, the seizing creditor, a creditor or the debtor may apply to the court or to the judge for the fixation of a reserve price or the determination of any other condition of sale he considers necessary.*

The application must be brought within five days after the service of a certified copy of the minutes of seizure. The application is served on the seizing officer and, where applicable, on the seizing creditor, the debtor and any other creditor having received a copy of the minutes of seizure; unless the court decides otherwise, the costs are borne by the applicant. The decision of the court on the application is without appeal.

Unless the court or the judge decides otherwise, the application stays execution for as long as the application is pending.

1992, c. 57, s. 307.

593. *The property must be sold at the place where it has been seized or where the guardian has deposited it, unless the clerk has authorized the seizing officer to sell it in whole or in part at a more suitable place.*

1965 (1st sess.), c. 80, a. 593; 1992, c. 57, s. 420.

594. *The seizing officer must publish in a newspaper distributed in the locality where the sale is to take place, not less than 10 days before the date fixed for the sale, a notice of sale containing*

(a) the case number and the nature of the writ;

(b) the names of the seizing creditor and the debtor; if there are several seizing creditors or debtors, the name of the first appearing in the writ, with an indication that there are others;

(c) the nature of the seized property;

(d) the reserve price, if any;

(e) the place, day and hour of the auction sale of the property;

(f) the name of the seizing officer and the district where he performs his duties.

If publication in a newspaper is impossible or impractical, the notice is posted in the territory of the municipality where the sale is to take place, at the entrance of the office of the municipality or at any other public place determined by the seizing officer.

1965 (1st sess.), c. 80, a. 594; 1977, c. 73, s. 26; 1992, c. 57, s. 308; 1996, c. 2, s. 215.

594.1. *The seizing officer must, where he ascertains that rights have been granted by the debtor in the seized property, serve on the person from whom it was seized, without delay, a certified copy of the notice of sale.*

1992, c. 57, s. 308.

595. *(Repealed).*

1965 (1st sess.), c. 80, a. 595; 1975, c. 83, s. 39; 1992, c. 57, s. 309.

595.1. *Notwithstanding the provisions of this Code, particularly of articles 593, 594, 605, 606, 611 and 613, property seized in a judicial district designated by regulation of the Government may be sold at the place and in accordance with the formalities, terms and conditions prescribed by such regulation.*

1975, c. 83, s. 40; 1992, c. 57, s. 310.

§ 2. — Opposition to Seizure in Execution

596. *The debtor may by opposition demand the nullity in whole or in part of a seizure in execution:*

(*1*) *on the ground of an irregularity in the seizure, which causes him a serious prejudice, saving the power of the court to authorize the seizing creditor to remedy the irregularity, if possible;*

(*2*) *on the ground of the property being exempt from seizure;*

(*3*) *on the ground of the extinction of the debt;*

(*4*) *on any other ground of a nature to affect the judgment sought to be executed.*

1965 (1st sess.), c. 80, a. 596.

597. *The opposition may also be taken by a third party who has a right to revendicate any part of the property seized.*

1965 (1st sess.), c. 80, a. 597.

598. *The motion to oppose must be served on the seizing officer, on the seizing creditor and, where it is presented by a third person, on the debtor; it must also be served on any person having registered, in the register of personal and movable real rights, rights on the property that is the subject of the opposition.*

A motion to oppose in matters concerning support is heard and decided by preference.

1965 (1st sess.), c. 80, a. 598; 1980, c. 21, s. 5; 1992, c. 57, s. 311.

599. *The service of the motion to oppose stays the execution; the seizing officer must forthwith return the writ of execution to the clerk who issued it, together with all proceedings relating to the execution. However, in the case of a seizure under article 641, the service of the motion to oppose suspends only the distribution of the sums seized.*

Notwithstanding the first paragraph, service of the motion to oppose a seizure under article 640.1, 641 or 651.1 for the execution of a judgment awarding support does not suspend the distribution of the sums of money seized, unless, on exceptional grounds, a judge acting in chambers orders such distribution suspended.

If, however, the opposition is founded on grounds which only go to reduce the amount claimed, or to withdraw from seizure a part of the property seized, the seizing officer is bound, unless a judge has ordered all proceedings to be stayed, to proceed with the execution in virtue of a copy, prepared by him, of the writ and of the minutes of seizure, either to satisfy the uncontested part of the claim, or to sell the property against which the opposition is not directed.

1965 (1st sess.), c. 80, a. 599; 1992, c. 57, s. 312; 1993, c. 72, s. 22.

600. *(Repealed).*

1965 (1st sess.), c. 80, a. 600; 1969, c. 81, s. 10; 1992, c. 57, s. 313.

601. *(Repealed).*

1965 (1st sess.), c. 80, a. 601; 1992, c. 57, s. 313.

602. *(Repealed).*

1965 (1st sess.), c. 80, a. 602; 1992, c. 57, s. 313.

603. *An opposition by a person who has already made an opposition cannot stop the execution, unless it is based on facts which occurred subsequently to the first opposition, and then only upon order of the judge. The application for a suspension of proceedings, which may be made orally, must be preceded by two days' notice to the seizing creditor, unless the judge dispenses with such notice.*

1965 (1st sess.), c. 80, a. 603; 2002, c. 7, s. 100.

604. *The creditors of the debtor cannot oppose the seizure or the sale.*

However, prior and hypothecary creditors may exercise their rights upon the proceeds of the sale; for that purpose, they file with the seizing officer, within 10 days after the sale, a statement of their claim, supported by an affidavit and the necessary vouchers, which documents must also be served on the debtor. Within 10 days of service of a statement of a prior or hypothecary claim, the debtor may apply to the court or to the judge to contest the claim.

1965 (1st sess.), c. 80, a. 604; 1992, c. 57, s. 314.

§ 3. — Sale of Property Seized

605. *A sale of property seized cannot be commenced before 10:00 a.m. or continued after 5:00 p.m.*

1965 (1st sess.), c. 80, a. 605.

606. *If there is nothing to prevent the sale of the property seized, it takes place on the day and at the hour and place mentioned in the notices.*

If the sale could not take place because there was no bidder, by application of articles 610.2 to 610.4 or because of any obstacle subsequently removed, the officer cannot proceed until new notices and publications have been given.

Where the judge has determined a reserve price or a condition of sale pursuant to article 592.4 and no bid has been made, the seizing officer cannot publish new notices of sale until the court or the judge has fixed a new reserve price or modified the condition of sale.

1965 (1st sess.), c. 80, a. 606; 1977, c. 73, s. 27; 1992, c. 57, s. 315.

607. *A first seizing creditor who fails to proceed with diligence cannot prevent the sale by a second seizing creditor.*

1965 (1st sess.), c. 80, a. 607.

608. *At the time fixed for the sale, the guardian is bound to produce all the effects seized which were placed in his charge, on pain of all damages. A debtor who fails to produce the effects left in his charge is also guilty of contempt of court.*

1965 (1st sess.), c. 80, a. 608.

609. *The guardian has a right to a discharge or receipt for the property which he produces, and the minutes of sale must mention any property which has not been produced.*

1965 (1st sess.), c. 80, a. 609.

610. *The article seized is adjudged to the highest bidder, subject to payment to the officer conducting the sale. Payment may be made by remitting a sum of money, a money order, a certified cheque or other similar instrument of payment, or by means of a credit card or a transfer of funds to an account of the officer in a financial institution; if payment is not made, the article is immediately put up for sale again. The charges relating to the use of a credit card are paid by the successful bidder.*

If there is only one bidder, the article must be adjudged to him.

The officer conducting the sale cannot, either directly or indirectly, bid upon or become purchaser of the property put up for sale.

1965 (1st sess.), c. 80, a. 610; 1984, c. 46, s. 6; 1992, c. 57, s. 316.

610.1. *The officer conducting the sale may, in the interest of the creditor and the debtor, fix an opening bid for the property he offers for sale.*

1975, c. 83, s. 41.

610.2. *Notwithstanding the second paragraph of article 610, if there is only one bid and the amount offered is clearly insufficient in relation to the market value of the property, the officer conducting the sale may, in the interest of the creditor and the debtor, either withdraw the property and put it up for sale again, with or without an opening bid, or terminate the sale of that property.*

1975, c. 83, s. 41.

610.3. *If the officer conducting the sale considers the number of prospective purchasers insufficient, he may, in the interest of the creditor and the debtor, terminate the sale.*

1975, c. 83, s. 41.

610.4. *If the officer conducting the sale considers there is collusion between the prospective purchasers or the bidders to limit the number or amount of bids, to the prejudice of the creditor or the debtor, he may either refuse the bid of the highest bidder and withdraw the property, and put it up for sale again, with or without an opening bid, or terminate the sale of that property.*

1975, c. 83, s. 41.

610.5. *In the application of articles 610.1 to 610.4, the decision of the officer conducting the sale is final. No judicial proceeding may be instituted against him if he acted in good faith in the performance of his duties.*

1975, c. 83, s. 41.

611. *The officer conducting the sale must make minutes thereof containing a list of the articles put up for sale and, opposite each, the names and residence of the purchaser and the purchase price.*

1965 (1st sess.), c. 80, a. 611.

611.1. *If the property sold was charged with a hypothec, the seizing officer issues to the successful bidder, on payment of the purchase price, a certificate of sale containing:*

(*1*) *The nature of the writ, the case number and the names and designations of the parties;*

(*2*) *A description of the property sold;*

(*3*) *The date and place of the sale;*

(*4*) *The purchase price paid.*

The successful bidder acquires the property free from any hypothec.

The seizing officer must also transmit a notice of the certificate of sale to the registrar who shall, where applicable, make the required cancellations.

1992, c. 57, s. 317.

612. *No demand to annul or rescind the sale can be received against a purchaser who has paid the price, saving the case of fraud or collusion.*

1965 (1st sess.), c. 80, a. 612.

§ 4. — Return of Writ and Distribution

613. *Within 10 days after expiry of the time allowed prior or hypothecary creditors to file a statement of their claim, the seizing officer, if no statement has been filed with him, pays to the seizing creditor the moneys seized or levied, after deducting the taxed costs, and files his minutes of seizure and sale at the office of the court.*

1965 (1st sess.), c. 80, a. 613; 1975, c. 83, s. 42; 1983, c. 28, s. 24; 1992, c. 57, s. 318.

614. *If the seizing officer has ascertained that rights have been granted in the seized property, he prepares a scheme of collocation and serves a certified copy on the debtor and the creditors.*

If the scheme is not contested by the debtor or any creditor within 10 days after its service, the seizing officer distributes the moneys. Otherwise, he returns the moneys to be adjudged by the court to those entitled thereto; the same applies in the case of insolvency of the debtor. However, the seizing officer is not required to prepare a scheme of collocation where the moneys levied do not exceed the legal costs.

After the distribution, the seizing officer files his minutes of seizure and sale and the scheme of collocation at the office of the court.

1965 (1st sess.), c. 80, a. 614; 1992, c. 57, s. 318.

615. *The distribution of the proceeds of the sale is made in the following order:*

(1) Legal costs;

(2) The claims of the prior or hypothecary creditors, if they have filed a statement of their claim supported by an affidavit and the necessary vouchers;

(3) The claim of the seizing creditor, if unsecured.

In the case of insolvency of the debtor, the distribution among unsecured creditors is made in accordance with article 578.

1965 (1st sess.), c. 80, a. 615; 1992, c. 57, s. 318.

616. *Legal costs are collocated in the following order:*

(1) Costs of the scheme of collocation;

(2) Duties and fees due on the moneys levied or deposited;

(3) Costs of seizure and sale, including those of the guardian appointed by the seizing officer, as well as the guardian's remuneration taxed by the clerk;

(4) Costs of incidental proceedings subsequent to the judgment;

(5) Costs of suit of the seizing creditor.

1965 (1st sess.), c. 80, a. 616; 1992, c. 57, s. 318.

616.1. *The rules of articles 711 to 732 relating to the scheme of collocation and the payment of the moneys levied following the seizure of immovables in execution apply, with the necessary adaptations, to the seizure of movables in execution; however, the summons provided for in article 723 may in no case require a person to appear before the seizing officer.*

1992, c. 57, s. 318.

DIVISION III

SEIZURE OF SECURITIES AND SECURITY ENTITLEMENTS TO FINANCIAL ASSETS

2008, c. 20, s. 143.

617. *Securities represented by a certificate are seized by seizure of the certificates, through service of a writ of execution on the person holding the certificates, and notification of the seizure to the issuer or the issuer's transfer agent in Québec.*

1965 (1st sess.), c. 80, a. 617; 2008, c. 20, s. 144.

618. *Uncertificated securities or security entitlements to financial assets are seized through service of a writ of seizure by garnishment on the issuer or on the securities intermediary that maintains the debtor's securities account.*

1965 (1st sess.), c. 80, a. 618; 2008, c. 20, s. 144.

619. *Uncertificated or certificated securities or security entitlements to financial assets may also be seized through service of a writ of seizure by garnishment on a secured creditor if*

(*1*) *the certificates representing the securities are in the secured creditor's possession;*

(*2*) *the uncertificated securities are registered in the secured creditor's name in the issuer's records; or*

(*3*) *the security entitlements to financial assets are held in the secured creditor's name in a securities account maintained by a securities intermediary for the debtor.*

1965 (1st sess.), c. 80, a. 619; 2008, c. 20, s. 144.

619.1. *The seizure of securities or security entitlements to financial assets entails the seizure of the dividends, distributions and other rights attached.*

2008, c. 20, s. 144.

619.2. *When securities represented by a certificate are seized, the issuer must declare to the bailiff the number of securities held by the debtor, the extent to which the securities are paid up and the dividends or other distributions declared but not paid.*

2008, c. 20, s. 144.

620. *Oppositions to the seizure, and contestations of the declaration of the issuer, are subject to the ordinary rules applicable to seizure in execution of movable property and to seizure by garnishment.*

1965 (1st sess.), c. 80, a. 620; 2008, c. 20, s. 145.

621. *The officer in charge of the sale must conform to the conditions and restrictions to which the transfer of the securities or security entitlements to financial assets is subject under the constituting act and by-laws of the issuer or the instrument governing the securities account maintained by the securities intermediary.*

The notices of sale must contain the number and description of the securities or security entitlements and any conditions affecting their transfer.

1965 (1st sess.), c. 80, a. 621; 1992, c. 57, s. 319; 2008, c. 20, s. 146.

622. *The sale of securities or security entitlements cannot take place until after the expiry of 30 days from the publication of the notices of sale.*

Securities or security entitlements listed and traded upon a recognized stock exchange are sold there through a broker according to the rules and customs of the stock exchange; other securities or security entitlements are sold in the manner provided in the chapter on the seizure in execution of movable property.

The judge may order that the sale be made in one or several blocks.

1965 (1st sess.), c. 80, a. 622; 2008, c. 20, s. 147.

623. *If the officer conducting the sale does not have the security certificates in his possession, he must give to the purchaser a statement in writing that the securities therein mentioned have been adjudged to him.*

1965 (1st sess.), c. 80, a. 623; 2008, c. 20, s. 148.

624. *Subject to the preceding articles, the seizure in execution of securities or security entitlements to financial assets is subject to the rules provided in Sections II and IV of this chapter, so far as they are applicable.*

1965 (1st sess.), c. 80, a. 624; 2008, c. 20, s. 149.

DIVISION IV

SEIZURE BY GARNISHMENT

§ 1. — General Rules

625. *Seizure by garnishment is effected by the service on the garnishee and on the judgment debtor of a writ of seizure by garnishment. The writ orders the garnishee to appear on the day and at the hour fixed to declare under oath what sums of money he owes to the debtor or will have to pay him and what movable property he has in his possession belonging to him, and not to dispossess himself thereof until the court has pronounced upon the matter. The writ also summons the debtor to appear on the day fixed and show cause why the seizure should not be declared valid.*

If the debtor has no known domicile, residence or business establishment in the district where judgment was rendered, the writ is served upon him at the office of the court.

1965 (1st sess.), c. 80, a. 625; 1992, c. 57, s. 320; 1999, c. 40, s. 56.

Not in force

625.1. *A writ of seizure by garnishment for the execution of a judgment awarding support may be served by registered or certified mail.*

1988, c. 56, s. 2.

626. *The effect of seizure by garnishment is to place under judicial control the sums of money and movable property belonging to the debtor and to make the garnishee the guardian thereof.*

1965 (1st sess.), c. 80, a. 626.

627. *The debtor may, within five days from his appearance, by motion, oppose the seizure by garnishment and ask that it be declared null.*

1965 (1st sess.), c. 80, a. 627.

628. *The garnishee must make his declaration under oath before the clerk of the district where the writ issued. The garnishee may, after giving notice to the seizing creditor and judgment debtor, make his declaration before the day mentioned in the writ, and, if he has not been tendered his travelling expenses, he*

may even make it before the clerk of the district where he resides, and forthwith transmit it to the clerk of the district where the writ issued.

1965 (1st sess.), c. 80, a. 628; 1992, c. 57, s. 420.

629. *The declaration of a legal person, a general or limited partnership or an association within the meaning of the Civil Code must be made by an attorney in virtue of a general or special power. That of a natural person may be made by an attorney in virtue of a special power; but in such case the seizing creditor may thereafter obtain from the clerk an order for the personal appearance and examination of the garnishee.*

The declaration of a municipality may be made by its treasurer or its clerk or secretary-treasurer without a power of attorney; the declaration of a school board may be made by its director general without a power of attorney.

1965 (1st sess.), c. 80, a. 629; 1966, c. 21, s. 11; 1988, c. 84, s. 553; 1992, c. 57, s. 321, s. 420; 1999, c. 40, s. 56.

630. *The garnishee must declare the amount, cause and conditions of his indebtedness to the debtor at the time of the service of the writ upon him and of any indebtedness that has since accrued. He must if necessary furnish a detailed statement of the movable property in his possession belonging to the debtor, and declare by what title he holds it. He must in all cases declare any other seizures made in his hands.*

1965 (1st sess.), c. 80, a. 630.

631. *A legal person, not incorporated by royal charter or by virtue of an act of the Parliament of Canada or of the Parliament of Québec, must, if the amount that it owes the judgment debtor is not sufficient to satisfy the judgment, declare, besides the amount of its present indebtedness to the debtor, the latter's interest, if any, in the legal person. The seizure remains binding and if the legal person again becomes indebted to the judgment debtor, or is dissolved, the garnishees must make a new declaration, in default of which they become subject to the same responsibility as a garnishee who fails to make his declaration.*

In order to render such seizure effectual, the judge may order the production of such books, documents and statements, allow the examination of such witnesses, and give such other orders, as he deems necessary.

1965 (1st sess.), c. 80, a. 631; 1968, c. 9, s. 90; 1992, c. 57, s. 322; 2009, c. 52, s. 545.

632. *The garnishee, when he makes his declaration, may be questioned by the seizing creditor and the debtor, and, with the permission of the judge, be required to produce any document tending to prove that he is indebted to the debtor.*

Any difficulty that arises during the examination must be submitted forthwith to the judge in chambers for decision.

1965 (1st sess.), c. 80, a. 632.

633. *The garnishee is entitled to be taxed as a witness, and he may retain the amount of the taxation out of the sums which he owes. If he owes nothing, such taxation may be enforced by execution against the seizing party.*

1965 (1st sess.), c. 80, a. 633.

634. *Any garnishee who fails to declare or deposit pursuant to article 641 is, upon inscription for judgment, condemned as personal debtor of the seizing creditor to the payment of his claim, provided that the writ has been served upon him in the manner provided in the second paragraph of article 123 or in articles 129 and 130 or, if the writ has been served by mail, service has been proved in accordance with the second paragraph of article 146.*

If the seizing creditor fails to inscribe for judgment within 10 days, the debtor may do so himself and execute the judgment in the name of the seizing creditor, or he may demand the dismissal of the seizure with costs against the seizing creditor.

A garnishee may, however, obtain leave to declare or deposit at any time, even after judgment, upon payment of the sums he should have withheld and deposited since the service of the writ of seizure and of all costs incurred by his default.

1965 (1st sess.), c. 80, a. 634; 1980, c. 21, s. 6; 1993, c. 72, s. 9.

635. *The seizing creditor or the debtor may contest the garnishee's declaration within 10 days from the declaration or from the judgment rendered upon an opposition to the seizure by garnishment.*

1965 (1st sess.), c. 80, a. 635.

636. *If a garnishee declares that he is not indebted to the debtor, and he cannot be proved to be so, he, or the debtor, may obtain from the clerk a discharge from the seizure with costs against the seizing party.*

1965 (1st sess.), c. 80, a. 636; 1992, c. 57, s. 420.

637. *If the affirmative declaration of the garnishee is not contested and does not show the existence of another seizure by garnishment in his hands, the clerk, upon an inscription by either party, orders the garnishee to pay to the seizing creditor the amounts which he owes to the judgment debtor to the extent of the amount of the judgment in capital, interest and costs. To that extent the order of the clerk effects an assignment, in favour of the seizing creditor, of the judgment debtor's claim, from the date of the seizure. Such order must be served on the garnishee and becomes executory 10 days later.*

1965 (1st sess.), c. 80, a. 637; 1992, c. 57, s. 420.

638. *If the garnishee declares that he has in his possession movable property, the judgment orders that it be sold, and the garnishee must deliver it to the officer charged with selling it. In the case of currency, bank notes, current moneys, negotiable securities or titles of debt payable to bearer, the garnishee may be ordered to deposit them in the office of the court, or to deliver them to a designated person, according to circumstances.*

The proceeds of sale of the movable property are distributed in the manner prescribed in articles 613 to 616.

1965 (1st sess.), c. 80, a. 638.

639. *If the debt of the garnishee is payable at a future time, the clerk orders him to pay at maturity in accordance with the provisions of article 637 or article 638, as the case may be. If it is subject to a condition or to the performance by the debtor of an obligation, the clerk may, upon motion of the seizing creditor, declare the seizure binding until such condition is fulfilled or such obligation is executed.*

1965 (1st sess.), c. 80, a. 639; 1992, c. 57, s. 420.

640. *If there are several seizures by different unsecured creditors in the hands of the same garnishee, each seizing creditor has a preference over later seizing creditors according to the date of service of the writ of seizure by garnishment, unless the insolvency of the common debtor has been alleged; in the latter case the creditors are called in upon the first seizure in the manner provided in article 578.*

1965 (1st sess.), c. 80, a. 640.

§ 1.1. — Special Rules as to Seizure by Garnishment under the Family Orders and Agreements Enforcement Assistance Act (Revised Statutes of Canada, 1985, chapter 4, 2nd Supplement)

1988, c. 17, s. 5.

640.1. *Seizure by garnishment under the Family Orders and Agreements Enforcement Assistance Act (Revised Statutes of Canada, 1985, chapter 4, 2nd Supplement) is effected by serving a writ of seizure by garnishment on the garnishee and on the debtor. The writ orders the garnishee to respond in accordance with the said Act and to deposit, with the clerk of the judicial district where the writ was issued, the seizable part of the sums of money owed or that will become payable by it to the debtor in accordance with the said Act.*

The seizure has effect for arrears as well as for payments to become due.

1988, c. 17, s. 5; 1992, c. 57, s. 420; 1995, c. 39, s. 7.

640.2. *The debtor, by motion, may oppose the seizure by garnishment within 10 days after the writ is served on him.*

The opposition must be served on the seizing creditor and on the garnishee, by personal service or by registered or certified mail.

1988, c. 17, s. 5.

640.3. *If no opposition to the seizure has been filed and no release has been given, the clerk pays the moneys received to the seizing creditor up to the amount due. Any remaining balance is remitted to the debtor.*

1988, c. 17, s. 5; 1992, c. 57, s. 420.

640.4. *Where a seizure is binding and a judgment is rendered which amends the writ or revises the judgment awarding support, the seizing creditor must prepare the amendments to the writ and request that the clerk sign and issue the amended writ and serve it upon the other parties.*

The debtor may make the request, with costs against the seizing creditor, if the latter does not do so within 10 days of the judgment.

1988, c. 17, s. 5; 1992, c. 57, s. 420.

640.5. *A writ of seizure by garnishment may be served by registered or certified mail. Service upon a garnishee by the Minister of Revenue or by the clerk may also be made by ordinary mail.*

1995, c. 39, s. 8; 1995, c. 18, s. 100.

§ 2. — Special Rules as to the Seizure of Salaries and Wages

641. *If salaries and wages are seized by garnishment, the writ must mention the debtor's residence, the nature of his employment and the place where he works, if the seizing creditor knows them.*

The writ orders the garnishee to declare to and deposit with the clerk, within 10 days following the service of the writ, personally or by registered or certified mail, the seizable portion of what he owes the seized debtor, to declare and deposit again in the same manner every month and to serve a copy of his first declaration on the seizing creditor, by registered or certified mail. A copy of such declaration must also be served, in the same manner, on the debtor by the seizing creditor and proof of the service must be filed in the office of the court.

If the debtor leaves his employ, the garnishee must forthwith so declare.

The seizure remains binding for the seizable portion thereof, so long as the debtor remains in his employment and all the claims filed by his creditors have not been paid.

1965 (1st sess.), c. 80, a. 641; 1975, c. 83, s. 43; 1979, c. 37, s. 32; 1981, c. 14, s. 14; 1992, c. 57, s. 420.

641.1. *Where a seizure by garnishment takes place for the execution of a judgment awarding support or if a claim to that effect is filed in the record of a seizure by garnishment, the seizure has effect for payments to become due as well as for arrears, as indexed, if such is the case, and it remains binding until release is given.*

Except if the Minister of Revenue is acting in the capacity of claimant or seizing creditor pursuant to the Act to facilitate the payment of support (chapter P-2.2), if there is no other claim in the record and if execution has not been suspended in accordance with article 659.5, no release may be given until one year after the arrears of support, including all arrears accrued from the time of the seizure, have been paid.

1980, c. 21, s. 7; 1995, c. 18, s. 82.

641.2. *If a judgment amends the amount of support while a seizure is binding or its execution is suspended in accordance with article 659.5, the amount of the seizure or of the claim of the person entitled to support is amended accordingly, of right, from the service of the judgment on the clerk, which may be made by registered or certified mail.*

1980, c. 21, s. 7; 1981, c. 14, s. 15; 1992, c. 57, s. 420.

641.3. *The debtor may, personally or by registered or certified mail, oppose the seizure by garnishment within 10 days following the service of the copy of the first declaration of the garnishee. He forwards a copy of the opposition to the seizing creditor and the garnishee, within the same time and in the same manner.*

1979, c. 37, s. 33; 1980, c. 21, s. 8; 1981, c. 14, s. 16; 1999, c. 40, s. 56.

642. *A creditor who has been notified by registered or certified mail of the seizure by garnishment of the salary or wages of his debtor cannot, so long as it remains binding, himself seize such salary or wages.*

Neither can he execute his judgment on the movable property which furnishes the main residence of his debtor, and is used by and is necessary for the life of the household, except for sums owing on the price or in the exercise of a right of revendication.

1965 (1st sess.), c. 80, a. 642; 1975, c. 83, s. 44; 1992, c. 57, s. 323.

643. *While the seizure remains binding, any creditor may file his claim after having served a copy thereof on the debtor, the seizing creditor and the garnishee, by registered or certified mail.*

The claim, supported by affidavit, must set forth the nature, date and amount of the debt and be accompanied with supporting documents.

Any claim not duly served is null, as is a claim not accompanied by supporting documents, unless the creditor establish to the satisfaction of the judge that he is unable to file them.

1965 (1st sess.), c. 80, a. 643; 1975, c. 83, s. 45; 1995, c. 18, s. 83.

644. *From the date of filing, the claim bears interest at the legal rate only.*

The clerk shall refuse any claim or part of a claim which concerns the difference between the rate of interest agreed between the parties and the rate provided for in this article, for any period during which the latter rate applies.

1965 (1st sess.), c. 80, a. 644; 1966, c. 21, s. 12; 1987, c. 63, s. 3; 1992, c. 57, s. 420.

645. *Any interested party may file in the office of the court a contestation of the claim of a creditor after having served a copy upon the claimant and the debtor, and such contestation does not suspend the distribution of the moneys deposited, except as to the creditor whose claim is contested; the amounts payable to such creditor must be retained by the clerk until decision thereon.*

1965 (1st sess.), c. 80, a. 645; 1992, c. 57, s. 420.

646. *The contestation of a claim is heard and decided by preference.*

If the amount in contestation exceeds the jurisdiction of the court where the case is pending, the record is transmitted forthwith to the office of the competent court for decision.

1965 (1st sess.), c. 80, a. 646.

647. *Ten days after the first garnishee's declaration is served on the debtor, the moneys the garnishee has deposited are paid by the clerk to the seizing creditor on written demand, unless an opposition other than an opposition to a seizure for non-payment of support, subject to the second paragraph of article 599, or a claim has been filed.*

If a claim has been filed, the clerk, after collocating the seizing creditor for his costs, must distribute among the creditors, in proportion to their claims, the amounts deposited and have sent to each creditor at his last known address the amount to which he is entitled.

However, the clerk must then pay exclusively to the person entitled to support the difference between the moneys seized in accordance with the last paragraph of article 553 and that part of all income that is ordinarily seizable. Furthermore, he must pay to the person entitled to support, out of that part, the amounts required to make the total of the sums distributed to him equal to at least one-half of the moneys deposited every month, up to such amounts as may be due to him, and this does not affect his right to be collocated for his share with the other creditors.

The distribution to the creditors must be made at least once every three months but it must be made at least once every month to the person entitled to support.

No claim by the spouse of the debtor based upon a marriage or civil union contract shall be paid until all other claims have been paid.

When the claims of the seizing creditor and other claimants have been paid, the clerk shall so inform the debtor and the garnishee.

1965 (1st sess.), c. 80, a. 647; 1980, c. 21, s. 9; 1981, c. 14, s. 17; 1992, c. 57, s. 420; 1993, c. 72, s. 11; 2002, c. 6, s. 103.

648. *A creditor who, having received the notice provided for in article 642, institutes an action and obtains judgment in accordance with articles 192 and 194, shall not, without permission of a judge of the court which rendered the judgment, recover his costs. Such permission, applied for by motion supported by affidavit and served upon the debtor, shall not be granted unless it is shown to the satisfaction of the judge that the creditor was justified in instituting the action, by reason of the nature of his claim or of other special circumstances. No costs shall be awarded on such motion, unless the debtor contests it.*

1965 (1st sess.), c. 80, a. 648; 1969, c. 81, s. 11.

649. *If the garnishee declares that the debtor works for him without remuneration, or if the remuneration paid by the garnishee is clearly less than the value of the services rendered, any creditor may, by motion presented five days at least after service upon the debtor and upon the garnishee, apply to a judge to value the debtor's services and fix an adequate remuneration therefor; such remuneration shall be deemed to be that of*

the debtor from the date of the application until it is shown that the amount so fixed should be changed. The decision of the judge shall be without appeal.

1965 (1st sess.), c. 80, a. 649.

650. *No employer shall, on pain of all damages, dismiss or suspend an employee merely because his salary or wages have been seized by garnishment. When an employee is dismissed or suspended while his salary or wages are seized by garnishment, there shall be a presumption that he has been dismissed or suspended because of such seizure by garnishment, and it shall be incumbent upon the employer to prove that the employee has been dismissed or suspended for another fair and sufficient reason.*

1965 (1st sess.), c. 80, a. 650; 1969, c. 81, s. 12.

§ 2.1. — Special rules applicable to certain income

1993, c. 72, s. 12.

651. *The judge may, upon the motion of a creditor holding an executory judgment, served on the debtor not less than five days before the day fixed for its presentation, order the debtor to appear in person to declare the amount of the work income which he earns as a self-employed worker or which is paid to him by an employer not resident in Québec and order him to deposit in the office of the court a portion of that income determined pursuant to the provisions of article 553.*

The provisions of articles 641.1, 641.2 and 642 to 647 apply, adapted as required.

If the debtor does not appear in person to declare his work income, the provisions of article 284 apply to him.

If subsequently he does not regularly deposit the portion of his work income contemplated in the first paragraph, he is guilty of contempt of court.

1965 (1st sess.), c. 80, a. 651; 1969, c. 80, s. 11; 1969, c. 81, s. 13; 1992, c. 57, s. 324; 1993, c. 72, s. 23.

651.1. *The provisions of articles 641 to 647, adapted as required, apply to the execution of a judgment awarding support by way of the seizure by garnishment of the amounts referred to in subparagraphs 4, 6, 7 and 8 of the first paragraph of article 553 and of the periodic benefits granted under an Act in respect of a retirement plan or a compensation plan.*

1993, c. 72, s. 13.

§ 3. — Voluntary Deposit

1987, c. 63, s. 4.

652. *No one may seize by garnishment the salary or wages of his debtor who, having produced in any office of the Court of Québec of the place of his domicile, residence or employment, a declaration in conformity with article 653, deposits regularly the seizable portion of his remuneration within five days following each payment thereof; nor may anyone seize the movable property which furnishes the main residence of his debtor, and is used by and is necessary for the life of the household, except for sums owing on the price or in the exercise of a right of revendication.*

When, as a result of a change of domicile, residence or employment, the debtor produces a new declaration in a district other than that in which he previously deposited, the clerk who received such declaration shall give notice thereof to the clerk of the district in which the deposits were previously made; the latter shall then distribute forthwith the moneys in his possession and shall transmit the record to the clerk from whom he received the notice.

1965 (1st sess.), c. 80, a. 652; 1988, c. 21, s. 66; 1992, c. 57, s. 325.

653. *The declaration contemplated by article 652 must be made under oath by the debtor and must contain:*

(a) the address of his residence and the designation of his employer or, if he is unemployed, that of his last employer;

(b) the amount of his remuneration and the date when it is paid to him;

(c) his family responsibilities, determined as provided in article 553;

(d) a list of his creditors with their addresses and the nature and amount of their claims.

1965 (1st sess.), c. 80, a. 653; 1969, c. 81, s. 14.

653.1. *Article 652, adapted as required, also applies to a self-employed worker who, every three months, produces a declaration in any office of the Court of Québec of the place of his domicile, residence or work and who monthly deposits the seizable portion of his earned income, after deducting the expenses relating to his work, the seizable portion being computed in the same manner as the seizable portion of salary or wages.*

Each declaration must be made under oath and contain a statement of his income and of the expenses relating to his work for the three preceding months. The first declaration must also contain the information, adapted as required, contemplated in paragraphs a, c and d of article 653.

1987, c. 63, s. 5; 1988, c. 21, s. 66.

654. *A debtor must produce a new declaration every time*

(a) he changes the address of his residence or of his domicile;

(b) he changes his employment;

(c) his conditions of employment are altered;

(d) he ceases to work;

(e) he resumes work;

(f) a change occurs in his family responsibilities.

In every case, the declaration must be produced within 10 days following the change.

1965 (1st sess.), c. 80, a. 654; 1969, c. 81, s. 15; 1987, c. 63, s. 6.

655. *The clerk of the court must, without cost to the debtor, send a notice of every declaration produced by the debtor to the creditors mentioned in the list filed by the debtor and to all those reported subsequently.*

1965 (1st sess.), c. 80, a. 655; 1966, c. 21, s. 13; 1969, c. 81, s. 16; 1975, c. 83, s. 46; 1987, c. 63, s. 6; 1995, c. 39, s. 9.

655.1. *Any creditor must, within 30 days of acquiring knowledge of the first declaration of the debtor, file his claim in the record either in accordance with article 643, or at the time of filing a contestation of the debtor's declaration in accordance with article 656.*

If the claim is not filed within the allotted time, the creditor is entitled to only an amount proportional to the amount indicated in the debtor's declaration, until he files his claim. Furthermore, for the purposes of article 644, the claim is deemed to have been filed on the date of the debtor's declaration.

1987, c. 63, s. 6.

656. *Any interested party may, within 30 days of knowledge acquired, contest a debtor's declaration before the court where it has been filed, in the same manner as that of a garnishee. A copy of the contestation must be served on the debtor and the clerk.*

1965 (1st sess.), c. 80, a. 656; 1969, c. 81, s. 17; 1987, c. 63, s. 7.

656.1. *The clerk shall prepare and keep up to date a list of the creditors and issue a copy thereof to every creditor who applies therefor.*

1987, c. 63, s. 7.

656.2. *If the clerk is unable to pay to a creditor a sum that is payable to him and that has been deposited by the debtor, he shall retain the sum until the creditor requests payment thereof or until the debtor furnishes proof of extinguishment of the debt, in which case the amount shall be redistributed among the other creditors in proportion to their claims.*

If all the other debts are extinguished, the clerk shall notify the debtor that he may recover the undistributed sums upon a written application.

1987, c. 63, s. 7.

656.3. *Where the full amount of a claim has been paid to a creditor, the clerk shall, by registered or certified mail, transmit a notice to that effect to the debtor and to the creditor.*

If the notice is not contested by the creditor within 30 days of receiving it, the clerk may, on the application of the debtor, certify on the duplicate of the notice in the possession of the debtor that it has not been contested, and the notice so certified is equivalent to a discharge.

1987, c. 63, s. 7.

657. *The creditor may make a motion to the court, notice of which is served on the debtor and the clerk, that seizure may be made where a debtor having failed to make a deposit or produce a declaration in accordance with this subdivision has not remedied the failure within 30 days following receipt of a notice from the creditor requiring him to do so.*

The court may suspend its decision for such time as it decides but not over 90 days if the debtor proves that his failure to make a deposit or produce a declaration was not due to his negligence and that it is possible for him to remedy the failure within that time or a shorter time.

If the motion of the creditor is granted, the clerk shall, forthwith, notify the other creditors.

1965 (1st sess.), c. 80, a. 657; 1969, c. 81, s. 18; 1987, c. 63, s. 8; 1995, c. 39, s. 10.

657.1. *A debtor who, in the course of a year, has not made a deposit or produced a new declaration must, within 30 days following receipt of a notice from the clerk reminding him of the content of this article, forward to the clerk a notice of his intention to continue to avail himself of the benefit of this subdivision. Failing that, he loses that benefit and the clerk shall, forthwith, notify the creditors.*

1987, c. 63, s. 8; 1995, c. 39, s. 11.

657.2. *Upon receiving a notice from the debtor indicating that he renounces the benefit of this subdivision, the clerk shall, forthwith, notify the creditors.*

1987, c. 63, s. 8; 1995, c. 39, s. 12.

658. *A creditor who, having received the notice contemplated in article 655, proceeds to seize notwithstanding the prohibition of article 652, is responsible for any injury resulting therefrom; so also is the creditor who refuses to give a release of a seizure taken after the date of the debtor's declaration but before*

the receipt of the notice. In both cases the clerk himself, at the request of the debtor, must grant a release of the seizure.

The creditor shall not be entitled, in the first case, to any costs; in the second case, he shall be entitled to his costs until the date of receipt of the notice contemplated in article 655.

1965 (1st sess.), c. 80, a. 658; 1969, c. 81, s. 19; 1987, c. 63, s. 9; 1999, c. 40, s. 56.

659. *The provisions of articles 643, 644, 645, 646, 647, 648 and 650 apply, with the necessary modifications, to voluntary deposits. Nevertheless, the sums deposited must be distributed to the creditors at no cost to the debtor.*

1965 (1st sess.), c. 80, a. 659.

659.0.1. *No debtor of support subject to the Act to facilitate the payment of support (chapter P-2.2) may avail himself of this subsection, except if he already has availed himself of the provisions of this subsection by the time he becomes subject to the said Act.*

1995, c. 18, s. 84.

DIVISION IV.1

Repealed, 1995, c. 18, s. 85.

1980, c. 21, s. 10; 1995, c. 18, s. 85.

659.1. *(Repealed).*

1980, c. 21, s. 10; 1995, c. 18, s. 85.

659.2. *(Repealed).*

1980, c. 21, s. 10; 1995, c. 18, s. 85.

659.3. *(Repealed).*

1980, c. 21, s. 10; 1981, c. 14, s. 18; 1992, c. 57, s. 326; 1995, c. 18, s. 85.

659.4. *(Repealed).*

1980, c. 21, s. 10; 1995, c. 18, s. 85.

DIVISION IV.2

SUSPENSION OF SEIZURE BY GARNISHMENT OF SALARY OR WAGES

1980, c. 21, s. 10.

659.5. *Where the execution is effected by way of seizure by garnishment of salary or wages and there is no other claim in the record, the clerk may, on the application of the debtor and once the arrears are paid, suspend the execution of the seizure, if the debtor offers to pay directly to him the payments of support when due, and if he furnishes satisfactory guarantees that he will comply with his undertakings.*

The suspension is granted for a period of not less than six months nor more than one year.

1980, c. 21, s. 10; 1992, c. 57, s. 420.

659.6. *If the clerk grants the application of the debtor, he gives notice thereof, by registered or certified mail, to the creditor and the garnishee, who, upon receiving the notice, ceases his deposits with the clerk.*

1980, c. 21, s. 10; 1992, c. 57, s. 420.

659.7. *During the period when the seizure is suspended, the clerk pays to the person entitled to support, at least once a month, the amounts he receives from the debtor.*

1980, c. 21, s. 10; 1992, c. 57, s. 420.

659.8. *When the debtor fails to make a payment when due, or if a claim is filed by a third person in the record of the seizure by garnishment, the seizure becomes executory again; the clerk then gives notice thereof, by registered or certified mail, to the creditor and the garnishee, who, within 10 days after receiving the notice, must deposit with the clerk, personally or by registered or certified mail, the seizable portion of what he owes to the debtor.*

1980, c. 21, s. 10; 1981, c. 14, s. 19; 1992, c. 57, s. 420.

659.9. *Where the execution has been suspended, the debtor is released from the seizure at the expiration of the period fixed for the suspension, unless the seizure has become executory again.*

1980, c. 21, s. 10.

659.10. *In such cases as it may determine, the Government may, by regulation, impose on the debtor the payment of costs connected with the application of this section and establish the tariff thereof.*

1980, c. 21, s. 10.

659.11. *This section shall not apply where the Minister of Revenue is acting as seizing creditor pursuant to the Act to facilitate the payment of support (chapter P-2.2).*

1995, c. 18, s. 86.

DIVISION V

SEIZURE OF IMMOVABLES IN EXECUTION

§ 1. — Seizure of Immovables

660. *The writ of seizure of immovables orders the sheriff of the district in which the immovables of the debtor are situated to seize those indicated to him by the seizing creditor and to sell them in satisfaction of the condemnation in principal, interest and costs. It is executed by the sheriff himself or by one of his officers.*

An immovable situated partly in one district and partly in another may be wholly seized in either district. In that case, the sheriff may not seize the immovable until he has ascertained that no other minutes of seizure are registered in the land register; if another seizure is registered, the sheriff sends a copy of the writ of execution to the sheriff who drew up the first minutes of seizure so that he may note the second writ upon the first.

1965 (1st sess.), c. 80, a. 660; 1992, c. 57, s. 327.

661. *(Repealed).*

1965 (1st sess.), c. 80, a. 661; 1992, c. 57, s. 328.

661.1. *(Repealed).*

1980, c. 21, s. 11; 1981, c. 14, s. 20; 1995, c. 18, s. 87.

662. *The seizing officer may at any time demand from the seizing creditor advances to meet the disbursements rendered necessary by the execution; and if such amounts are not paid the officer may refuse to make the seizure or to continue the execution.*

1965 (1st sess.), c. 80, a. 662; 1980, c. 21, s. 12; 1995, c. 18, s. 88.

663. *The seizure is effected by the service upon the debtor and upon the registrar of a copy of the writ of execution and of the minutes of seizure.*

If the debtor has no known domicile, residence or business establishment in the district where the immovable is situated, service upon him may be made at his last known address in Québec, in the usual manner or by registered or certified mail.

If the debtor has no known address in Québec, service upon him is made at the office of the court where the writ was issued.

1965 (1st sess.), c. 80, a. 663; 1975, c. 83, s. 47; 1992, c. 57, s. 329; 1999, c. 40, s. 56; 2000, c. 42, s. 129.

664. *The minutes of seizure, prepared in triplicate by the sheriff, must contain:*

(1) mention of the title under which the seizure is made;

(2) a description of the immovable seized, made in accordance with the rules prescribed in the Book on the Publication of rights in the Civil Code.

1965 (1st sess.), c. 80, a. 664; 1992, c. 57, s. 330.

665. *The registrar, when served with the minutes of seizure, must make a note thereof in the land register and notify the persons having required that their address be registered. The non-compliance with this provision does not invalidate the seizure but renders the registrar responsible for any injury resulting therefrom.*

1965 (1st sess.), c. 80, a. 665; 1992, c. 57, s. 331; 1999, c. 40, s. 56.

666. *The sheriff who has seized an immovable is required to note, upon the first writ, all subsequent writs of execution; in such case the first seizure cannot be discontinued or suspended, except in consequence of an opposition, or with the consent of the seizing creditor and of the subsequent creditors whose seizures have been noted, or by an order of a judge.*

If the first seizing creditor releases the seizure or receives payment of his claim, the execution is nonetheless continued in his name, in order to satisfy the writs noted, but at the cost of the creditors who obtained them.

1965 (1st sess.), c. 80, a. 666; 1992, c. 57, s. 332.

667. *The immovables seized remain in the possession of the debtor, but the seizing creditor may if necessary obtain from a judge the appointment of a sequestrator.*

The fruits and revenues collected by the sequestrator, after deducting expenses, are immobilized and distributed in the same manner as the sale price.

1965 (1st sess.), c. 80, a. 667.

668. *(Repealed).*

1965 (1st sess.), c. 80, a. 668; 1992, c. 57, s. 333.

669. *The debtor cannot, on pain of nullity, alienate an immovable under seizure.*

The alienation avails, however, if the seizure is declared null, or if, before the adjudication, the purchaser or the debtor deposits with the sheriff a sum sufficient to discharge in capital, interest and costs the claim of the seizing creditor as well as those of any creditors whose writs of execution have been noted. The amount deposited is forthwith paid by the sheriff to those entitled to it.

1965 (1st sess.), c. 80, a. 669.

670. *The sheriff must insert in a newspaper, at least 30 days before the date fixed for the sale, a public notice stating:*

(a) the number of the case and the nature of the writ;

(b) the names of the seizing creditor and of the debtor, or, if there are several creditors or debtors, the name of the first named in the writ with an indication that there are others;

(c) the designation of the immovable or of the rents, as the case may be, as inserted in the minutes, with the charges there mentioned;

(d) the day, hour and place of the sale;

(e) the minimum amount the purchaser will have to pay at the time of adjudication in accordance with article 688.1. Such amount is fixed by the sheriff and must be equal to 25% of the assessment of the immovable as entered on the assessment roll of the municipality, multiplied by the factor established for the roll by the Minister of Municipal Affairs, Regions and Land Occupancy under the Act respecting municipal taxation (chapter F-2.1).

The clerk or the secretary-treasurer of a municipality must, when so required, give the sheriff the information necessary for the application of this paragraph.

(e.1) in the case of an immovable used as the family residence, the minimum price of adjudication pursuant to article 687.1;

(f) the name of the sheriff and the district for which he acts.

The sheriff is also required to send to the registrar, at least 30 days before the date fixed for the sale, a copy of the notice so that it may be registered in the land register.

1965 (1st sess.), c. 80, a. 670; 1975, c. 83, s. 48; 1977, c. 73, s. 28; 1979, c. 72, s. 323; 1989, c. 55, s. 32; 1992, c. 57, s. 334; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109.

671. *The publication of the notice provided for in article 670 is made in a newspaper circulated in the locality where the sale must take place and in the locality where the immovable is situated, if not the same, or, if no newspaper is circulated in such localities, in a newspaper circulated in the nearest locality.*

1965 (1st sess.), c. 80, a. 671; 1977, c. 73, s. 29; 1992, c. 57, s. 335.

672. *After release of seizure is granted, any interested person may obtain a certificate from the clerk who issued the writ provided his application includes an attestation of the sheriff to the effect that he has noted no writs or to the effect that he has obtained release for any writs he was required to note.*

1965 (1st sess.), c. 80, a. 672; 1992, c. 57, s. 336.

673. *The sale cannot be suspended except by the consent of the parties, by a judge's order, or if there is an opposition.*

1965 (1st sess.), c. 80, a. 673.

§ 2. — Oppositions to Seizure in Execution of Immovable Property

674. *The judgment debtor may oppose and ask for the annulment of the seizure of an immovable for the reasons contemplated in article 596. The opposition to annul may also be made by a third party having a sufficient interest.*

1965 (1st sess.), c. 80, a. 674.

675. *A third party who claims the ownership of part only of any immovable or immovables under seizure may make an opposition to withdraw.*

1965 (1st sess.), c. 80, a. 675.

676. *A third party may make an opposition to secure charges when an immovable under seizure is advertised to be sold without mention being made of a charge to which it is subject in his favour and from which it might be discharged by a sheriff's sale.*

1965 (1st sess.), c. 80, a. 676.

677. *Any person, aggrieved by reason of an immovable being advertised as subject to a charge which prejudices his claim, may make an opposition to the sale of the property subject to such charge, unless good and sufficient security be given him that it will be sold at a sufficient price to ensure payment of his claim.*

An opposition to charges cannot be made by the seizing creditor or the judgment debtor, unless the mention of such charge has been made without his consent.

1965 (1st sess.), c. 80, a. 677.

678. *Subject to the provisions which follow, the rules of articles 596 to 604 as to oppositions to the seizure of movable property also apply to oppositions to the seizure of immovables.*

1965 (1st sess.), c. 80, a. 678.

679. *The motion to oppose must be served, at least 10 days before the date fixed for the sale, on the sheriff, on the seizing creditor or his attorney and, if it is made by a third person, on the debtor.*

No opposition made after the prescribed time can stop the sale, except upon an order from the clerk granted at the request of the opposing party for sufficient cause and after prior notice is sent to the seizing creditor or his attorney; if the object of the opposition is to revendicate the immovable under seizure, the opposing party may, if his motion to oppose is granted, file his claim in the same manner as prior or hypothecary creditors in order to be paid according to his rank out of the proceeds of the sale.

1965 (1st sess.), c. 80, a. 679; 1992, c. 57, s. 337.

680. *When there is more than one writ of execution and the opposition relates to the first writ only and is not based upon a matter of form, the sheriff is bound to continue the execution in order to satisfy the writs noted, proceeding under a copy of the first writ and of the minutes of seizure, which he prepares and certifies before making his return.*

If the opposition applies to a noted writ only, the sheriff returns the said writ and continues the execution upon the first writ.

1965 (1st sess.), c. 80, a. 680.

681. *A person whose opposition is dismissed is liable towards the seizing creditor and the debtor, not only for the costs, but also for all damages, including interest upon the amount due to the seizing creditor for the time during which the sale was stopped.*

1965 (1st sess.), c. 80, a. 681.

682. *If the opposition is not decided until after the day fixed for the sale and the seizure is not annulled, the sheriff fixes a new date for the sale and again publishes the notice provided for in article 670 at least 15 days before such sale.*

1965 (1st sess.), c. 80, a. 682; 1977, c. 73, s. 30.

§ 3. — Sale

I. — Adjudication

683. *The immovables are offered for sale by auction and sold in a public place determined by the sheriff.*

The judge may, upon application, order the sheriff to sell at a more advantageous place.

1965 (1st sess.), c. 80, a. 683; 1992, c. 57, s. 338.

684. *On the day and at the place appointed, the officer conducting the sale first reads the text of the notice, specifies the charges and the conditions of the sale, mentions every lease registered in the registry office in respect of the immovable, and then offers the immovable for sale by auction.*

1965 (1st sess.), c. 80, a. 684; 1973, c. 74, s. 14; 1992, c. 57, s. 339.

685. *No bid can be received unless the bidder declares his name, capacity, occupation and residence.*

Minutes are taken of the bids received.

1965 (1st sess.), c. 80, a. 685.

686. *The following persons cannot be bidders or purchasers at the sale:*

(a) the party upon whom the property is sold, if personally liable for the debt;

(b) the persons referred to in article 1709 of the Civil Code;

(c) the sheriff or other officer conducting the sale;

(d) a false bidder.

1965 (1st sess.), c. 80, a. 686; 1992, c. 57, s. 340.

687. *When several immovables are seized, a judge may order them to be sold as a whole, if it is advantageous to do so.*

1965 (1st sess.), c. 80, a. 687.

687.1. *An immovable used as the family residence cannot be adjudicated at a price lower than 50% of the assessment of that immovable as entered on the assessment roll of the municipality, multiplied by the factor established for that roll by the Minister of Municipal Affairs, Regions and Land Occupancy pursuant to the Act respecting municipal taxation (chapter F-2.1), unless the court allows it to be sold at a lower price.*

1989, c. 55, s. 33; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109.

688. *The immovable must be adjudged to the last bidder; when there is only one bidder, he must be declared the purchaser. The adjudication cannot in any case be made before the expiration of 15 minutes from the first bid and five minutes from the last bid.*

A person who has purchased for another is bound to state immediately the name, capacity and residence of his principal, and to furnish proof of his mandate; in default of which he is held to have purchased in his own name. He is likewise held to have purchased in his own name if the person for whom he acted is unknown, cannot be found, is notoriously insolvent or is incapable of being purchaser.

1965 (1st sess.), c. 80, a. 688.

688.1. *Subject to the right of retention provided by article 689, no person may be declared purchaser if he does not immediately pay to the officer conducting the sale the amount described in paragraph e of article 670, either in cash or by certified cheque.*

Failing payment, the officer cancels the adjudication and, according to the circumstances, continues the bidding or terminates the sale; if he terminates the sale, he inserts another notice in accordance with articles 670 and 671, at the cost of the person in default.

If the immovable is sold for a lower price than that bid by the person in default, he is liable to payment of the difference.

1975, c. 83, s. 49.

689. *The purchase price must be paid within five days, at the expiry of which time interest begins to run.*

Nevertheless, when the immovable is adjudged to the seizing creditor or any hypothecary creditor who has filed an opposition or whose claim is mentioned in the statement certified by the registrar, he may retain the purchase-money to the extent of his claim until the judgment of distribution is served upon him.

1965 (1st sess.), c. 80, a. 689; 1992, c. 57, s. 341; 1999, c. 40, s. 56.

690. *On payment by the purchaser of the purchase price or of the amount which he is not entitled to retain, the sheriff is bound to give him a certificate of sale containing:*

(*1*) *An indication of the nature of the writ, the number of the case, the names and the designation of the parties;*

(*2*) *A description of the immovable sold;*

(*3*) *The date and place of the adjudication;*

(*4*) *The conditions of the sale;*

(*5*) *The price paid or, if need be, the portion thereof which was paid and the portion retained with mention that if the price is not completely paid in conformity with the provisions of article 730, the immovable may be resold for false bidding.*

1965 (1st sess.), c. 80, a. 690.

II. — Resale for False Bidding

691. *Upon the sheriff's return that a purchaser has not paid the purchase price, the seizing creditor, or if he fails to proceed against the purchaser with proper diligence, the judgment debtor or any other creditor whose claim appears in the record, may demand that the immovable be resold for false bidding upon the purchaser thus in default.*

The service of the motion upon a purchaser who has no known domicile, residence, or business establishment in the district where the adjudication took place may be made at the office of the court from which the seizure issued.

1965 (1st sess.), c. 80, a. 691; 1999, c. 40, s. 56.

692. *The purchaser may prevent the resale for false bidding by paying into the hands of the sheriff before such sale the purchase price with the interest accrued thereon and all costs incurred by reason of his default.*

1965 (1st sess.), c. 80, a. 692.

693. *The resale for false bidding takes place under the same writ and according to the provisions of article 682.*

1965 (1st sess.), c. 80, a. 693.

694. *The false bidder must pay the difference between his price and the price of the resale, but has no right to the excess, if any; he is liable to the debtor and to the judgment creditors for all interest, costs and damages resulting from his default.*

1965 (1st sess.), c. 80, a. 694.

III. — Effect of Sheriff's Sale

695. *The purchaser takes the immovable in the condition in which it is at the time of the adjudication, with all the rights of the judgment debtor therein, including all active servitudes, even those not mentioned in the minutes of seizure, but without any warranty as to its contents.*

1965 (1st sess.), c. 80, a. 695.

696. *A sheriff's sale discharges the immovable from all real rights not mentioned in the conditions of sale except:*

(*1*) *servitudes;*

(*2*) *(paragraph repealed)*;

(*3*) *rights of emphyteusis, the rights necessary for the exercise of superficies and rights of substitution not yet open, except when it appears in the record of the case that there exists a prior or preferable claim;*

(*4*) *(paragraph replaced)*;

(*5*) *the administrative encumbrance affecting a low-rental housing immovable.*

A sheriff's sale does not affect the legal hypothec securing the rights of municipalities, school boards or the Comité de gestion de la taxe scolaire de l'île de Montréal in respect of instalments not yet due of special taxes, the payment of which is spread over a certain number of years; such instalments do not become due by reason of the sale of the immovable and are not collocated, but remain payable according to the terms of their imposition.

1965 (1st sess.), c. 80, a. 696; 1988, c. 84, s. 554; 1991, c. 62, s. 6; 1992, c. 57, s. 342; 1996, c. 5, s. 42; 1999, c. 40, s. 56; 2002, c. 75, s. 33.

696.1. *A sheriff's sale does not discharge a lease registered in the land register.*

1973, c. 74, s. 15; 1992, c. 57, s. 343.

697. *If the holder of the immovable refuses to deliver it, the purchaser may, by motion served upon such holder, obtain from a judge an order of expulsion, without prejudice to his recourse for damages.*

1965 (1st sess.), c. 80, a. 697.

IV. — Vacating of Sheriff's Sale

698. *A sheriff's sale may, at the instance of any interested person, be vacated:*

(1) If, with the knowledge of the purchaser, fraud was employed to keep persons from bidding;

(2) If the essential conditions and formalities prescribed for the sale have not been observed; but the seizing creditor cannot vacate the sale for any irregularity attributable to himself or his attorney.

1965 (1st sess.), c. 80, a. 698.

699. *A sheriff's sale may also be vacated at the instance of the purchaser:*

(1) If he is liable to eviction by reason of some real right from which the property is not discharged by the sale;

(2) If the immovable differs so much from the description in the minutes of seizure that it is to be presumed that he would not have bought had he been aware of the true description.

1965 (1st sess.), c. 80, a. 699.

700. *The demand to vacate a sheriff's sale, which is a proceeding incidental to the execution, must be made by motion served on all the interested parties within 90 days of adjudication. This time limit is peremptory; nevertheless, the court may, provided not more than six months have elapsed since the adjudication, relieve from the consequences of his default a party who shows that in fact it was impossible for him to act sooner.*

1965 (1st sess.), c. 80, a. 700; 1999, c. 40, s. 56.

V. — Return of the Writ

701. *Five days after the sale the sheriff must return to the clerk, with a certificate of his proceedings:*

(a) the writ of execution and the minutes of seizure;

(b) a copy of the notice of sale;

(c) a statement of the conditions of sale;

(d) the minutes of the bidding;

(e) a statement certified by the registrar of the charges which affected the immovable, or a written statement that such statement will be transmitted subsequently;

(f) all oppositions and claims placed in his hands, as well as writs of execution which he has noted;

(g) a statement of his fees and disbursements taxed by the clerk;

(h) a mention of the purchaser's failure to pay within the prescribed time and of the amount on which interest accrues.

1965 (1st sess.), c. 80, a. 701; 1992, c. 57, s. 344, s. 420.

702. *The sheriff must, after deducting from the moneys levied his fees and costs, deposit the balance in accordance with the Deposit Act (chapter D-5).*

1965 (1st sess.), c. 80, a. 702; 1972, c. 70, s. 21.

VI. — Registrar's Statement

1992, c. 57, s. 345.

703. *After five days have elapsed since the sale, the sheriff is required to procure the certified statement of the registrar unless one of the interested parties has already delivered it to him.*

1965 (1st sess.), c. 80, a. 703; 1992, c. 57, s. 345; 2000, c. 42, s. 130.

704. *The statement mentions the hypothecs or charges subsisting in the land register in respect of the immovable.*

In addition to the particulars prescribed by article 3019 of the Civil Code and by the regulations under the Civil Code, the certified statement contains, for each entry, the name and address of the creditor.

The statement must not go beyond the date of a previous sale having the effect of a sheriff's sale or forced sale, except as to charges which have not been discharged thereby; and it must not mention the charges which, according to the land register, are extinguished or wholly discharged.

If the immovable is not affected by any hypothec or charge, the statement must attest that fact.

1965 (1st sess.), c. 80, a. 704; 1992, c. 57, s. 345; 2000, c. 42, s. 131.

705. *(Repealed).*

1965 (1st sess.), c. 80, a. 705; 1992, c. 57, s. 346.

706. *(Repealed).*

1965 (1st sess.), c. 80, a. 706; 1992, c. 57, s. 346.

707. *A judge may, at the request of any person interested, order the rejection or correction of the statement certified by the registrar, on the ground of error or fraud in its preparation or in the registers on which it is based, or on the ground of the extinction of a charge mentioned therein.*

The demand to reject or correct is made by motion served on the registrar, and the judge to whom it is presented may order the impleading of any person interested.

1965 (1st sess.), c. 80, a. 707; 1992, c. 57, s. 347.

VII. —

Repealed, 1992, c. 57, s. 348.

1992, c. 57, s. 348.

708. *(Repealed).*

1965 (1st sess.), c. 80, a. 708; 1992, c. 57, s. 348.

709. *(Repealed).*

1965 (1st sess.), c. 80, a. 709; 1992, c. 57, s. 348.

VIII. — Payment of Moneys Without Scheme of Collocation

710. *The clerk, on demand, may adjudge the proceeds of the sale to the parties entitled to them without the formality of a scheme of collocation when no claim appears by the statement certified by the registrar, when the moneys levied do not exceed the costs of seizure, or when all the interested parties consent.*

1965 (1st sess.), c. 80, a. 710; 1992, c. 57, s. 349, s. 420.

IX. — Scheme of Collocation

711. *Between the fifth and the tenth days after the sheriff's return or the filing of the statement certified by the registrar, the clerk must prepare a scheme of collocation.*

1965 (1st sess.), c. 80, a. 711; 1992, c. 57, s. 350, s. 420.

712. *The scheme of collocation must contain the names and designations of the seizing creditor, the judgment debtor, the opposants and claimants, and mention the amount levied and the name of the person in whose hands it is, and the filing of the statement certified by the registrar.*

Each collocation must be dealt with in a separate article giving the nature of the claim, the date of the title and of its publication, if any, and stating whether the claim bears upon all the moneys to be distributed or only upon the proceeds of sale of a particular immovable or part of an immovable; the articles are numbered consecutively.

1965 (1st sess.), c. 80, a. 712; 1992, c. 57, s. 351.

713. *Subject to the provisions of article 578, the clerk shall prepare the scheme of collocation in accordance with the rights of the parties as shown by the statement certified by the registrar and other documents forming part of the record.*

1965 (1st sess.), c. 80, a. 713; 1992, c. 57, s. 352, s. 420.

714. *Law costs must be collocated first and in the following order:*

(1) costs of the scheme of collocation;

(2) duties and fees due on amounts deposited or levied;

(3) the costs of seizure and sale, if they have not been retained out of the price, including such as may remain due upon the discussion of the movables;

(4) (paragraph repealed);

(5) (paragraph repealed);

(6) costs incurred after the judgment, both in the court of first instance and in appeal, upon incidental proceedings which were necessary to effect the seizure and sale of the immovables and the distribution of the moneys levied;

(7) costs of suit of the seizing creditor.

1965 (1st sess.), c. 80, a. 714; 1992, c. 57, s. 353.

715. *After law costs must be collocated, according to their rank, the claims of persons who had real rights in the immovable but filed their oppositions too late, and of prior creditors and those who have filed a statement of their claim with the seizing officer supported by an affidavit and vouchers, deducting, however,*

the debts which such claimants were bound to pay and which have become payable in consequence of the sale.

1965 (1st sess.), c. 80, a. 715; 1992, c. 57, s. 354.

716. *Conditional creditors are collocated according to their rank, but the amounts of their claims are payable to subsequent creditors whose claims are exigible, upon security being given, within the time fixed by the judge, for the return of the money upon fulfilment of the condition.*

If there are no subsequent creditors, or if they do not give security, the amount is paid to the judgment debtor, on condition of giving the same security, or, if he fail to do so, to the conditional creditors themselves, upon their giving security to return the moneys in the event of the condition failing or becoming impossible, and paying interest to such persons as a judge may order.

If payment cannot so be made, the amount of the claim is placed in the hands of a depositary agreed upon by the parties, or, if they cannot so agree, appointed by a judge.

1965 (1st sess.), c. 80, a. 716; 1999, c. 40, s. 56.

717. *When a claim is undetermined or unliquidated, the clerk must, out of the disposable moneys, reserve a sum sufficient to cover it; and such sum remains in the hands of the Minister of Finance until the claim is determined or liquidated, unless a judge otherwise orders.*

1965 (1st sess.), c. 80, a. 717; 1972, c. 70, s. 22; 1992, c. 57, s. 420.

718. *A hypothecary claim due with a term of payment becomes exigible in consequence of the sale of the hypothecated immovable, and is collocated.*

1965 (1st sess.), c. 80, a. 718.

719. *A claim for the capital of a life-rent is determined and collocated according to the provisions of the Civil Code.*

1965 (1st sess.), c. 80, a. 719.

720. *Interest and annuity payments due on the day of adjudication and preserved by registration of a deed are collocated in the same rank as the principal.*

1965 (1st sess.), c. 80, a. 720; 1999, c. 40, s. 56.

721. *When several immovables or parts of immovables, separately charged with different claims, are sold for one and the same price or when a creditor has some preferable claim upon part only of an immovable by reason of improvements or other cause, the clerk must, if the disposable moneys are insufficient, make a relative valuation to determine the respective value of the immovables or parts of immovables in relation to the value of the whole, and the proportion attributable to each creditor in the amount to be distributed.*

1965 (1st sess.), c. 80, a. 721; 1992, c. 57, s. 356, s. 420.

722. *If the record does not contain sufficient information to permit of a relative valuation, the clerk may, after notice to the interested parties, have recourse to experts or other persons whose testimony, taken under oath, is filed in the record.*

1965 (1st sess.), c. 80, a. 722; 1992, c. 57, s. 420.

723. *The clerk, on his own initiative or at the oral demand of any interested person, may summon any person to appear before him to be examined upon the facts relating to any charge contained in the statement certified by the registrar or any claim filed in the record. The examination is subject to the rules of Chapter I of Title V of Book II.*

The admission of the person in whose favour such charge or claim lies has full effect against him without any other procedure or formality.

1965 (1st sess.), c. 80, a. 723; 1992, c. 57, s. 357, s. 420.

724. *The scheme of collocation is made in duplicate; one of the duplicates is filed in the record and the other posted in the office of the court.*

The clerk must, forthwith, by ordinary mail, give notice of the posting to all the interested persons whose addresses he can obtain.

Such persons may contest the scheme of collocation within 15 days from the date of posting.

1965 (1st sess.), c. 80, a. 724; 1975, c. 83, s. 50; 1992, c. 57, s. 420; 1996, c. 5, s. 43.

725. *Such contestation may relate to the scheme itself, to the rank of the collocation or to the merits of any collocated claim. It must be served upon all the interested parties with notice of the day when it will be presented. From the filing of the contestation, proceedings on the collocation are suspended, either in whole, or only for the contested claim and those subsequent thereto, as the case may be.*

Unless the court otherwise orders, there is no answer in writing to the contestation.

1965 (1st sess.), c. 80, a. 725.

726. *Several contestations based upon the same grounds must be joined and the proceedings continued by the first contestant, saving the right of the others to continue the proceedings themselves if the first contestant desists or does not proceed with diligence.*

1965 (1st sess.), c. 80, a. 726.

727. *After the expiry of the time limits for contestation or after judgment on such contestation, the clerk homologates the scheme.*

If part only of the scheme has been contested, the homologation may be granted immediately for the part which is not contested.

1965 (1st sess.), c. 80, a. 727; 1968, c. 84, s. 5; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

728. *Whether or not the scheme has been homologated, a judge may order a supplementary distribution of any amount collocated to a creditor who is not thereunto entitled.*

1965 (1st sess.), c. 80, a. 728.

X. — Payment of Moneys Levied

729. *Fifteen days after the date of the judgment of homologation, the Minister of Finance pays the moneys levied to the parties thereto entitled in accordance with the Deposit Act (chapter D-5).*

1965 (1st sess.), c. 80, a. 729; 1972, c. 70, s. 23.

730. *A purchaser who has not paid the purchase price must, within 10 days after the judgment of homologation is transmitted to him, pay to the sheriff the amounts necessary to satisfy the claims which have priority over his own; if he fail to do so any interested party may demand the resale of the immovable upon him for false bidding.*

When the purchaser has fulfilled his obligation, the sheriff must give him a certificate that the purchase price has been paid in full.

1965 (1st sess.), c. 80, a. 730; 1983, c. 28, s. 25; 1995, c. 39, s. 13.

731. *Any creditor who has appeared in the case or whose claim is mentioned in the statement certified by the registrar may take against the judgment of homologation the ordinary recourses available against judgments.*

1965 (1st sess.), c. 80, a. 731; 1992, c. 57, s. 358.

732. *If a judgment of homologation is revised, or the sale is vacated, or the purchaser is evicted by reason of any real right not discharged by the sale, a judge may, on motion, order that all sums unduly paid be returned to the sheriff by the persons who have received them.*

1965 (1st sess.), c. 80, a. 732.

BOOK V

SPECIAL PROCEEDINGS

TITLE I

PROVISIONAL REMEDIES

CHAPTER I

SEIZURE BEFORE JUDGMENT

733. *The plaintiff may, with the authorization of a judge, seize before judgment the property of the defendant, when there is reason to fear that without this remedy the recovery of his debt may be put in jeopardy.*

1965 (1st sess.), c. 80, a. 733.

734. *The plaintiff may also seize before judgment:*

(1) the movable property which he has a right to revendicate;

(2) (paragraph repealed);

(3) the motor vehicle which has caused him damage;

(4) the movable property upon the price of which he is entitled to be collocated by preference and which is being used in such a way as to jeopardize the realization of his prior claim;

(5) the movable property which a provision of law permits him to seize in order to assure the exercise of his rights upon it.

1965 (1st sess.), c. 80, a. 734; 1992, c. 57, s. 359.

734.0.1. *In a suit in nullity of marriage, for separation as to property, for payment of a compensatory allowance, for separation from bed and board or divorce or for the dissolution or annulment of a civil union, each spouse may also seize before judgment the movables belonging to him, whether they are in the hands of his spouse or of a third person; he may, in addition, with leave of a judge, seize the property of his spouse that he would be entitled to share in if the matrimonial or civil union regime were dissolved.*

The seized property remains in the custody of the debtor, unless a judge decides otherwise.

1982, c. 17, s. 27; 1989, c. 55, s. 34; 2002, c. 6, s. 104.

734.1. *Where the case is in appeal, the plaintiff may make a seizure before judgment with the authorization of a trial judge.*

1975, c. 83, s. 51.

735. *A seizure before judgment is effected in virtue of a writ, issued by the clerk upon a written requisition supported by an affidavit affirming the existence of the debt and the facts which give rise to the seizure and, if based on information, indicating the sources thereof.*

In the cases provided for in articles 733, 734.0.1 and 734.1, the leave of the judge must appear upon the requisition itself.

1965 (1st sess.), c. 80, a. 735; 1982, c. 17, s. 28; 1992, c. 57, s. 420.

736. *The writ orders the officer charged with it to seize all the movable property of the defendant or only the movable or immovable property specially described therein. When the seizure is in the hands of a third party, the writ must conform to the provisions of articles 625 and 641.*

The writ, moreover, orders the defendant, upon whom it must be served with a copy of the affidavit, to appear to answer the demand made against him and to hear the seizure declared valid.

1965 (1st sess.), c. 80, a. 736; 1972, c. 70, s. 24.

737. *Seizure before judgment has, as its sole purpose, to place the property in the hands of justice pending suit; it is carried out in the same way and is governed by the same rules as seizure after judgment, so far as they are applicable.*

Articles 552 and 553 apply to a seizure before judgment, except in the cases provided for in article 734.

The officer entrusts the property seized to a guardian designated by him, unless the seizing creditor authorizes him to leave them with the debtor.

1965 (1st sess.), c. 80, a. 737; 1975, c. 83, s. 52; 1977, c. 73, s. 31; 1983, c. 28, s. 26; 1992, c. 57, s. 360.

738. *The defendant may, within five days of service of the writ, demand that the seizure be quashed because of the insufficiency or the falsity of the allegations of the affidavit on the strength of which the writ was issued.*

The demand is presented to a judge who quashes the seizure if the allegations contained in the affidavit are insufficient. In the opposite case, the judge refers the motion to the court and, if expedient, revises the extent of the seizure and makes any other useful order for safeguarding the rights of the parties.

The burden is on the seizing party to prove the allegations of his affidavit.

1965 (1st sess.), c. 80, a. 738; 1982, c. 32, s. 50; 1996, c. 5, s. 44.

739. *The defendant may prevent the removal of the seized property or be released from the seizure by giving the seizing officer sufficient guarantee chosen by the defendant.*

The amount of the guarantee is determined by the amount sued for or the market value of the property seized as certified by the seizing officer, according to the circumstances, unless the judge or clerk otherwise decides.

Only the deposit of sum of money, of a guarantee issued by a financial institution carrying on business in Québec, of bonds within the meaning of the provisions of the Civil Code relating to presumed sound investments or of an insurance policy securing the performance of the dependant's obligations constitutes sufficient guarantee within the meaning of this article.

The defendant may also, at any time after the removal of the property seized, have such property returned to him on applying to the judge and on giving sufficient guarantee within the meaning of this article or any other guarantee that the judge may authorize.

1965 (1st sess.), c. 80, a. 739; 1975, c. 83, s. 53; 1977, c. 73, s. 32; 1983, c. 28, s. 27; 1992, c. 57, s. 361, s. 420.

740. *When the motion to institute proceedings has not been served on the defendant with the writ of seizure, the plaintiff must file it at the office of the court within five days, with a copy for the defendant.*

The suit is contested in the ordinary manner, but it must be heard and decided by preference.

Seizure before judgment may be taken during the suit; it is then subject to the rules of this chapter, so far as they apply.

1965 (1st sess.), c. 80, a. 740; 2002, c. 7, s. 101.

741. *(Repealed).*

1965 (1st sess.), c. 80, a. 741; 1973, c. 74, s. 16.

CHAPTER II

JUDICIAL SEQUESTRATION

742. *The court may of its own motion, or on application, order the sequestration of property when it considers that the protection of the rights of the parties so requires.*

Sequestration may be ordered by a trial judge when the case is in appeal.

1965 (1st sess.), c. 80, a. 742; 1975, c. 83, s. 54; 1992, c. 57, s. 362.

743. *The judgment which orders the sequestration fixes the day on which the parties must appear before the court or judge in chambers to proceed to the choice of a sequestrator; if the parties cannot then agree, or if one of them makes default, the judge himself chooses the sequestrator.*

1965 (1st sess.), c. 80, a. 743.

744. *The sequestrator must be sworn, before the clerk, to administer well and faithfully the property of which he is appointed depositary; he is put in possession by a bailiff who prepares minutes which must contain the description of the property sequestrated and be signed by the bailiff and the sequestrator.*

1965 (1st sess.), c. 80, a. 744; 1992, c. 57, s. 420.

745. *The sequestrator is subject to all the obligations resulting from conventional sequestration unless the court decides otherwise.*

1965 (1st sess.), c. 80, a. 745; 1992, c. 57, s. 363.

746. *(Repealed).*

1965 (1st sess.), c. 80, a. 746; 1992, c. 57, s. 364.

747. *(Repealed).*

1965 (1st sess.), c. 80, a. 747; 1992, c. 57, s. 364.

748. *(Repealed).*

1965 (1st sess.), c. 80, a. 748; 1992, c. 57, s. 364.

749. *(Repealed).*

1965 (1st sess.), c. 80, a. 749; 1992, c. 57, s. 364.

750. *The costs and the remuneration of the sequestrator are taxed by the clerk; they are due jointly and severally by the parties to the contestation, unless the court otherwise orders.*

1965 (1st sess.), c. 80, a. 750; 1992, c. 57, s. 420.

CHAPTER III

INJUNCTIONS

751. *An injunction is an order of the Superior Court or of a judge thereof, enjoining a person, his senior officers, agents or employees, not to do or to cease doing, or, in cases which admit of it, to perform a particular act or operation, under pain of all legal penalties.*

1965 (1st sess.), c. 80, a. 751; 1992, c. 57, s. 365.

752. *In addition to an injunction, which he may demand by a motion to institute proceedings, with or without other conclusions, a party may, at the commencement of or during a suit, obtain an interlocutory injunction.*

An interlocutory injunction may be granted when the applicant appears to be entitled to it and it is considered to be necessary in order to avoid serious or irreparable injury to him, or a factual or legal situation of such a nature as to render the final judgment ineffectual.

1965 (1st sess.), c. 80, a. 752; 2002, c. 7, s. 102.

752.1. *Ex officio or on the motion of a party, the court may, in every case where it considers it appropriate, order the parties to join issues in the principal action within an appointed time, and fix the date of the hearing.*

1983, c. 28, s. 28.

753. *The application for an interlocutory injunction is made to the court, by written motion, supported by an affidavit affirming the truth of the facts alleged and served upon the opposite party, with a notice of the day when it will be presented. In case of urgency, a judge may nevertheless grant it provisionally even before it has been served. Notwithstanding the foregoing, in no case, except with the consent of the parties, may a provisional injunction exceed 10 days.*

1965 (1st sess.), c. 80, a. 753; 1983, c. 28, s. 29; 1985, c. 29, s. 12; 1986, c. 55, s. 7.

753.1. *No application for an interlocutory injunction may be presented at the beginning of proceedings unless a motion to institute proceedings has been filed in the office of the court.*

If the application is granted, the motion to institute proceedings must be attached to the order and be served with it unless the judge allows the motion not to be served. In the latter case, the applicant must file the motion at the office of the court within five days of the order, with a copy for the defendant.

However, the application may be presented without a motion to institute proceedings if the latter could not be filed in time. In such a case, if the application is granted, the order may be served without the motion to institute proceedings. However, the motion must be served within the time determined by the judge.

1983, c. 28, s. 29; 1996, c. 5, s. 45; 2002, c. 7, s. 103.

754. *The application for an interlocutory injunction is contested orally unless the court allows it to be contested in writing.*

1965 (1st sess.), c. 80, a. 754; 1983, c. 28, s. 30; 2002, c. 7, s. 104.

754.1. *The parties make their proof by means of affidavits sufficiently detailed to establish all the facts necessary to support their pretensions. They must cause the affidavits and all the documents they intend to refer to at the proof and hearing to be served on the opposite party as soon as possible before presentation of the application for an interlocutory injunction. However, the applicant must cause his affidavits to be served at the same time as the application.*

1983, c. 28, s. 30; 1994, c. 28, s. 28; 2002, c. 7, s. 105.

754.2. *If on presentation of the application for an interlocutory injunction the record is complete, the court hears the parties.*

In addition to proof by affidavit, any party may present oral proof, if he so wishes.

If on presentation of the application for an interlocutory injunction the record is incomplete, the court fixes the date for the proof and hearing and issues any order necessary to safeguard the rights of the parties for the time and on the conditions it determines.

1983, c. 28, s. 30; 2002, c. 7, s. 106.

754.3. *The court may, at the hearing, prescribe any measure designed to accelerate the progress of the hearing and limit the proof, if no prejudice results to a party.*

1983, c. 28, s. 30.

755. *Unless, for good reason, the court or the judge granting an interlocutory injunction decides otherwise, the applicant must be ordered to give security, in a prescribed amount, to pay the costs and damages which may result therefrom. The certificate of the clerk that the security has been given must be attached to the order before it is served.*

A judge may at any time increase or reduce the amount of such security.

1965 (1st sess.), c. 80, a. 755; 1992, c. 57, s. 420.

756. *The order of interlocutory injunction must in all cases be served upon the opposite party, in the same manner as a motion to institute proceedings, or in the manner prescribed by the court or the judge.*

1965 (1st sess.), c. 80, a. 756; 1996, c. 5, s. 46; 2002, c. 7, s. 160.

757. *The court or a judge may suspend or renew an interlocutory injunction, for such time and on such conditions as is determined.*

1965 (1st sess.), c. 80, a. 757.

758. *An order of injunction can in no case be granted to restrain legal proceedings or the exercise of functions for a legal person established in the public interest or for a private interest, except in the case provided for in article 329 of the Civil Code.*

1965 (1st sess.), c. 80, a. 758; 1992, c. 57, s. 366.

759. *Any final judgment in which an injunction is pronounced must be served upon the opposite party.*

1965 (1st sess.), c. 80, a. 759.

760. *An injunction pronounced in a final judgment remains in force notwithstanding appeal; an interlocutory injunction remains in force notwithstanding a final judgment dissolving it, provided that the plaintiff has instituted an appeal within 10 days.*

However, a judge of the Court of Appeal may provisionally suspend an injunction.

1965 (1st sess.), c. 80, a. 760; 1975, c. 83, s. 55; 1979, c. 37, s. 43.

761. *Any person named or described in an order of injunction, who infringes or refuses to obey it, and any person not described therein who knowingly contravenes it, is guilty of contempt of court and may be condemned to a fine not exceeding $50,000, with or without imprisonment for a period up to one year, and without prejudice to the right to recover damages. Such penalties may be repeatedly inflicted until the contravening party obeys the injunction.*

The court may also order the destruction or removal of anything done in contravention of the injunction, if there is reason to do so.

1965 (1st sess.), c. 80, a. 761.

TITLE II

CERTAIN PROCEEDINGS RELATING TO PERSONS AND PROPERTY

1992, c. 57, s. 367.

CHAPTER I

Repealed, 2002, c. 7, s. 107.

1992, c. 57, s. 367; 2002, c. 7, s. 107.

762. *(Repealed).*

1965 (1st sess.), c. 80, a. 762; 1972, c. 70, s. 25; 1992, c. 57, s. 367; 1996, c. 5, s. 47; 2002, c. 7, s. 107.

763. *(Repealed).*

1965 (1st sess.), c. 80, a. 763; 1992, c. 57, s. 367; 1994, c. 28, s. 29; 1996, c. 5, s. 48; 2002, c. 7, s. 107.

764. *(Repealed).*

1965 (1st sess.), c. 80, a. 764; 1992, c. 57, s. 367; 2002, c. 7, s. 107.

765. *(Repealed).*

1965 (1st sess.), c. 80, a. 765; 1968, c. 84, s. 6; 1992, c. 57, s. 367; 1994, c. 28, s. 30; 2002, c. 7, s. 107.

766. *(Repealed).*

1965 (1st sess.), c. 80, a. 766; 1992, c. 57, s. 367; 1994, c. 28, s. 31; 2002, c. 7, s. 107.

767. *(Repealed).*

1965 (1st sess.), c. 80, a. 767; 1992, c. 57, s. 367; 2002, c. 7, s. 107.

768. *(Repealed).*

1965 (1st sess.), c. 80, a. 768; 1992, c. 57, s. 367; 2002, c. 7, s. 107.

769. *(Repealed).*

1965 (1st sess.), c. 80, a. 769; 1992, c. 57, s. 367; 1994, c. 28, s. 32; 2002, c. 7, s. 107.

770. *(Repealed).*

1965 (1st sess.), c. 80, a. 770; 1992, c. 57, s. 367; 1994, c. 28, s. 33; 2002, c. 7, s. 107.

771. *(Repealed).*

1965 (1st sess.), c. 80, a. 771; 1992, c. 57, s. 367; 2002, c. 7, s. 107.

772. *(Repealed).*

1965 (1st sess.), c. 80, a. 772; 1992, c. 57, s. 367; 1994, c. 28, s. 34; 2002, c. 7, s. 107.

773. *(Repealed).*

1965 (1st sess.), c. 80, a. 773; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 107.

CHAPTER II

APPLICATIONS RELATING TO THE INTEGRITY OF THE PERSON

1992, c. 57, s. 367.

774. *Applications relating to the integrity of the person may in no case be heard by the clerk or by the special clerk. Where applicable, applications are accompanied with the advice of the tutorship council and of at least one expert concerning the person named in the application.*

1965 (1st sess.), c. 80, a. 774; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 108.

775. *An application relating to the integrity of the person has precedence over any other, except an application for habeas corpus, whether in first instance or in appeal.*

1965 (1st sess.), c. 80, a. 775; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

DIVISION I

CONSENT TO CARE

1992, c. 57, s. 367.

776. *Every application to obtain authorization from the court or a judge must, if it is with respect to care or the alienation of a body part, be served on the person concerned, if 14 years of age or over, and on the holder of parental authority, the tutor or curator, where applicable, or on the mandatary designated by a person of full age when he was capable of giving his consent. The same applies to any application under section 61 of the Act respecting end-of-life care (chapter S-32.0001) concerning the carrying out of advance medical directives.*

An application concerning a person of full age who is incapable of giving his consent and who has no tutor, curator or mandatary must also be served on the Public Curator.

Except in an emergency, the application may not be presented to the court less than five days after it is served. No written appearance is required.

The application must be heard on the day it is presented, unless the court or the judge decides otherwise.

1965 (1st sess.), c. 80, a. 776; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1998, c. 32, s. 3; 2002, c. 7, s. 109; 2014, c. 2, s. 68.

777. *A judgment authorizing an examination, treatment, specimen taking or removal of tissue becomes inoperative if the authorization is not acted upon within six months or within any other time fixed by the judge in chambers.*

The judgment may also fix conditions or modalities applicable where the authorization is acted upon.

1965 (1st sess.), c. 80, a. 777; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1998, c. 32, s. 4.

DIVISION II

CONFINEMENT IN AN INSTITUTION AND PSYCHIATRIC ASSESSMENT

1992, c. 57, s. 367; 1997, c. 75, s. 36.

778. *An application to obtain that a person refusing to undergo a psychiatric assessment be submitted to such assessment, or that the person be confined against his will in an institution referred to in the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001) is heard on the day it is presented, unless the court or the judge decides otherwise.*

1965 (1st sess.), c. 80, a. 778; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 75, s. 37.

779. *The application may not be presented to the court or to the judge unless it has been served on the person refusing the assessment or confinement at least two days before presentation.*

The application is also served on a reasonable person of the family of the person concerned or, where applicable, on the holder of parental authority, tutor, curator, mandatary, on the person having custody of the person concerned or on a person who shows a special interest in the person concerned; otherwise, it is served on the Public Curator.

By way of exception, the judge may exempt the applicant from serving the application on the person concerned if he considers that it would be harmful to the health or safety of the person or of others, or in case of emergency.

1965 (1st sess.), c. 80, a. 779; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 75, s. 38; 2002, c. 7, s. 110.

780. *The court or the judge is bound to question the person concerned by the application except if he cannot be found or has fled or if it would clearly be useless to require his testimony owing to his state of health; a further exception is made in the case of an application to obtain that a person be submitted to a psychiatric assessment, where it is proved that there is an urgent need or that requiring the testimony could be harmful to the health or safety of the person concerned or of another person.*

The person concerned may be questioned by a judge of the district in which he is at the time, even if the application is made in another district. The examination is taken down in writing and communicated without delay to the court concerned.

1965 (1st sess.), c. 80, a. 780; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 75, s. 39.

781. *A judgment ordering the psychiatric assessment and confinement of a person may also order that the person concerned be entrusted, for psychiatric assessment or confinement, to an institution referred to in the*

Act respecting the protection of persons whose mental state presents a danger to themselves or to others (chapter P-38.001).

The judgment is notified to the persons on whom the application was served and may be executed by a peace officer.

1965 (1st sess.), c. 80, a. 781; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 75, s. 40.

782. *The clerk sends a copy of the judgment rendered and a copy of the file to the Administrative Tribunal of Québec without delay and free of charge.*

1965 (1st sess.), c. 80, a. 782; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 43, s. 179.

DIVISION III

APPEAL

1992, c. 57, s. 367.

783. *A judgment granting an application for authorization with respect to the integrity of a person does not take effect until five days have elapsed since it was rendered, unless a statement by that person or his attorney indicating that no appeal will be brought has been filed.*

However, a judgment ordering the confinement of a person for a psychiatric assessment or following a psychiatric assessment may be enforced immediately. A judge of the Court of Appeal may suspend execution of the judgment if he considers it necessary in the interest of justice.

1965 (1st sess.), c. 80, a. 783; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1997, c. 75, s. 41.

784. *An appeal from the judgment is governed by the rules provided in article 859, adapted as required.*

1965 (1st sess.), c. 80, a. 784; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

CHAPTER III

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

1992, c. 57, s. 367.

785. *An application for recognition and enforcement of a decision rendered outside Québec is made by way of a motion to institute proceedings. The time limit within which to appear is 20 days and the application may not be presented before at least 40 days have elapsed.*

Such an application may also be made incidentally, even by the party contesting, provided the application comes within the jurisdiction of the Québec court.

1965 (1st sess.), c. 80, a. 785; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 111.

786. *A party seeking recognition or enforcement of a foreign decision attaches to his application a copy of the decision and an attestation emanating from a competent foreign public officer stating that the decision is no longer, in the State in which it was rendered, subject to ordinary remedy and that it is final or enforceable.*

If the decision was rendered by default, a certified copy of the documents establishing that the procedure which instituted the proceedings was duly served on the defaulting party is attached to the application.

All documents drafted in a language other than French or English must be accompanied with a translation authenticated in Québec.

1965 (1st sess.), c. 80, a. 786; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

CHAPTER IV

BOUNDARIES OF LAND

1992, c. 57, s. 367.

787. *A demand to have the boundaries between lands determined is made by serving a notice containing*

(1) a statement of the demand and of the reasons therefor, without mentioning disturbances, damages or other claims;

(2) the description of the immovables concerned;

(3) the name and residence of the land surveyor proposed for the operations;

(4) a statement that proceedings will be instituted before the competent court unless an agreement is reached, within 15 days, on the right to have the boundaries determined and on the choice of a land surveyor.

1965 (1st sess.), c. 80, a. 787; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

788. *If, after the demand is made, the owners agree on having the boundaries determined and on the choice of a land surveyor, their agreement must be evidenced in writing, set out the reasons for the determination of boundaries, describe the immovables and identify the land surveyor who will carry out the operations.*

If the parties do not agree, the party that has given the notice may ask the court, by a motion to institute proceedings, to rule on the right to a determination of boundaries and to designate the land surveyor who will carry out the operations.

1965 (1st sess.), c. 80, a. 788; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 112.

789. *The land surveyor proceeds with the determination of boundaries under his oath of office and in the same manner as an expert. He may carry out all necessary operations to determine the boundaries of the immovables concerned. He draws up minutes of his operations, to stand in lieu of a report, in which he includes a plan of the premises, mentions the respective claims of the parties and indicates the dividing lines that he considers the most appropriate. He gives a copy of his minutes to the parties.*

1965 (1st sess.), c. 80, a. 789; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

790. *Where the parties have agreed on the right to the determination of boundaries and on the choice of a land surveyor but one party does not accept the conclusions of the land surveyor's report, either party may ask the court, by a motion to institute proceedings and within 30 days after deposit of the report, to rule on the report.*

1965 (1st sess.), c. 80, a. 790; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 113.

791. *If, during the proceedings, one of the parties transfers his rights in the immovable subject to the determination of boundaries, the transferee may be compelled to a continuance of suit.*

1965 (1st sess.), c. 80, a. 791; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

792. *The court determines the boundary line and appoints a land surveyor who places the boundary markers in the presence of witnesses and draws up minutes of his operations which he must file at the office of the court.*

The homologation of the minutes by the court is proof of the complete execution of the judgment.

1965 (1st sess.), c. 80, a. 792; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 1999, c. 40, s. 56.

793. *The costs of determining boundaries are common and, if proceedings have been instituted before the court, they include the costs of an ex parte action. However, in case of contestation, the losing party must pay the costs of the contestation unless, for good reason, the court orders otherwise.*

1965 (1st sess.), c. 80, a. 793; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

794. *Where it appears that the boundaries cannot be determined without affecting immovables that are not contiguous to that of the plaintiff, the court may, of its own motion or on application, order that the owners of such immovables be impleaded.*

1965 (1st sess.), c. 80, a. 794; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

CHAPTER V

APPLICATIONS RELATING TO PRIOR CLAIMS AND HYPOTHECS

1992, c. 57, s. 367.

795. *(Repealed).*

1965 (1st sess.), c. 80, a. 795; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 114.

796. *Applications for forced surrender must be accompanied with a recent statement of the appropriate register, certified by the registrar; subject to article 2767 of the Civil Code, they must be served on the person who owns or has possession of the property and on the debtor and the grantor, where applicable.*

1965 (1st sess.), c. 80, a. 796; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

797. *A judgment ordering surrender fixes the period within which surrender must be effected, determines the manner of effecting it and designates the person in whose favour it is effected; it also orders, failing surrender of the property within the prescribed time, that the person who owns or has possession of the property, or the debtor, be expelled or that the property be taken from him, as the case may be.*

1965 (1st sess.), c. 80, a. 797; 1973, c. 38, s. 88; 1992, c. 57, s. 367.

798. *In urgent cases, the judge may also authorize forthwith the creditor to take possession of the property to administer it, take it in payment of his claim, have it sold by judicial authority or sell it himself.*

1965 (1st sess.), c. 80, a. 798; 1992, c. 57, s. 367.

799. *Within five days of service of the order made pursuant to article 2767 of the Civil Code, the person who owns or has possession of the property may apply for the annulment of the order because of the insufficiency or the falsity of the allegations of the affidavit on the strength of which the order was pronounced. If the order is declared null, the creditor is bound to return the property or reimburse the price of the alienation, where applicable.*

1965 (1st sess.), c. 80, a. 799; 1992, c. 57, s. 367.

CHAPTER VI

APPLICATIONS CONCERNING HYPOTHECATED PROPERTY WHERE THE OWNER'S IDENTITY IS UNKNOWN OR UNCERTAIN

1992, c. 57, s. 367.

800. *A creditor who cannot serve prior notice of his intention to exercise his hypothecary right because the identity of the owner of the hypothecated property is unknown or uncertain must obtain from the court the authorization to serve such prior notice in the manner determined by the court.*

The same applies where the property belongs to several owners, of whom only some are known.

1965 (1st sess.), c. 80, a. 800; 1977, c. 73, s. 33; 1992, c. 57, s. 367.

801. *The application is made before the court of the district in which the property is situated; it must contain:*

(a) the allegations necessary to establish the right of the applicant;

(b) the description of the hypothecated property;

(c) the name of the occupant or holder of the property or of the last occupant or holder, as the case may be;

(d) the names of all the owners of the property since the hypothec was granted, if they are known.

1965 (1st sess.), c. 80, a. 801; 1992, c. 57, s. 367; 2002, c. 7, s. 115.

802. *If the court orders the publication of the prior notice of the exercise of the hypothecary right in a newspaper, the publication is made in the manner prescribed in article 139.*

1965 (1st sess.), c. 80, a. 802; 1992, c. 57, s. 367.

803. *If no one has contested the application within the time prescribed by law or determined by the court or has exercised the rights of the hypothecary debtor or of the person against whom the right is exercised, in order to defeat the creditor's remedy, the court, upon proof of service of the prescribed prior notice, authorizes the creditor to take possession of the property, take it in payment of his claim, sell it himself or have it sold under judicial authority.*

1965 (1st sess.), c. 80, a. 803; 1992, c. 57, s. 367.

CHAPTER VII

APPLICATIONS RELATING TO THE LAND REGISTER AND THE REGISTER OF PERSONAL AND MOVABLE REAL RIGHTS

1992, c. 57, s. 367.

804. *Applications for registration or for the correction, reduction or cancellation of a registration in the land register or in the register of personal and movable real rights are presented before the court of the place where the immovable or corporeal property that is the subject of the registration is situated; in the case of incorporeal property, applications are presented before the court of the owner, debtor or grantor, as the case may be.*

These applications must be accompanied with a statement, certified by the registrar, of the rights registered in the appropriate register in respect of the property, the nature of the universality or the name of the grantor.

1965 (1st sess.), c. 80, a. 804; 1992, c. 57, s. 367; 2002, c. 7, s. 116.

805. *A person who, in accordance with the rules of the Book on Prescription of the Civil Code, has possessed an immovable as owner may acquire the ownership of that immovable by applying to the court of the district in which it is situated.*

The application is accompanied with

(*1*) *a recent statement, certified by the registrar, of the rights registered in the land register in respect of the immovable;*

(*2*) *a copy of or abstract from the cadastral plan of the immovable; in the case of a part of lot or of an immovable that it not immatriculated, a technical description accompanied with the relevant plan drawn up by a land surveyor is sufficient;*

(*3*) *a location certificate, if a construction has been erected on the immovable.*

1965 (1st sess.), c. 80, a. 805; 1992, c. 57, s. 367; 2002, c. 7, s. 117.

806. *The court called upon to establish the right of ownership may, even of its own motion, order*

(*1*) *that the motion be served on the owners of the contiguous immovables, if they have not consented in writing to the introduction of the motion;*

(*2*) *that the boundaries of the immovable be determined if the accuracy of the plan is contested by the owners of the contiguous immovables.*

1965 (1st sess.), c. 80, a. 806; 1992, c. 57, s. 367.

807. *(Repealed).*

1965 (1st sess.), c. 80, a. 807; 1992, c. 57, s. 367; 2000, c. 42, s. 132.

808. *Applications made under this chapter may in no case be heard by the clerk.*

1965 (1st sess.), c. 80, a. 808; 1992, c. 57, s. 367.

CHAPTER VIII

INDIVISION AND PARTITION

1992, c. 57, s. 367.

809. *Applications for partition or for nullity of partition, other applications relating to the partition of a succession or of other undivided property and applications relating to the administration of undivided property are presented before the court of the place where the property is situated in whole or in part.*

1965 (1st sess.), c. 80, a. 809; 1992, c. 57, s. 367; 1996, c. 5, s. 49; 2002, c. 7, s. 118.

810. *In granting an application for partition of undivided property, the court orders either a partition in kind, if the property can conveniently be partitioned or allotted, or the sale of the property in accordance with the provisions of this Code which concern the sale of the property of others.*

The court may, if necessary or convenient, appoint a practitioner to complete the liquidation of the succession or to make a proposal.

1965 (1st sess.), c. 80, a. 810; 1966, c. 21, s. 14; 1992, c. 57, s. 367.

811. *A judgment ordering a partition in kind appoints a practitioner to proceed, in conformity with the provisions of the Civil Code and in the manner prescribed in articles 414 to 425 of this Code, with the composition of shares, and to make a report.*

The practitioner must apply for homologation of his report and his application for homologation may be contested by any interested person.

The court which homologates the report orders the clerk or any other person it designates to proceed with the allotment of the shares by a drawing of lots; minutes of this operation must be filed in the record.

1965 (1st sess.), c. 80, a. 811; 1992, c. 57, s. 367.

CHAPTER IX

DIVIDED CO-OWNERSHIP OF AN IMMOVABLE

1992, c. 57, s. 367.

812. *(Repealed).*

1965 (1st sess.), c. 80, a. 812; 1992, c. 57, s. 367; 1996, c. 5, s. 50; 2002, c. 7, s. 119.

812.1. *Applications relating to divided co-ownership of an immovable are served on the syndicate of co-owners; the administrator or manager informs every co-owner in writing of the object of the application within five days after service.*

1992, c. 57, s. 367.

TITLE IV

PROCEEDINGS IN FAMILY CASES

1982, c. 17, s. 29.

CHAPTER I

GENERAL PROVISIONS

1982, c. 17, s. 29.

DIVISION I

PROCEEDINGS INTRODUCTIVE OF SUITS OR INTERLOCUTORY PROCEEDINGS

1982, c. 17, s. 29.

§ 1. —

Heading repealed, 2002, c. 7, s. 120.

1982, c. 17, s. 29; 2002, c. 7, s. 120.

813. *Except where otherwise provided in this Title, applications based on Book Two of the Civil Code or on the Divorce Act (Revised Statutes of Canada, 1985, chapter 3, 2nd Supplement) follow the general rules applicable to other actions and applications.*

1965 (1st sess.), c. 80, a. 813; 1982, c. 17, s. 29; 1986, c. 55, s. 8; 1996, c. 5, s. 51; 2002, c. 7, s. 121.

813.1. *(Repealed).*

1982, c. 17, s. 29; 2002, c. 7, s. 122.

813.2. *(Repealed).*

1982, c. 17, s. 29; 1992, c. 57, s. 420; 2002, c. 7, s. 122.

813.3. *The conclusions sought in a motion to institute proceedings may relate to provisional measures and accessory measures as well as to the principal application.*

Orders to safeguard the rights of the parties issued in urgent cases or where the hearing on provisional measures is deferred lapse 30 days after they are issued, unless their valid period is extended by the parties by mutual agreement or, in case of disagreement, by the court.

1982, c. 17, s. 29; 1983, c. 50, s. 7; 1987, c. 44, s. 5; 1990, c. 29, s. 5; 1992, c. 57, s. 368; 2002, c. 6, s. 105; 2002, c. 7, s. 123.

813.4. *An application for separation as to property, separation from bed and board, marriage annulment or divorce or for the annulment or dissolution of a civil union may be notified to the registrar by one of the spouses if a spouse may claim to have a right in an immovable under his or her matrimonial or civil union regime or if the immovable used as principal family residence is owned by one of the spouses.*

The registrar is notified by service of a notice which he registers in the land register.

If a spouse applies for cancellation of the registration, it may be granted provided sufficient security is furnished, where applicable.

1982, c. 17, s. 29; 1992, c. 57, s. 369; 2000, c. 42, s. 133; 2002, c. 6, s. 106.

813.4.1. *The security contemplated in article 65 shall not be required of a person who has made an application under this Title.*

1987, c. 48, s. 4.

§ 2. —

Heading repealed, 2002, c. 7, s. 124.

1982, c. 17, s. 29; 2002, c. 7, s. 124.

813.5. *No appearance is required unless the defence is in writing; an appearance must be filed within 20 days of service or, if service is effected outside Québec, within 40 days of service.*

The time limit for presenting the application is 40 days or, if service is effected outside Québec, 60 days.

In urgent cases, the court may shorten a time limit, whether it is prescribed by law or fixed in an agreement or has been determined by the court.

1982, c. 17, s. 29; 2002, c. 7, s. 125.

813.6. *(Repealed).*

1982, c. 17, s. 29; 1987, c. 48, s. 5; 1996, c. 5, s. 52; 2002, c. 7, s. 127.

813.7. *(Repealed).*

1982, c. 17, s. 29; 2002, c. 7, s. 127.

§ 3. —

Heading repealed, 2002, c. 7, s. 126.

1982, c. 17, s. 29; 2002, c. 7, s. 126.

813.8. *(Repealed).*

1982, c. 17, s. 29; 1984, c. 26, s. 20; 1997, c. 42, s. 5; 1999, c. 46, s. 14; 2002, c. 7, s. 127.

813.9. *In the case of an application concerning the obligation of support, the custody of children or provisional measures, the motion to institute proceedings may not be presented before the court less than 10 days after it is served. The application is heard and decided by preference.*

1982, c. 17, s. 29; 1984, c. 26, s. 21; 1999, c. 46, s. 14; 2002, c. 7, s. 128.

813.10. *If the parties so wish, they each may present their evidence by means of a single affidavit, which must be sufficiently detailed to establish all facts in support of their claims. If the respondent proceeds in this manner, the applicant is entitled to serve one additional detailed affidavit on the respondent as a reply. Any further detailed affidavit must be authorized by the court.*

1984, c. 26, s. 22; 1994, c. 28, s. 35; 1999, c. 46, s. 14.

813.11. *(Repealed).*

1984, c. 26, s. 22; 1994, c. 28, s. 36; 1999, c. 46, s. 14; 2002, c. 7, s. 129.

813.12. *(Repealed).*

1984, c. 26, s. 22; 1999, c. 46, s. 14; 2002, c. 7, s. 129.

813.13. *(Repealed).*

1984, c. 26, s. 22; 1999, c. 46, s. 14; 2002, c. 7, s. 129.

813.14. *(Repealed).*

1999, c. 46, s. 14; 2002, c. 7, s. 129.

813.15. *(Repealed).*

1999, c. 46, s. 14; 2002, c. 7, s. 129.

813.16. *In addition to the evidence that has been presented by means of detailed affidavits, the parties may present oral evidence at the hearing.*

1999, c. 46, s. 14.

813.17. *(Repealed).*

1999, c. 46, s. 14; 2002, c. 7, s. 129.

§ 4. —

Heading repealed, 2002, c. 7, s. 130.

1982, c. 17, s. 29; 2002, c. 7, s. 130.

814. *(Repealed).*

1965 (1st sess.), c. 80, a. 814; 1969, c. 81, s. 20; 1982, c. 17, s. 29; 2002, c. 7, s. 129.

814.1. *Applications which, pursuant to the second paragraph of article 44.1, are within the jurisdiction of the special clerk are presented directly to the special clerk and do not require a hearing.*

1982, c. 17, s. 29; 1992, c. 57, s. 420; 1997, c. 42, s. 6; 2002, c. 7, s. 131.

814.2. *(Repealed).*

1982, c. 17, s. 29; 2002, c. 7, s. 132.

§ 5. — Pre-hearing mediation

1997, c. 42, s. 7.

814.3. *Except applications under article 814.9, no application that involves the interests of the parties and the interests of their children may be heard by the court if there is a dispute between the parties regarding child custody, support due to a party or to the children, the family patrimony or other patrimonial rights arising from the marriage or civil union, unless the parties have attended an information session on the mediation process and a copy of the mediator's report or, if applicable, a certificate of participation has been filed.*

1997, c. 42, s. 7; 2002, c. 6, s. 107; 2012, c. 20, s. 47.

814.4. *The information session on the mediation process may be held in the sole presence of both parties and a mediator.*

A group information session may also be held. In such a case, the session is held in the presence of at least three persons registered with the Family Mediation Service and of two mediators, one of whom must be from the legal profession and the other, from another profession.

1997, c. 42, s. 7; 1999, c. 46, s. 15.

814.5. *The parties select jointly the type of information session they wish to attend. In case of disagreement as to the type of information session or, where applicable, as to the choice of a mediator, the parties must, together or separately, attend a group session.*

1997, c. 42, s. 7.

814.6. *The information session bears on the nature and objectives of the mediation, the mediation process and the roles to be played by the parties and the mediator.*

At the conclusion of the information session, the mediator informs the parties of their right to enter into mediation or not, and of their right to enter into mediation with that mediator or with another mediator of their choice. If the parties fail to agree to enter into mediation or express their wish to enter into mediation with another mediator, the mediator files his report with the Family Mediation Service and sends a copy to the parties.

In the case of a group session, the mediators inform the parties of their right to enter into mediation or not and of their right to enter into mediation with the mediator of their choice. At the end of the session, the Service gives a certificate of participation to each of the parties present.

1997, c. 42, s. 7; 1999, c. 46, s. 15; 2012, c. 20, s. 48.

814.7. *The mediation sessions take place in the presence of both parties and of a mediator or, if the parties agree, two mediators; other persons may be present at the mediation sessions, provided the parties agree, the mediator considers the presence of those persons necessary and they are neither experts nor advisers.*

The parties may, on their own initiative or at the suggestion of the mediator, suspend any session to seek advice from counsel or from any other person, according to the type of advice sought.

1997, c. 42, s. 7.

814.8. *Either party may, at any time during mediation, terminate it without having to give reasons. The mediator must terminate mediation if he considers that to pursue it would be ill-advised.*

In such cases, the mediator files his report with the Family Mediation Service and sends a copy to the parties.

1997, c. 42, s. 7; 1999, c. 46, s. 15.

814.9. *The court may, on a motion, make, subject to the conditions it determines, any appropriate order to safeguard the rights of the parties or children during the period of mediation or during any other period it considers appropriate.*

1997, c. 42, s. 7.

814.10. *A party that has a valid reason not to attend the information session on the mediation process may state that fact to the mediator of his choice; the reason may relate, in particular, to the inequality of the power relationship, to the disability or the physical or psychological condition of the party or to the great distance between the party's residence and that of the other party.*

In such a case, the mediator draws up a report containing an express statement of the party concerned that the party cannot attend the information session for a valid reason, which need not be disclosed; the mediator then files his report with the Family Mediation Service and sends a copy to the party having made the statement and, if the application has been filed at the office of the court, to the other party.

1997, c. 42, s. 7; 1999, c. 46, s. 15.

814.11. *Where a copy of a report drawn up by a mediator in the circumstances referred to in article 814.10 has been filed, the court may proceed without the parties having attended an information session.*

1997, c. 42, s. 7.

814.12. *A party who does not attend the information session on the mediation process may, unless he files a copy of a report containing a statement that he cannot do so, be condemned to all the costs relating to the application.*

1997, c. 42, s. 7.

814.13. *The mediator's report or the certificate of participation in a group information session remains valid, regardless of the circumstances in which it is drawn up, until the judgment on the principal application becomes res judicata; the report also remains valid in respect of any application for review of the judgment.*

1997, c. 42, s. 7; 2012, c. 20, s. 49.

814.14. *The Family Mediation Service pays the mediator's fees, up to the prescribed number of sessions, provided the fees are in keeping with the tariff established under article 827.3; otherwise, the mediator's fees are borne and paid in full by the parties.*

1997, c. 42, s. 7; 1999, c. 46, s. 15.

DIVISION II

PROCEEDINGS

1982, c. 17, s. 29.

815. *In filiation cases, the court may, even of its own motion, order the impleading of any person whose interests may be affected by the judgment.*

1965 (1st sess.), c. 80, a. 815; 1969, c. 81, s. 21; 1982, c. 17, s. 29.

815.1. *At any time during the hearing, the court may order, even of its own motion, the production of any additional evidence or the summoning of any person whose testimony it considers expedient, or convoke, for hearing, any person whose interests could be affected by the judgment.*

1982, c. 17, s. 29.

815.2. *At any time before judgment, the court, with the consent of the parties, may adjourn the hearing of the application for the period it determines, with a view to favouring either the reconciliation of the parties or their conciliation, in particular, through mediation.*

At the expiry of that period, the hearing is continued unless the parties expressly agree to an extension for such period as they fix.

1982, c. 17, s. 29; 1993, c. 1, s. 1.

815.2.1. *At any time during the hearing of a contested application, the court may order the adjournment of the hearing and the referral of the parties to the Family Mediation Service or, at their request, to the mediator of their choice, for the settlement of one or more matters relating to the custody of the children, the support due to the spouse or children, the family patrimony or other patrimonial rights resulting from the marriage or civil union. The Service shall designate a mediator and fix the date of the first meeting, which must take place no later than on the twentieth day after the order.*

When the court makes an order, it shall take into account the particular circumstances of each case, and in particular the fact that the parties have already met a certified mediator, the balance of power in place, the interests of the parties, and, if any, of their children.

Except in cases determined by regulation, the mediator's fees are borne by the parties, each bearing the proportion determined by the court. However, in every case where the application involves the interests of the parties and the interests of their children, the Family Mediation Service pays the mediator's fees, up to the prescribed number of sessions, provided the fees are in keeping with the tariff established under article 827.3.

The hearing is adjourned for the period determined by the court, not exceeding 90 days. At the expiry of that period, the court shall continue the hearing or fix a later date, unless the parties expressly agree to an extension for a period determined by the court. The parties must begin the mediation process within 20 days after the referral order. Where the parties fail to do so, or where mediation ends before either the end of such a period or the end of the period of adjournment, one of the parties may apply for the continuance of the hearing. The judge having ordered the referral of the parties to mediation shall have the file brought before him, unless the chief justice decides otherwise for administrative reasons.

The court shall make all appropriate orders to safeguard the rights of the parties and children for such time and on such conditions as it determines.

The judge presiding over a pre-trial conference may also order an adjournment and refer the parties to mediation in accordance with this article.

1993, c. 1, s. 2; 1997, c. 42, s. 8; 1999, c. 46, s. 15; 2002, c. 6, s. 108.

815.2.2. *On or before the expiry of the period determined under article 815.2.1 or the expiry of the period of 20 days if the parties have not undertaken the mediation process, the mediator shall file the report concerning the mediation at the office of the court and transmit it to the parties and their attorneys.*

1993, c. 1, s. 2; 1997, c. 42, s. 9.

815.2.3. *(Repealed).*

1993, c. 1, s. 2; 1997, c. 42, s. 10.

815.3. *Nothing said or written during a conference of reconciliation or conciliation, including a conference of mediation, is admissible as evidence in a court proceeding unless it is a particular mentioned in article 815.2 and the parties and the reconciliator, conciliator or mediator, as the case may be, consent to its being admitted as evidence.*

1982, c. 17, s. 29; 1993, c. 1, s. 3.

815.4. *No information that would allow the identification of a party to a proceeding or of a child whose interest is at stake in a proceeding may be published or broadcast unless the court or the law authorizes it or unless that publication or broadcast is necessary to permit the application of an Act or a regulation.*

Furthermore, the judge may, in a special case, prohibit or restrict, for such time and on such conditions as he may deem fair and reasonable, the publication or broadcast of information pertaining to a sitting of the court.

1982, c. 17, s. 29.

815.5. *Where the court adjudicates on an agreement submitted to it as part of a proceeding governed by this Title, it ascertains, among other things, whether the agreement provides sufficient protection for the interests of the children, if any, and ensures that neither party's consent was obtained under duress.*

The court may, for such purposes, summon and hear the parties, even separately, in the presence of their attorneys, if any.

1997, c. 42, s. 11.

DIVISION III

Repealed, 1992, c. 57, s. 370.

1982, c. 17, s. 29; 1992, c. 57, s. 370.

816. *(Repealed).*

1965 (1st sess.), c. 80, a. 816; 1982, c. 17, s. 29; 1992, c. 57, s. 370.

816.1. *(Repealed).*

1982, c. 17, s. 29; 1992, c. 57, s. 370.

816.2. *(Repealed).*

1982, c. 17, s. 29; 1992, c. 57, s. 370.

816.3. *(Repealed).*

1982, c. 17, s. 29; 1992, c. 57, s. 370.

DIVISION IV

JUDGMENT

1982, c. 17, s. 29.

817. *In granting a separation from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union, the court adjudicates in respect of accessory motions, particularly motions concerning the custody, support and education of the children and the support due to the spouse and children; at the same time, or later, if circumstances so warrant, it adjudicates in respect of matters relating to the family patrimony and other patrimonial rights resulting from the marriage or civil union.*

1965 (1st sess.), c. 80, a. 817; 1969, c. 81, s. 22; 1982, c. 17, s. 29; 1990, c. 18, s. 7; 2002, c. 6, s. 109.

Not in force

817.0.1. *Support awarded by judgment bears interest, by operation of law, at the legal rate from the date on which the payments are due.*

1993, c. 72, s. 15.

817.1. *Where the court renders a judgment ordering the drawing up or correction of an act of civil status or otherwise entailing the alteration of the register of civil status, it orders, even of its own motion, the registrar to alter the register. The particulars that are to be entered in the register are stated in the judgment.*

1982, c. 17, s. 29; 1992, c. 57, s. 371.

817.2. *The clerk of the court which has rendered a judgment maintaining an application for separation as to property, for separation from bed and board, marriage annulment or divorce or for the dissolution or annulment of a civil union must forthwith give notice of the judgment to the registrar of civil status and to the registrar in charge of the register of personal and movable real rights.*

He must also forthwith transmit the judgment to the depositary of the minute of the original marriage or civil union contract and, where such is the case, on the depositary of the minute of any contract to modify the matrimonial or civil union regime; the depositary must make a reference to the judgment transmitted to him in the minute and any copy thereof issued by him, indicating the date of the judgment, the number of the record, the name of the district and the name of the court.

He must also give notice forthwith of the judgment to the Régie des rentes du Québec.

1982, c. 17, s. 29; 1989, c. 55, s. 35; 1992, c. 57, s. 372, s. 420; 1995, c. 39, s. 14; 2002, c. 6, s. 110.

817.3. *Where the initial judgment and the judgment granting an application for review of accessory measures are rendered in different districts, the clerk of the district where the judgment in review is rendered forwards a copy thereof to the clerk of the other district for filing in the record.*

1982, c. 17, s. 29; 1992, c. 57, s. 420.

817.4. *After the final judgment has acquired the status of res judicata, the court, where difficulties are likely to prevent the voluntary execution of the judgment, may make, on a joint motion of the parties, an order intended to facilitate voluntary execution in the manner most appropriate to the interests of the parties.*

1982, c. 17, s. 29.

CHAPTER II

APPLICATIONS PERTAINING TO MARRIAGE OR A CIVIL UNION

1982, c. 17, s. 29; 2002, c. 6, s. 111.

DIVISION I

APPLICATIONS BY PERSONS UNDER LEGAL INCAPACITY

1982, c. 17, s. 29.

818. *(Repealed).*

1965 (1st sess.), c. 80, a. 818; 1968, c. 84, s. 8; 1982, c. 17, s. 29; 1992, c. 57, s. 373.

818.1. *The minor who applies for leave to make matrimonial agreements must, not later than five days before the presentation of a motion, serve his application on the person having parental authority or, if such is the case, on his tutor. He must annex a draft of his marriage contract to his application.*

1982, c. 17, s. 29.

818.2. *A tutor who, in the name of a person of full age under tutorship, applies for authorization to consent to matrimonial or civil union agreements must annex the advice of the tutorship council and a draft of the contract to his application.*

1982, c. 17, s. 29; 1989, c. 54, s. 135; 1992, c. 57, s. 374; 2002, c. 6, s. 112.

DIVISION II

OPPOSITIONS TO MARRIAGE OR TO A CIVIL UNION

1982, c. 17, s. 29; 2002, c. 6, s. 113.

819. *Opposition to marriage or to a civil union must, not later than five days prior to the presentation of the motion, be served on the officiant, on the future spouses and, if such is the case, on the persons who must consent to the solemnization of the marriage.*

1965 (1st sess.), c. 80, a. 819; 1982, c. 17, s. 29; 1992, c. 57, s. 375; 2002, c. 6, s. 114; 2002, c. 7, s. 133.

819.1. *Unless the opposition is overtly ill-founded or the examination of the opposant shows that the opposition is frivolous, the judge admits the opposition and fixes an early date to hear it.*

Admission of the opposition stays the solemnization of the marriage or civil union.

1982, c. 17, s. 29; 2002, c. 6, s. 115.

819.2. *The opposition must be presented on the date fixed, failing which any party may obtain a judgment dismissing the opposition. On being served a copy of the judgment, the officiant may proceed with the solemnization of the marriage or civil union.*

1982, c. 17, s. 29; 2002, c. 6, s. 115.

819.3. *If the opposition is dismissed, the court may, on a motion, condemn the opposant immediately to damages or fix a date to hear the proof on the damages.*

1982, c. 17, s. 29.

819.4. *Appeal from a judgment on opposition has precedence over any other appeal.*

1982, c. 17, s. 29.

CHAPTER III

Repealed, 1992, c. 57, s. 376.

1982, c. 17, s. 29; 1992, c. 57, s. 376.

820. *(Repealed).*

1965 (1st sess.), c. 80, a. 820; 1969, c. 80, s. 12; 1982, c. 17, s. 29; 1992, c. 57, s. 376.

CHAPTER IV

APPLICATIONS FOR SEPARATION AS TO PROPERTY

1982, c. 17, s. 29.

821. *No application for separation as to property may be proceeded with unless notice thereof is served, not later than 20 days previously, in a newspaper circulated in or as near as possible to the locality where the residence of the defendant is established.*

1965 (1st sess.), c. 80, a. 821; 1982, c. 17, s. 29.

CHAPTER V

JOINT APPLICATIONS FOR SEPARATION FROM BED AND BOARD OR DIVORCE OR FOR DISSOLUTION OF A CIVIL UNION ON A DRAFT AGREEMENT

1982, c. 17, s. 29; 2002, c. 6, s. 116.

822. *Spouses who apply jointly for separation from bed and board or divorce or for the dissolution of their civil union, settling the consequences thereof in a draft agreement which they submit to the court for approval, must file at the office of the court a motion to institute proceedings signed by each of them and, if such is the case, their attorneys.*

1965 (1st sess.), c. 80, a. 822; 1982, c. 17, s. 29; 2002, c. 6, s. 117; 2002, c. 7, s. 160.

822.1. *The draft agreement is dated and signed by the spouses. It contains a full settlement of the consequences of their separation from bed and board or divorce or of the dissolution of their civil union and indicates, if such is the case, the person entrusted with the liquidation of the matrimonial or civil union regime.*

The draft agreement also settles the situation of the spouses and that of the children, if any, during the proceedings; it also serves as a provisional covenant unless, to their motion to institute proceedings, the spouses annex such a covenant, dated and signed by them, bearing on the various points that may be the subject of provisional measures.

1982, c. 17, s. 29; 2002, c. 6, s. 118; 2002, c. 7, s. 160.

822.2. *The judge presiding at court may, before examining the final draft agreement and after ascertaining the admissibility of the application, direct that the clauses of the provisional covenant which appear to him to be contrary to the interests of the children be deleted or amended.*

The judge may also, if he considers it necessary to verify that the spouses truly consent, convene and hear them, even separately, in the presence of their attorneys, if such is the case.

1982, c. 17, s. 29; 1988, c. 17, s. 6.

822.3. *If the judge presiding at court finds that the draft agreement presented to him does not sufficiently preserve the interests of the children or of either spouse, he may dismiss the application for separation from bed and board or divorce or for the dissolution of a civil union or adjourn his decision until an amended draft agreement is presented.*

1982, c. 17, s. 29; 2002, c. 6, s. 120.

822.4. *The application for separation from bed and board or divorce or for the dissolution of a civil union lapses if the spouses omit to present an amended draft agreement within three months from the order of adjournment, unless the court extends the time prescribed, on the joint motion of the parties.*

The application also lapses if either of the spouses discontinues the application.

1982, c. 17, s. 29; 2002, c. 6, s. 121.

822.5. *When granting separation from bed and board or divorce or the dissolution of a civil union following a joint application accompanied with a draft agreement, the court, by its judgment, confirms the agreement.*

1982, c. 17, s. 29; 2002, c. 6, s. 122.

CHAPTER VI

APPLICATIONS PERTAINING TO ADOPTION

1982, c. 17, s. 29.

DIVISION I

GENERAL PROVISIONS

1982, c. 17, s. 29.

823. *Applications in matters pertaining to the adoption of a minor must be served on the director of youth protection having jurisdiction in the child's place of residence or, in the case of the adoption of a child domiciled outside Québec, in the place where the adopter is domiciled.*

The director may intervene of right in connection with such application.

1965 (1st sess.), c. 80, a. 823; 1982, c. 17, s. 29; 1987, c. 44, s. 6.

823.1. *Whenever notice of an application must be served on a party or on an interested person, the notice must be served and preserve the anonymity of the adopters to the father, mother and tutor, and vice versa. Furthermore, the notice must contain a statement of the object of the application, the grounds invoked and the conclusions sought.*

1982, c. 17, s. 29.

823.2. *In any proceeding, unless all the parties agree to another manner of proceeding, the court must take the measures necessary to ensure that the persons who apply for the return of a child are not confronted with the adopters and are not able to identify them or to be identified by them.*

1982, c. 17, s. 29.

823.3. *The court must admit to its sittings any member of the Commission des droits de la personne et des droits de la jeunesse or any other person authorized by the Commission to be present thereat. In no case may such persons disclose any information thus obtained or be compelled to do so.*

1982, c. 17, s. 29; 1989, c. 53, s. 12; 1995, c. 27, s. 17.

823.4. *This section does not apply in the case of special consent to adoption.*

1982, c. 17, s. 29.

DIVISION II

APPLICATIONS FOR THE RETURN OF A CHILD

1982, c. 17, s. 29.

824. *Any application made by the person who, having given general consent to adoption and having omitted to withdraw it within the prescribed time, wishes the child to be returned to him, must be served on the director of youth protection. The latter must give notice of the application to the person having or exercising parental authority, to the father or mother if they no longer have parental authority and, if such is the case, to the tutor.*

In the case of special consent to adoption, the application for the return of a child is served on the person to whom the child was entrusted.

1965 (1st sess.), c. 80, a. 824; 1982, c. 17, s. 29.

DIVISION III

DECLARATION OF ELIGIBILITY FOR ADOPTION

1982, c. 17, s. 29; 1992, c. 57, s. 377.

824.1. *The application for a declaration of eligibility for adoption is served on the father and mother of the child, if known, on the child's tutor, if such is the case, and on the child, if 14 years of age or older. It is also served on a child 10 years of age or older if so ordered by the judge.*

1982, c. 17, s. 29.

DIVISION IV

APPLICATIONS FOR PLACEMENT AND ADOPTION

1982, c. 17, s. 29; 1987, c. 44, s. 7; 1990, c. 29, s. 6.

825. *The application for placement of the child is presented by the adopter and by the director of youth protection, except in the case of special consent to adoption, where it may be presented by the adopter acting alone.*

1965 (1st sess.), c. 80, a. 825; 1982, c. 17, s. 29; 1983, c. 50, s. 8.

825.1. *A notice of the application for placement stating the name of the applicant and his place of domicile is served on the child 10 years of age or older. Where the child's father, mother or tutor is domiciled in Québec and has given consent to adoption within one year preceding the application, notice of the application is served on him or her by the director of youth protection.*

Where consent to adoption is special, the notice of the application for placement is served by the applicant.

1982, c. 17, s. 29; 1983, c. 50, s. 9.

825.1.1. *(Repealed).*

1987, c. 44, s. 8; 1990, c. 29, s. 7.

825.2. *The application for adoption of a person of full age must be served on the person whose adoption is applied for and, if applicable, on his or her married or civil union spouse, his or her children 14 years of age or older and his or her ascendants.*

1982, c. 17, s. 29; 2002, c. 6, s. 123.

825.3. *The application for the revocation of an order of placement must be served on the director of youth protection, who gives notice of it to the adopter and the person whose adoption is applied for.*

In the case of special consent to adoption, the application for revocation is served on the adopter and on the person whose adoption is applied for, if he is 10 years of age or older.

1982, c. 17, s. 29.

825.4. *The application for adoption is presented by the adopter. If the adoption is made by two persons, the application is made jointly.*

1982, c. 17, s. 29.

825.5. *Where a report indicating that a child has not adapted to his adopting family is filed with the court, the court sends a copy of the report to the adopter and, if such is the case, to the tutor or attorney of the child. It notifies them at the same time of the period granted to contest the report.*

If the person to be adopted is 14 years of age or over, the court may, if it considers it expedient, send a copy of the report to that person; the court must do so if it intends to refuse adoption on the basis of the report.

1982, c. 17, s. 29.

DIVISION V

RECOGNITION OF DECISIONS MADE OUTSIDE QUÉBEC

1983, c. 50, s. 10; 2004, c. 3, s. 20.

825.6. *The application for recognition of a decision granting an adoption made outside Québec must be presented by the adopter or the adopted person.*

The application, in order to be admissible, must be accompanied with certified copies of the decision granting the adoption and of the foreign law.

1983, c. 50, s. 10; 2004, c. 3, s. 21.

825.6.1. *(Repealed).*

1987, c. 44, s. 9; 1990, c. 29, s. 7.

825.7. *The applicant may attach accessory applications to his application, such as for the change of the name or given name of the adopted person and the alteration of the register of civil status.*

1983, c. 50, s. 10; 1992, c. 57, s. 379.

CHAPTER VI.1

APPLICATIONS RELATING TO CHILD SUPPORT

1996, c. 68, s. 2.

825.8. *The Government, by regulation, shall establish standards for the determination of the child support payments to be made by a parent, on the basis of the basic parental contribution determined in respect of the child, of the child care expenses, post-secondary education expenses and special expenses relating to the child and of the parents' custodial arrangement in respect of the child. The Government shall prescribe the use of a form and of a related table determining, on the basis of the parents' disposable income and the number of children, the basic parental contribution, as well as the production of evidentiary documents.*

1996, c. 68, s. 2.

825.9. *No application relating to child support may be heard unless it is accompanied by the form prescribed for the determination of child support payments, duly completed by the plaintiff, and by the prescribed documents.*

Likewise, no contestation of the application may be heard unless the prescribed form has been produced with the prescribed documents by the defendant. The court may, however, relieve the defendant from his default on the conditions it determines.

The rules provided in this article do not apply to a plaintiff or defendant who is not a parent of the child.

1996, c. 68, s. 2.

825.10. *The plaintiff parent must serve a copy of the prescribed form and prescribed documents with the application. Not less than five days before the presentation of the application, the defendant parent must serve a copy of the prescribed form and prescribed documents on the plaintiff parent.*

1996, c. 68, s. 2; 1997, c. 42, s. 12.

825.11. *The parents may produce the prescribed form and prescribed documents jointly. If they do, they are exempted from service requirements.*

1996, c. 68, s. 2.

825.12. *If the information stated in the prescribed form or prescribed documents is contested or incomplete or if the court considers it necessary, it may make good the deficiency and, for instance, establish the income of a parent. In establishing the income of a parent, the court may have regard, among other things, to the assets held by the parent and attribute to those assets the production of such income as it sees fit.*

1996, c. 68, s. 2.

825.13. *The support to be provided to a child is determined without regard to support claimed by a parent of the child for himself.*

A judgment granting support to a child and to a parent of the child must state separately the amount of support to be provided to each.

The child support determination form used by the court to determine child support payments must be attached to the judgment granting the support.

1996, c. 68, s. 2; 2012, c. 20, s. 50.

825.14. *Parents who make a private agreement stipulating a level of child support that departs from the level of support which would be required to be provided under the rules for the determination of child support payments must state precisely, in their agreement and in the form they file, the reasons for such departure.*

Likewise, any judgment granting a level of child support which is at variance with a private agreement between the parents or, in the case of a contested application, with the information stated in a form filed by the parents, must state precisely the reasons for such variance and include references to the relevant items of the prescribed form.

1996, c. 68, s. 2; 2004, c. 5, s. 5.

CHAPTER VII

APPLICATIONS RELATING TO PARENTAL AUTHORITY

1982, c. 17, s. 29.

826. *An application for deprivation of parental authority or for withdrawal of an attribute of parental authority or of the exercise of such authority may be presented by any interested person and is served on the person having parental authority, on the tutor of the child or, if the child has no tutor, on the director of youth protection having jurisdiction in the child's place of residence; the director may then intervene of right in relation to the application.*

1965 (1st sess.), c. 80, a. 826; 1982, c. 17, s. 29; 1992, c. 57, s. 380.

826.1. *An application presented by the father and mother or by either of them to have the withdrawn rights restored must be served on the persons who were parties to the application and on the person having parental authority and, if such is the case, on the tutor.*

1982, c. 17, s. 29; 1992, c. 57, s. 381.

826.2. *During the proceedings, the court may, even of his own motion, order, in respect of the custody and maintenance of the child, any provisional measure it considers expedient.*

1982, c. 17, s. 29.

826.3. *The court may, even of its own motion, order the establishment of a tutorship council to obtain its opinion on the designation of the person who is to exercise parental authority or on the appointment of a tutor.*

1982, c. 17, s. 29; 1992, c. 57, s. 382.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

1982, c. 17, s. 29.

827. *(Repealed).*

1965 (1st sess.), c. 80, a. 827; 1968, c. 84, s. 10; 1982, c. 17, s. 29; 1992, c. 57, s. 383.

827.1. *The application of a surviving spouse for the establishment of the allowance due to him as compensation for his contribution to the enrichment of the patrimony of his deceased spouse must be served on the liquidator of the succession, if known, and on all the heirs and legatees who might be bound to discharge the debt.*

1982, c. 17, s. 29; 1992, c. 57, s. 384; 2002, c. 7, s. 134.

827.2. *Any mediation or information session on the mediation process conducted prior to or during proceedings in family matters shall be conducted by a certified mediator. The Government shall designate persons, bodies or associations having authority to certify a mediator.*

1993, c. 1, s. 4; 1997, c. 42, s. 13.

827.3. *The Government, by regulation, may establish the conditions a mediator must satisfy to be certified and may determine the rules and obligations with which persons, bodies or associations authorized to certify a mediator must comply; the Government may also, by regulation, determine the rules and obligations with which a certified mediator must comply in the exercise of his functions and the penalties applicable for failure to comply with such rules and obligations.*

The Government may also, by regulation, establish the tariff of fees payable by the Family Mediation Service to a certified mediator for services provided pursuant to articles 814.3 to 814.14 and article 815.2.1, and limit the fees so payable by the Service to a maximum number of sessions conducted by the mediator. As well, the Government may establish the tariff of fees payable by the parties to a mediator designated by the Service, and the fees payable by parties requiring the services of more than one mediator or for sessions in excess of the number of sessions for which the mediator's fees are paid by the Service.

1993, c. 1, s. 4; 1997, c. 42, s. 14; 1999, c. 46, s. 15.

827.3.1. *The mediator's report records the presence of the parties and the matters on which agreement was reached. In the case of a report referred to in the second paragraph of article 814.6 or in article 814.10, the report records the failure of the parties to reach an agreement to enter into mediation or their wish to enter into mediation with another mediator, or the statement of either party that he cannot attend the information session on the mediation process.*

The mediator's report may contain no other information. It is dated and signed by the mediator.

1997, c. 42, s. 15.

827.4. *If expedient, the Minister of Justice shall determine, by order, for what purposes, other than those set out in articles 814.3 to 814.14 and 815.2.1, the Family Mediation Service may be used subject to the conditions he determines.*

1993, c. 1, s. 4; 1997, c. 42, s. 16; 1999, c. 46, s. 15.

827.5. *No application relating to an obligation of support may be heard unless it is accompanied by a sworn statement by the plaintiff containing the information prescribed by regulation. If a creditor is a minor, the statement must be made by the person acting for the minor. Likewise, no contestation of the application may be heard unless a sworn statement by the defendant has been filed at the office of the court. The court may, however, relieve the defendant from his default on the conditions it determines.*

Moreover, no ruling may be made on an agreement relating to an obligation of support submitted by the parties unless the sworn statement referred to in the first paragraph has been filed by each of the parties at the office of the court.

The statements shall be kept at the office of the court, and are confidential. If the court does not award support, the statements are destroyed.

1995, c. 18, s. 89; 1997, c. 42, s. 17; 1998, c. 36, s. 176.

827.6. *As soon as a judgment awarding support or a judgment revising such a judgment is rendered, the clerk of the court shall enter in the register of support payments the relevant information contained in the judgment and in the sworn statements and shall transmit the statements, together with a copy of the judgment, to the Minister of Revenue.*

The information entered in the register of support payments is confidential.

1995, c. 18, s. 89.

827.7. *Any party to an agreement relating to an obligation of support submitted in connection with an application governed by this Title must, where applicable, declare the fact that the party is a recipient under a last resort financial assistance program or received benefits under such a program during the period covered by the agreement.*

1998, c. 36, s. 177.

TITLE V

PROCEEDINGS RELATING TO LEGAL PERSONS

1992, c. 57, s. 385.

828. *The Attorney General and any interested person may take action to ask the court to impose the sanctions prescribed by law, in the following cases:*

(*1*) *when the legal person has not been constituted according to law;*

(*2*) *when juridical personality has been obtained by fraud or granted in ignorance of some material fact;*

(*3*) *when the legal person, its founders or their successors, its directors or senior officers, act repeatedly in contravention of the laws governing their profession, capacity or status, or exercise powers that are not within the competence of a legal person;*

(*4*) *when the legal person performs or omits to perform an act the performance or omission of which amounts to a surrender of its rights.*

1965 (1st sess.), c. 80, a. 828; 1992, c. 57, s. 385; 1999, c. 40, s. 56.

829. *The Attorney General may apply for the annulment of letters patent granted by the State for the reasons set out in article 828.*

Such recourse may also be exercised by any interested person, if the Attorney General has given his written authorization.

1965 (1st sess.), c. 80, a. 829; 1992, c. 57, s. 385; 1996, c. 5, s. 53.

830. *A judgment annulling the constituting act of a legal person carries the dissolution of the legal person.*

The judgment also appoints a liquidator who will proceed with the liquidation of the property in accordance with the statutory provisions applicable in that case or in accordance with the Civil Code.

1965 (1st sess.), c. 80, a. 830; 1992, c. 57, s. 385.

831. *If the judgment declares a legal person with no capital stock to have been illegally formed, the persons composing it are personally bound to pay the costs; in other cases, the costs may be levied either*

upon the patrimony of the legal person, or solidarily upon the personal patrimony of its directors or other senior officers.

1965 (1st sess.), c. 80, a. 831; 1992, c. 57, s. 385.

832. *(Repealed).*

1965 (1st sess.), c. 80, a. 832; 1992, c. 57, s. 385; 1996, c. 5, s. 54; 2002, c. 7, s. 135.

833. *The clerk of the court which rendered a judgment confirming the existence of a cause for annulment of the constituting act of a legal person or confirming the dissolution of a legal person notifies the judgment to the enterprise registrar.*

The same applies where the liquidator of a legal person is appointed by the court.

1965 (1st sess.), c. 80, a. 833; 1992, c. 57, s. 385; 2002, c. 45, s. 267.

TITLE VI

CERTAIN EXTRAORDINARY RECOURSES

CHAPTER I

GENERAL PROVISIONS

834. *(Repealed).*

1965 (1st sess.), c. 80, a. 834; 1983, c. 28, s. 31; 2002, c. 7, s. 136.

834.1. *No recourse exercised under this Title suspends proceedings. However, at the request of a party, a judge may, at any time after the filing of the motion, grant a suspension of proceedings and, where necessary, order those documents in the record that he determines transmitted to the clerk without delay.*

In the same manner, a judge of the Court of Appeal may, at any time after the filing of an inscription in appeal, order the suspension of any proceedings the execution of which is not suspended by the appeal.

1983, c. 28, s. 31; 1989, c. 41, s. 3; 1992, c. 57, s. 420.

834.2. *The motion must be heard and decided by preference.*

1983, c. 28, s. 31.

835. *The motion is served on the parties, on the court, if such is the case, and on any person whose presence is necessary for the full settlement of the issues between the parties; it must be accompanied with a notice of not less than 15 days of the date when it will be presented. No written appearance is required.*

1983, c. 28, s. 32; 2002, c. 7, s. 137; 2002, c. 54, s. 4.

835.1. *The motion must be served within a reasonable time from the judgment, order, decision, contested procedure, fact or event giving rise to the recourse.*

1983, c. 28, s. 32.

835.2. *The parties must cause all the documents they intend to invoke at the proof and hearing to be served on the adverse party as soon as possible before presentation of the motion.*

1983, c. 28, s. 32; 1994, c. 28, s. 37.

835.3. *A party may make his proof by means of sufficiently detailed affidavits to establish all the facts necessary to support his pretensions. If he so elects, he must cause his affidavits to be served on the adverse party as soon as possible before presentation of the motion. However, the party making the motion must cause his affidavits to be served at the same time as the motion.*

In addition to proof by affidavit, any party may present oral proof, if he so wishes.

1983, c. 28, s. 32; 1994, c. 28, s. 38.

835.4. *(Repealed).*

1983, c. 28, s. 32; 2002, c. 7, s. 138.

835.5. *(Repealed).*

1983, c. 28, s. 32; 2002, c. 7, s. 138.

836. *A judgment which grants the demand must be served on all the parties in the case; failure to comply with the order therein contained constitutes a contempt of court.*

1965 (1st sess.), c. 80, a. 836.

837. *The jurisdiction assigned to a judge by the provisions of this Title shall in no case be exercised by the clerk.*

1965 (1st sess.), c. 80, a. 837; 1992, c. 57, s. 420.

CHAPTER II

REMEDIES IN CASE OF USURPATION OF OFFICE

1992, c. 57, s. 386.

838. *When a person occupies or exercises illegally, either a public office or an office in a legal person established in the public interest or for a private interest, a public body or an association within the meaning of the Civil Code, any person interested may apply to the court for an order that he be ousted therefrom; he may even ask that a third party be declared to be entitled to such office, if he alleges the facts necessary to show that he is entitled to it.*

1965 (1st sess.), c. 80, a. 838; 1992, c. 57, s. 387.

839. *A certificate of the clerk, attesting the deposit in the office of the court of the sum of $500 as security, must be attached to the motion.*

1965 (1st sess.), c. 80, a. 839; 1983, c. 28, s. 33; 1992, c. 57, s. 420.

840. *The judgment which grants the demand may also condemn the defendant to punitive damages not exceeding $500.*

1965 (1st sess.), c. 80, a. 840; 1990, c. 4, s. 224.

841. *When the judgment is based upon the ground that the defendant has committed an indictable offence, it is executory immediately and notwithstanding appeal. Nevertheless, the office is deemed vacant only from the day when the judgment has become final, unless it so becomes earlier for any other cause contemplated by law; but the defendant shall not be entitled, in the meantime, to the indemnities, allowances, salaries or remunerations related to such office.*

In the case of the office of member of the council of a municipality subject to Title I of the Act respecting elections and referendums in municipalities (chapter E-2.2), the effects of the provisional execution of the judgment are as provided in the said Act.

1965 (1st sess.), c. 80, a. 841; 1987, c. 57, s. 730; 1992, c. 57, s. 388.

842. *The person whom the judgment declares to be entitled to the office may exercise it, after having taken the oath of office and given the security required, and may demand from defendant all keys, books, papers and insignia belonging thereto; in case of refusal by the defendant, the court may order the sheriff to take possession of such objects and to deliver them to the person thereto entitled.*

1965 (1st sess.), c. 80, a. 842; 1992, c. 57, s. 389.

843. *No procedure in contestation of the election of a warden elected in accordance with section 210.29.2 of the Act respecting municipal territorial organization (chapter O-9), a mayor or a municipal councillor shall be taken under the provisions of this chapter, except for absence of qualification.*

1965 (1st sess.), c. 80, a. 843; 2001, c. 25, s. 39.

CHAPTER III

REMEDIES IN CASE OF REFUSAL TO PERFORM A DUTY WHICH IS NOT OF A MERELY PRIVATE NATURE

844. *Any person interested may apply to the court to obtain an order commanding a person to perform a duty or an act which is not of a purely private nature, more particularly:*

(1) when a legal person, public body, or association within the meaning of the Civil Code omits, neglects or refuses to perform any duty or act incumbent upon it by law;

(2) when a legal person or association within the meaning of the Civil Code omits, neglects or refuses to proceed to an election which by law it is bound to make, or to recognize such of its members as have been legally chosen or elected, or to reinstate those who have been removed without lawful cause;

(3) when a public officer, or a person holding an office in a legal person, an association within the meaning of the Civil Code, a public body or a court subject to the superintending and reforming power of the Superior Court, omits, neglects or refuses to perform a duty belonging to such office, or an act which by law he is bound to perform;

(4) when an heir or representative of a public officer omits, neglects or refuses to do an act which, in such capacity, he is by law bound to perform.

1965 (1st sess.), c. 80, a. 844; 1992, c. 57, s. 390.

845. *If the judgment orders the holding of an election, it must, after having prescribed the mode of giving notice of the election, which must so far as possible be that which would have normally been followed, order the competent officer, or, in his absence, a person designated in the judgment, to proceed to such election at the place, on the day and at the hour fixed, and to do everything necessary to ensure that the election is valid.*

1965 (1st sess.), c. 80, a. 845.

CHAPTER IV

REMEDIES AGAINST PROCEEDINGS OR JUDGMENTS OF COURTS SUBJECT TO THE SUPERINTENDING AND REFORMING POWER OF THE SUPERIOR COURT

846. *The Superior Court may, at the demand of one of the parties, evoke before judgment a case pending before a court subject to its superintending and reforming power, or revise a judgment already rendered by such court, in the following cases:*

(1) when there is want or excess of jurisdiction;

(2) when the enactment upon which the proceedings have been based or the judgment rendered is null or of no effect;

(3) when the proceedings are affected by some gross irregularity, and there is reason to believe that justice has not been, or will not be done;

(4) when there has been a violation of the law or an abuse of authority amounting to fraud and of such a nature as to cause a flagrant injustice.

However, in the cases provided in paragraphs 2, 3 and 4 above, the remedy lies only if, in the particular case, the judgments of the court seized with the proceeding are not susceptible of appeal.

1965 (1st sess.), c. 80, a. 846.

847. *(Repealed).*

1965 (1st sess.), c. 80, a. 847; 1983, c. 28, s. 34.

848. *(Repealed).*

1965 (1st sess.), c. 80, a. 848; 1983, c. 28, s. 34.

849. *(Repealed).*

1965 (1st sess.), c. 80, a. 849; 1983, c. 28, s. 34.

850. *(Repealed).*

1965 (1st sess.), c. 80, a. 850; 1982, c. 32, s. 51; 1983, c. 28, s. 35; 1989, c. 41, s. 4.

TITLE VII

HABEAS CORPUS IN CIVIL MATTERS

851. *Any person who is confined or otherwise restrained of his liberty, except under an order in civil matters granted by a court or a judge having jurisdiction, or for some criminal or supposed criminal matter, or any other person on his behalf, may apply to a judge of the Superior Court to obtain a writ of habeas corpus ordering the person under whose custody he is detained to bring him forthwith before a judge of the court and to show the cause of his detention, so that it may be decided whether such detention is justified.*

The demand is made by motion supported by an affidavit affirming the truth of the facts on which it is based.

1965 (1st sess.), c. 80, a. 851.

852. *In the case of a person kept without his consent in an institution governed by the Acts respecting health services and social services and in the case of a person confined in a house of detention or a*

penitentiary, the petition cannot be presented to the judge unless it has been served upon the Attorney General, with a notice of the date of its presentation. In other cases, the judge may, if he considers that the Attorney General has sufficient interest therein, either order that the motion be served upon him and postpone his decision in consequence, or immediately authorize the issuance of the writ and require that such service be made upon him before the date fixed for the return.

1965 (1st sess.), c. 80, a. 852; 1992, c. 21, s. 127; 1992, c. 57, s. 391.

853. *The writ is prepared by the clerk and must contain on the back the names of the judge on whose order it has been issued, of the person who has applied for it, and of the person who has given the affidavit required. The writ is served by leaving the original with the person to whom it is addressed, or with his representative or agent at the place where the person is confined; if it is addressed to several persons, the original is left with one of them and copies are left with the others.*

The return of service is made on the back of a copy of the writ or on a separate paper which is attached thereto.

1965 (1st sess.), c. 80, a. 853; 1992, c. 57, s. 420.

854. *A person who does not comply with the order contained in the writ is guilty of contempt of court.*

1965 (1st sess.), c. 80, a. 854.

855. *The judge before whom the return is made must proceed, as soon as possible, to examine into the truth of the facts alleged. He may allow the allegations of the return to be contested in writing, authorize such written proceedings as he considers appropriate, and proceed himself to the trial of the issues or refer the case to the court. He may also admit to bail the person confined, upon security being given that he will appear at the trial and will obey the orders which may be given to him.*

1965 (1st sess.), c. 80, a. 855.

856. *The judge or the court adjudicates as to costs in accordance with the circumstances.*

1965 (1st sess.), c. 80, a. 856.

857. *Whenever the issuance of a writ of habeas corpus has been once refused by a judge of the Superior Court, the application cannot be renewed except before a judge of the Court of Appeal, and once only, unless it is based upon new facts.*

1965 (1st sess.), c. 80, a. 857; 1979, c. 37, s. 43.

858. *The final judgment which orders the release cannot be executed until five days have elapsed since it was rendered, unless there has been filed in the record a declaration of the adverse party, and of the Attorney General if he has been impleaded, that an appeal will not be taken.*

The court may order the provisional release of the person confined on such conditions as it determines if it considers that the interests of justice will thus be better served.

1965 (1st sess.), c. 80, a. 858; 1992, c. 57, s. 392.

859. *The appeal from a final judgment is governed by the provisions of articles 491 and following, so far as applicable, except that:*

(1) it must be instituted within five days, if the judgment orders release, or within 10 days if it is refused;

(2) the clerk must transfer the record within two days of the filing of the inscription;

(*3*) *except for the appellant the parties who wish to be heard must appear. The parties may file their factums five days from receipt of the inscription by the office of the Court of Appeal;*

(*4*) *the case is placed on the roll, as soon as the time contemplated by the preceding paragraph has expired, and it is heard at the first session of the court held either at Québec or at Montréal.*

1965 (1st sess.), c. 80, a. 859; 1982, c. 32, s. 52; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

860. *After an appeal is instituted, the Court of Appeal may release provisionally the person confined on such conditions as it determines if it considers that the interests of justice will thus be better served.*

1965 (1st sess.), c. 80, a. 860; 1992, c. 57, s. 393.

861. *Habeas corpus proceedings have precedence over all other matters, both before the Superior Court and before the Court of Appeal.*

1965 (1st sess.), c. 80, a. 861.

BOOK VI

NON-CONTENTIOUS MATTERS

CHAPTER I

GENERAL PROVISIONS

1998, c. 51, s. 2.

DIVISION I

RULES APPLICABLE BEFORE THE COURT

1998, c. 51, s. 2; 1998, c. 51, s. 2.

862. *Proceedings in virtue of the provisions of this Book are taken by way of motion presentable 10 days after service upon or, where the law so provides, notification to the persons entitled thereto.*

1965 (1st sess.), c. 80, a. 862; 1992, c. 57, s. 394.

863. *Failing an express provision to the contrary, applications are presented to the judge or to the clerk.*

The decisions of the clerk may be reviewed by the judge on an application served within 10 days. In cases excluded from the competence of the clerk, applications are presented to the judge.

However, an application that is contested is presented to the court. In urgent cases, the judge or the clerk may shorten the time limits prescribed in this Book.

1965 (1st sess.), c. 80, a. 863; 1992, c. 57, s. 395.

863.1. *The court, the judge or the clerk ensures that the application has been notified to or served on the interested persons. It or he may authorize or order, even of its or his own motion, the service or notification of the application on or to any person it or he determines, or the production of additional proof, including experts' or consultants' reports.*

1992, c. 57, s. 395.

863.2. *At the hearing, the judge or the clerk may, depending on the nature of the application, authorize the persons who are present and have an interest in the application to make observations or representations that may afford information useful for making his decision.*

However, if the judge or clerk ascertains that the observations or representations made by a party constitute actual contestation of the merits of the application, he orders that the record be referred to the court on the conditions he determines.

1992, c. 57, s. 395.

863.3. *The clerk notifies forthwith the Public Curator of any judgment relating to the tutorship to an absentee or a minor, to the institution, review of or release from protective supervision of a person of full age, to the homologation of a mandate given by a person in anticipation of his incapacity and to the appointment or replacement of a tutor or curator by sending him a copy of the decision, free of charge.*

1992, c. 57, s. 395.

DIVISION II

RULES APPLICABLE BEFORE THE NOTARY

1998, c. 51, s. 3; 1998, c. 51, s. 3.

863.4. *An application relating to a tutorship council, to the appointment or replacement of a tutor to a minor, to the institution or review of protective supervision, to a mandate given in anticipation of the mandator's incapacity, to the probate of a will or to letters of verification may also be presented to a notary in accordance with the special rules contained in this Book.*

The same applies to an application relating to the appointment or replacement of an adviser, a tutor or a curator to represent a person of full age.

1998, c. 51, s. 3; 2002, c. 7, s. 139.

863.5. *The notary must notify the application to the interested persons and provide them with all information relevant to the object and causes of the application. However, the application must be served on the person concerned in accordance with article 135.1.*

The application must be accompanied with a notice clearly stating the time and place at which the notarial operations are to begin as well as the object of the application and the nature of the rights of the interested persons, including their right to present any observations or make any representations they see fit or to oppose the application.

A copy of the notice is deposited by the notary at the office of the competent court; the deposit is effected free of charge and solely for publication purposes. The clerk must inform the notary without delay of any observation, representation or opposition relating to the notice.

1998, c. 51, s. 3.

863.6. *In exercising notarial functions under this section, the notary must act in the interest of the person concerned by the application. In the case of protective supervision or a mandate in anticipation of incapacity, the notary must also act in such a manner as to protect the rights and autonomy of the person concerned.*

1998, c. 51, s. 3.

863.7. *Minutes that identify the interested persons, including the person who presented the application, and that set out the facts on which the application is based are drawn up by the notary; the minutes contain a complete and detailed report of the notarial operations and of the notary's conclusions, in particular*

concerning the testimony that the notary is required to take and the deliberations of the tutorship council or of the meeting of relatives, persons connected by marriage or friends.

1998, c. 51, s. 3.

863.8. *Where observations or representations made constitute actual contestation of the merits of the application examined by a notary, the notary must relinquish the matter and inform the interested persons; in such a case, the notary draws up the minutes of the operations that have taken place and transfers the matter to the competent court, which is seized of the matter upon the deposit of the notary's minutes.*

The court may, if it considers it expedient, assign to the notary the mission of taking all evidence necessary for the pursuit of the matter, and fix the time within which the notary must report on the notarial operations to enable the court to make its own assessment of the facts.

1998, c. 51, s. 3.

863.9. *In matters pertaining to the tutorship to a minor, the tutorship council, the protective supervision of a person of full age or a mandate in anticipation of incapacity, the notary must deposit without delay at the office of the court of the domicile or residence of the minor or the incapable person of full age an authentic copy of the minutes, accompanied with all supporting documents.*

The notary must notify a copy of the minutes to the interested persons, including, according to the case, the minor if the minor is 14 years of age or over or the person of full age, the tutor or curator, the mandator, the mandatary and the Public Curator; the minutes must be accompanied with a notice of at least 10 days of the date of deposit of the minutes at the office of the court. The notice must also mention that in the absence of opposition before the date of the deposit, the judge or the clerk may accept the conclusions without further delay.

1998, c. 51, s. 3; 2002, c. 7, s. 140.

863.10. *The court is seized of the matter upon the deposit of the notary's minutes, subject to article 863.11.*

In the absence of opposition, the judge or the clerk may accept or reject the conclusions set out in the notary's minutes and make all orders necessary to protect the rights of the parties for the period and on the conditions determined by the judge or clerk.

The clerk must give notice without delay to the interested persons of any order so made or judgment so rendered by sending them a copy.

1998, c. 51, s. 3; 2002, c. 7, s. 141.

863.11. *The minutes of the probate of a holograph will or a will made in the presence of witnesses are deposited solely for publication purposes.*

1998, c. 51, s. 3.

863.12. *The original or a copy of the application, of the notice and of the notary's minutes must be notified to the interested persons in accordance with articles 146.1 and 146.2.*

1998, c. 51, s. 3.

CHAPTER II

ALTERATION OF THE REGISTER OF CIVIL STATUS

1992, c. 57, s. 396.

864. *Applications for the alteration of the register of civil status and for a change of name by way of judicial process and applications for the recognition of the validity of an act of civil status made outside Québec or for the review of a decision of the registrar of civil status are introduced in the district of Québec or before the court of the domicile of the applicant. They are notified to interested persons and to the registrar of civil status.*

1965 (1st sess.), c. 80, a. 864; 1969, c. 80, s. 13; 1992, c. 57, s. 396.

864.1. *An application for a change of name is, in the case of a minor, notified to the father, the mother, the tutor, where applicable, and to the minor child if he is 14 years of age or over.*

1992, c. 57, s. 396.

864.2. *An application for review of a decision of the registrar of civil status may be admitted only if it is presented within 30 days after receipt of the decision by the applicant.*

The registrar of civil status transmits forthwith to the office of the court the record relating to the decision the review of which is applied for.

1992, c. 57, s. 396.

865. *Applications made under this chapter may in no case be heard by the clerk.*

1965 (1st sess.), c. 80, a. 865; 1992, c. 57, s. 396.

CHAPTER III

TUTORSHIP TO AN ABSENTEE AND DECLARATORY JUDGMENT OF DEATH

1992, c. 57, s. 397.

865.1. *Applications for the institution of tutorship to an absentee are made before the court of the domicile of the person the establishment of whose absence is sought or, if such domicile cannot be determined, before the court of the person's last known residence, or before the court of the domicile of the applicant.*

If the absentee has designated an administrator to his property and if the latter refuses or neglects to act or is unable to act, the application may be made before the court of the domicile of the administrator.

The application must be served on the Public Curator and, where applicable, on the person designated by the absentee to administer his property and on the absentee's spouse, if he has a spouse.

1969, c. 79, s. 4; 1992, c. 57, s. 397; 1999, c. 40, s. 56.

865.2. *Applications concerning the amounts that it is expedient to allocate to the expenses of the marriage or civil union, to the maintenance of the family or to the payment of the obligation of support of the absentee and applications relating to the liquidation of the patrimonial rights of the married or civil union spouses are made before the court of the domicile of the absentee or of the applicant.*

The application must be served on the Public Curator, on the tutor to the absentee and on the absentee's spouse, if he or she has a spouse.

1969, c. 79, s. 4; 1992, c. 57, s. 397; 2002, c. 6, s. 124.

865.3. *Applications for a declaratory judgment of death are made before the court of the domicile of the person the establishment of whose death is sought.*

If the person's domicile was not in Québec, the application is made before the court of the domicile of the place of his death, if known, or, failing that, of the place of his disappearance.

1969, c. 79, s. 4; 1992, c. 57, s. 397.

865.4. *The application must be served on the spouse of the person the establishment of whose death is sought, on his father and mother and on his children 14 years of age or over and, where applicable, on the person's insurer.*

The judge may, of his own motion or on application, order collective service on any other person, according to the modalities he indicates.

1969, c. 79, s. 4; 1992, c. 57, s. 397.

865.5. *Applications for annulment of a declaratory judgment of death and rectification of the register of civil status and applications relating to the cancellation of the mentions or entries made following the declaratory judgment of death are made before the court of the last domicile of the person who has returned and must be served on the interested parties.*

1992, c. 57, s. 397.

865.6. *Applications made under this chapter, except applications for the institution of tutorship to an absentee, may in no case be heard by the clerk.*

1992, c. 57, s. 397.

CHAPTER IV

EXAMINATION AND COMPULSORY INSPECTION OF NOTARIAL DOCUMENTS

866. *Notaries are bound, upon payment of their fees and dues, to give to the parties or to their heirs or legal representatives communication or copies of or extracts from deeds forming part of their official records or of the records of which they are transferees or depositaries. They are not, however, bound, without an order of the court, to give communication or copies of a revoked will or of a deed the publication of which is not required, unless the request is made by the testator himself or by a party to the deed, as the case may be.*

1965 (1st sess.), c. 80, a. 866; 1992, c. 57, s. 398.

867. *Any person to whom the notary has refused to give communication or copies of or extracts from a deed may, on motion served upon the notary, obtain from the judge an order for inspection, if he proves his right or his interest.*

1965 (1st sess.), c. 80, a. 867.

868. *The order of the judge fixes the day and hour when communication of the deed must be given, or the time within which the copy or extract must be furnished. It must be served upon the notary in good time.*

1965 (1st sess.), c. 80, a. 868; 1999, c. 40, s. 56.

869. *The notary must certify, on the copy or extract, that it is given upon the order of the judge, and he must mention the fact on the copy of the order which has been served upon him.*

1965 (1st sess.), c. 80, a. 869.

CHAPTER V

REPLACEMENT AND RECONSTITUTION OF CERTAIN WRITINGS

1992, c. 57, s. 399.

870. *When the minute or the original of an authentic deed or a public register has been lost, destroyed or carried away, and any authentic copy or extract exists, the court may permit or order that such copy or extract be deposited with such public officer as it designates, to take the place of the original.*

The motion for such purpose may be made by the person who holds the copy or extract, or by an interested third party; it must be served on all interested parties.

1965 (1st sess.), c. 80, a. 870.

871. *The applicant must pay the costs of the deposit; he must also furnish a new certified copy to the person who held the copy deposited, and indemnify him for all travelling and other expenses.*

1965 (1st sess.), c. 80, a. 871.

871.1. *Where an authentic act or public register cannot be replaced either because there is no copy or because a copy cannot be delivered, the public officer who held the act or register establishes a procedure for its reconstitution and proceeds with it.*

Any interested person may, if the public officer delays establishing, or neglects to establish, a reconstitution procedure, ask the court to appoint a person to do so.

1992, c. 57, s. 400.

871.2. *The court homologates the reconstituted writing upon ascertaining that the procedure followed was appropriate and that it permits a valid reconstitution.*

The application for homologation is accompanied with the reconstituted writing, the reconstitution plan and an affidavit attesting that the procedure was followed.

The judge may, even of his own motion, order service on the interested persons, by public notice or otherwise; in the case of an authentic act, the application is served on the parties to the act, unless otherwise decided by the judge.

1992, c. 57, s. 400.

871.3. *Reconstituted acts and registers stand in lieu of the original upon homologation of the reconstitution by the judge; they are filed with the public officer who held the original or his transferee.*

Any interested person may contest the content of the reconstituted acts or registers or ask that corrections or additions be made.

1992, c. 57, s. 400.

871.4. *Applications for the reconstitution of an authentic act or public register may in no case be heard by the clerk.*

1992, c. 57, s. 400.

CHAPTER VI

TUTORSHIP COUNCIL

1992, c. 57, s. 401.

872. *Applications relating to the composition and establishment of a tutorship council may be presented to the judge or clerk or to a notary; applications for the review of a decision of a tutorship council are made before the court of the domicile or residence of the minor or incapable person of full age.*

1965 (1st sess.), c. 80, a. 872; 1975, c. 83, s. 56; 1979, c. 37, s. 34; 1992, c. 57, s. 401; 1998, c. 51, s. 4.

873. *A meeting of relatives, persons connected by marriage or friends held for the establishment of a tutorship council is called by the clerk or by a notary.*

The notice of meeting is notified to the persons who are required to be called for the establishment of the tutorship council and indicates the object, place, day and time of the meeting.

1965 (1st sess.), c. 80, a. 873; 1992, c. 57, s. 401.

874. *The meeting is presided by a notary or the clerk.*

1965 (1st sess.), c. 80, a. 874; 1992, c. 57, s. 401; 1998, c. 51, s. 5.

874.1. *(Replaced).*

1966, c. 21, s. 15; 1984, c. 47, s. 213; 1992, c. 57, s. 401.

875. *The council notifies forthwith the tutor or curator, the Public Curator, the minor if 14 years of age or over or the person of full age under protective supervision of the name and address of the members and secretary of the council; it also notifies them of any change in that respect.*

1965 (1st sess.), c. 80, a. 875; 1966, c. 21, s. 16; 1992, c. 57, s. 401.

876. *Any service or notification intended for the council is validly made to the secretary responsible for drawing and keeping the minutes of the deliberations of the council.*

1965 (1st sess.), c. 80, a. 876; 1966, c. 21, s. 17; 1992, c. 57, s. 401.

876.1. *Where an application for the review of a decision of the tutorship council is notified to him, the secretary of the council transmits forthwith to the office of the court the minutes and record relating to the decision the review of which is applied for.*

1966, c. 21, s. 18; 1992, c. 57, s. 401.

CHAPTER VI.1

TUTORSHIP TO MINORS

1998, c. 51, s. 6.

876.2. *Where an application relating to the appointment or replacement of a tutor, a tutor ad hoc or a tutor to property is presented to a notary, the notary must serve the application on the minor, if the minor is 14 years of age or over, and notify the application to the persons mentioned in the first paragraph of article 226 of the Civil Code and call the latter persons to a meeting of relatives, persons connected by marriage or friends to establish tutorship to the minor and form the tutorship council. If the tutor, the tutor ad hoc or the tutor to property is being replaced, the notary must also notify the application to the Public Curator.*

1998, c. 51, s. 6.

CHAPTER VII

PROTECTIVE SUPERVISION OF PERSONS OF FULL AGE AND HOMOLOGATION OF A MANDATE GIVEN BY A PERSON IN ANTICIPATION OF HIS INABILITY

1989, c. 54, s. 136; 1992, c. 57, s. 402.

DIVISION I

PROTECTIVE SUPERVISION OF PERSONS OF FULL AGE

1989, c. 54, s. 136.

877. *An application for the institution of protective supervision of a person of full age shall be brought before a judge or before the clerk of the district where the person of full age has his domicile or residence; it must set forth all the facts on which it is based and which the applicant will be required to prove.*

The application must be served on the person of full age and on a reasonable member of his family; service on the person of full age must be made personally. If the application for institution of protective supervision is contested, it must be served on the persons who must be called to a meeting of relatives, persons connected by marriage and friends to form a tutorship council, so that they may attend the proceedings.

1965 (1st sess.), c. 80, a. 877; 1989, c. 54, s. 137; 1992, c. 57, s. 420; 2002, c. 7, s. 142.

877.0.1. *Where an application for the institution or review of protective supervision of a person of full age is presented to a notary, the notary must prepare a declaration stating the facts on which the application for the institution or review of protective supervision of a person of full age is based, and must serve the declaration on the person of full age and notify the declaration to a reasonable member of the person's family, to the Public Curator and to one of the persons mentioned in article 15 of the Civil Code; the declaration must be accompanied with a notice of a meeting of relatives, persons connected by marriage or friends.*

1998, c. 51, s. 7.

877.0.2. *The applications referred to in articles 877 and 877.0.1 and any expert reports in support thereof must also be served on or notified to the Public Curator, who may take part in the proceedings, on his own initiative and without notice, as though he were a party thereto. If the Public Curator has not been served or notified, the clerk must suspend the proceedings until proof of service or notification is received at the office of the court.*

2002, c. 7, s. 143.

877.1. *If no person applies for the institution of protective supervision within 30 days of the filing of the recommendation of the Public Curator under section 14 of the Public Curator Act (chapter C-81), the clerk shall give notice thereof to the Public Curator. The latter shall then apply for the institution of protective supervision for the person of full age.*

1971, c. 81, s. 47; 1989, c. 54, s. 138; 1992, c. 57, s. 420.

878. *The person contemplated by an application for the institution of protective supervision must be examined by the judge, clerk or notary, unless it is manifestly unreasonable to hear his testimony by reason of his state of health.*

The person may be examined by a judge or the clerk of the district where he resides, even if the application is made in another district. The examination shall be taken in writing and transmitted to the meeting of relatives, persons connected by marriage and friends. If no examination takes place, the judgment mentions that fact and indicates the reason why the person was not examined.

Where the application is presented to a notary, the notary may not delegate responsibility for the examination to another notary except to avoid expense of travel arising from the distance at which the person of full age is residing. If the person does not have a sufficient understanding of French or English and the notary does not speak the person's language, the notary may either hire an interpreter for the examination, or entrust the examination to a notary who speaks the person's language. In all cases, the notary who examined the person draws up the minutes of the examination, translated into French or English, if necessary. If no examination is conducted, the notary draws up minutes stating the reasons why no examination took place.

1965 (1st sess.), c. 80, a. 878; 1977, c. 73, s. 34; 1989, c. 54, s. 139; 1992, c. 57, s. 403, s. 420; 1998, c. 51, s. 8; 2002, c. 7, s. 144.

878.0.1. *The notary must obtain the medical and psychosocial assessment, the examination of the person of full age and the other relevant documents and report thereon to the meeting of relatives, persons connected by marriage and friends.*

1998, c. 51, s. 9.

878.1. *The rules relating to the representation and hearing of a minor or incapable person of full age apply where, in a proceeding, the clerk or the judge ascertains that the application of these rules is necessary to ensure the safeguard of the rights of a person of full age incapable of caring for himself or of administering his property.*

Upon ascertaining the necessity of providing representation to the incapable person of full age, the notary must relinquish the application, inform the interested persons and transfer the matter to the competent court, which is seized of the matter upon the deposit of the notary's minutes.

1989, c. 54, s. 140; 1992, c. 57, s. 404; 1998, c. 51, s. 10.

878.2. *The documents supporting an application to the court for the institution of protective supervision must be filed in the office of the court not less than 10 days before the date scheduled for the hearing.*

1989, c. 54, s. 140; 1998, c. 51, s. 11.

878.3. *At any time before judgment, the judge or clerk may order, even of his own motion, the production of any additional evidence or the summoning of any person whose testimony he considers expedient.*

1989, c. 54, s. 140; 1992, c. 57, s. 420.

879. *A person in respect of whom an application for the institution of protective supervision is made may produce witnesses to contradict the evidence made by the applicant; all the depositions must be taken in accordance with the provisions of articles 324 and following of this Code.*

1965 (1st sess.), c. 80, a. 879; 1989, c. 54, s. 141.

880. *Where their advice is required, the persons who are required to be called for the establishment of the tutorship council are called by the notary to whom the application is presented or on an order of the judge or of the clerk and the meeting is presided by the judge or clerk or by a notary.*

1965 (1st sess.), c. 80, a. 880; 1977, c. 73, s. 35; 1989, c. 54, s. 142; 1992, c. 57, s. 405; 1998, c. 51, s. 12.

881. *The judge or clerk may, instead of granting the institution of the form of protective supervision applied for, determine another form of protective supervision if the circumstances so require.*

1965 (1st sess.), c. 80, a. 881; 1989, c. 54, s. 143; 1992, c. 57, s. 420.

882. *(Repealed).*

1965 (1st sess.), c. 80, a. 882; 1989, c. 54, s. 144.

883. *Every judgment relating to the institution, review or removal of protective supervision or ordering that a tutor or curator be replaced must be served on the person of full age.*

1965 (1st sess.), c. 80, a. 883; 1989, c. 54, s. 145; 1992, c. 57, s. 406.

884. *Protective supervision may be reviewed only if the formalities prescribed for the institution of protective supervision are observed.*

1965 (1st sess.), c. 80, a. 884; 1989, c. 54, s. 146.

DIVISION II

HOMOLOGATION OF MANDATE GIVEN BY A PERSON IN ANTICIPATION OF HIS INABILITY

1989, c. 54, s. 147; 1992, c. 57, s. 407.

884.1. *An application for the homologation of a mandate given by a person in anticipation of his inability shall be submitted to a judge or to the clerk of the district where the mandator has his domicile or residence.*

The application must be served on the mandator, on a reasonable member of his family and on the Public Curator; service of the application on the mandator must be made personally.

The judge or clerk may order that the application be served on the persons who would be qualified to intervene in the institution of protective supervision in respect of the mandator.

1989, c. 54, s. 147; 1992, c. 57, s. 408, s. 420.

884.2. *The application for the homologation of the mandate must be accompanied with a medical and psychosocial assessment ascertaining the inability of the mandator and with a copy of the mandate.*

1989, c. 54, s. 147.

884.3. *The judge or clerk seized of the application for homologation shall ascertain the inability of the mandator, the existence of the mandate and the validity of the mandate where it has been made in the presence of witnesses.*

1989, c. 54, s. 147; 1992, c. 57, s. 420.

884.4. *Except as regards the communication of the examination, articles 878 to 878.3 apply to applications for the homologation of a mandate.*

1989, c. 54, s. 147; 1992, c. 57, s. 409.

884.5. *The revocation of a mandate cannot be obtained except by observing the prescribed formalities for the homologation of the mandate.*

1989, c. 54, s. 147.

884.6. *Any judgment ordering the homologation of a mandate must be served on the mandator; any judgment revoking a mandate must be served on the mandatary and, where applicable, on the mandator.*

1989, c. 54, s. 147; 1992, c. 57, s. 410.

884.7. *An application for the recording of the coming into effect of a mandate given in anticipation of the mandator's incapacity or of the declaration of the cessation of the effects or the revocation of such a mandate may also be presented to a notary.*

The application is served by the notary on the mandator and, where applicable, notified to the mandatary and to the substitute mandatary designated by the mandator, the Public Curator and one of the persons mentioned in article 15 of the Civil Code.

1998, c. 51, s. 13; 2002, c. 7, s. 145.

884.8. *The notary must obtain a medical and psychosocial assessment ascertaining the mandator's incapacity and the original or an authentic copy of the mandate. Where the mandate was given before witnesses, the existence and validity of the mandate are verified by the notary.*

In all cases, the notary must, in accordance with article 878, examine the mandator and determine whether the mandator is capable or incapable of taking care of himself or herself or of administering his or her property. The minutes of the examination of the mandator are drawn up by the notary.

1998, c. 51, s. 13.

CHAPTER VIII

JUDICIAL AUTHORIZATIONS

1992, c. 57, s. 411.

885. *Applications for authorization, empowerment or homologation provided for in the Civil Code or in this Book are introduced by way of a motion, in particular in the case of*

(a) applications which by reason of the nature of the act or the quality of the applicant are subject by law to the authority of the court, so that it may authorize an act, approve or homologate a decision or an act, or establish a fact;

(b) applications for the appointment, designation or replacement of any person, including the administrator of the property of others, which the law requires to be made by the court or which are made by the court where there is no agreement between the interested parties;

(c) applications of the same nature in matters concerning tutorship to minors or protective supervision of persons of full age, in matters concerning succession and in matters concerning the administration of the property of others.

1965 (1st sess.), c. 80, a. 885; 1992, c. 57, s. 411; 1998, c. 51, s. 14.

886. *Applications relating to tutorship to a minor and to his emancipation are notified to the Public Curator and to the minor, if 14 years of age or over.*

Applications are accompanied with the advice of the tutorship council, where applicable.

1965 (1st sess.), c. 80, a. 886; 1992, c. 57, s. 411.

CHAPTER IX

PROBATE OF WILLS AND LETTERS OF VERIFICATION

1992, c. 57, s. 411.

DIVISION I

PROBATE OF WILLS

1992, c. 57, s. 411.

887. *Applications for the probate of a will are made before the court where the testator had his domicile or, if he had no domicile in Québec, before the court of the district in which the testator died, or in that in which he left property.*

1965 (1st sess.), c. 80, a. 887; 1992, c. 57, s. 411.

887.1. *Where a holograph will or a will made in the presence of witnesses is probated by a notary, on the application of any interested person, the notary notifies to the known heirs and successors a notice of probate to which a copy of the will is attached. Any observations or representations which those persons wish to make must be made, orally or by any other means of communication, within 10 days after notification of the notice of probate.*

1998, c. 51, s. 15.

888. *Where it would be inconvenient or too expensive to call in all the known successors to a probate, the clerk may exempt the applicant from such requirement or determine the persons on or to whom service or notification will be made.*

Where an application is presented to a notary, the clerk may exempt the notary from notifying all of the known successors if it would be impractical or too onerous to call all of them to the probate of the will, and may determine the persons who will be notified.

1965 (1st sess.), c. 80, a. 888; 1992, c. 57, s. 411; 1998, c. 51, s. 16.

889. *The original of the will is examined by the clerk or by the notary. If the will is deposited with a notary, the clerk may order the notary to file the will at the office of the court or to deliver it to the notary designated by the clerk. However, a will deposited with a notary may not be probated by that notary or by a member of that notary's firm of notaries.*

1965 (1st sess.), c. 80, a. 889; 1992, c. 57, s. 411; 1998, c. 51, s. 17.

890. *The probated will is deposited in the office of the court. The clerk is bound to issue certified copies of the will, of the transcription of the proof made to support the application for probate and of the judgment granting the application to every interested person who so requires.*

The will probated by a notary together with the minutes of the probate are kept in the records of the notary; the latter must issue certified copies of the will and of the minutes of the probate to any interested person who so requests.

The notary is also required to file a certified copy of the will and minutes at the office of the court of the district in which the testator was domiciled or, if the testator was not domiciled in Québec, at the office of the court of the district in which the testator died or in which the testator left any property.

If the notary relinquishes the matter in accordance with article 863.8, the notary must file the original of the will in his or her possession together with the minutes at the office of the court.

1965 (1st sess.), c. 80, a. 890; 1992, c. 57, s. 411; 1998, c. 51, s. 18; 2002, c. 7, s. 146.

891. *Notwithstanding the probate, a will may afterward, be contested, by action, by any interested person who did not oppose the application for probate or who, having opposed it, raises grounds which he was not then in a position to urge.*

1965 (1st sess.), c. 80, a. 891; 1992, c. 57, s. 411.

DIVISION II

LETTERS OF VERIFICATION

1992, c. 57, s. 411.

892. *Every interested person may obtain from the clerk of the court of the district where the deceased had his domicile or from a notary letters of verification for use outside Québec, to prove his quality of heir, legatee by particular title or liquidator of the succession.*

1965 (1st sess.), c. 80, a. 892; 1992, c. 57, s. 411; 1998, c. 51, s. 19.

893. *Letters of verification attest that the succession has opened; they certify moreover, in the case of an intestate succession, that the property has devolved to the designated persons in the proportions indicated and, in the case of a testamentary succession, that it has been proved that the will, of which a true copy is annexed, is the only will that the deceased made, or that it is the latest and that it revokes, in whole or in part, all previous wills.*

In addition, the letters of verification identify the person acting as the liquidator of the succession.

1965 (1st sess.), c. 80, a. 893; 1992, c. 57, s. 411.

894. *The application is served on the liquidator of the succession, if he is known, and on all the known heirs or legatees by particular title residing in Québec.*

Where an application is presented to a notary, the notary notifies the application to the liquidator of the succession, if that person is known, and to all of the known heirs or legatees by particular title residing in Québec.

1965 (1st sess.), c. 80, a. 894; 1992, c. 57, s. 411; 1998, c. 51, s. 20.

895. *Letters of verification may be revoked or corrected, on the instance of any interested person who did not oppose their being granted or who, if he did so oppose, raises grounds which he was not then in a position to urge.*

The application is served on all persons on whom the original application was served or on their representatives and, if the application is based on the existence of a will, on every person to whom the property would devolve by the effect of the will.

1965 (1st sess.), c. 80, a. 895; 1992, c. 57, s. 411.

896. *The clerk, under the seal of the court, issues copies of letters of verification to any person who so requires. The notary is also required to issue certified copies to any person who so requests. However, if the letters of verification are contested, no copy may be issued before the application is disposed of.*

If the letters are only corrected by the judgment, the clerk issues new letters in replacement of the former ones.

1965 (1st sess.), c. 80, a. 896; 1992, c. 57, s. 411; 1998, c. 51, s. 21.

CHAPTER X

PROCEDURE GOVERNING THE SALE OF THE PROPERTY OF OTHERS

1992, c. 57, s. 411.

DIVISION I

GENERAL PROVISIONS

1992, c. 57, s. 411.

897. *The rules of this chapter apply where the law requires authorization from the court for the sale of property belonging to a minor, a person of full age under tutorship or curatorship or an absentee; they also apply where the law requires that an administrator of the property of others be authorized by a judge or the court before proceeding with the sale of property.*

1965 (1st sess.), c. 80, a. 897; 1992, c. 57, s. 411.

898. *The application for authorization to sell property sets out the grounds for the application and describes the property; it is accompanied with an appraisal and, where applicable, the advice of the tutorship council.*

The application proposes a method of sale and the name of a person who may proceed with the sale, and specifies the reasons for which the sale ought to be made by agreement, by a call for tenders or by auction.

1965 (1st sess.), c. 80, a. 898; 1992, c. 57, s. 411.

899. *A judgment authorizing a sale by way of a call for tenders indicates whether the call for tenders may be made by way of the newspapers or by invitation.*

Sufficient information is included in the call for tenders to enable any interested person to submit an offer at the proper time and place.

The person proceeding with the sale is bound to accept the highest offer unless the conditions attached to it render it less advantageous than another lower offer, or unless the price offered is lower than the reserve price.

1965 (1st sess.), c. 80, a. 899; 1992, c. 57, s. 411.

900. *An auction sale may take place only after publication of a notice of sale which mentions the charges and conditions of the sale that are determined by the judgment. The notice must be published at least 30 days before the date fixed for the sale or, in the case of a sale of movable property, at least 10 days before the date fixed for the sale.*

Unless the judge or the clerk decides otherwise, articles 1757 to 1766 of the Civil Code apply to the auction sale. A sale under judicial authority is considered voluntary for the purposes of article 1758.

1965 (1st sess.), c. 80, a. 900; 1992, c. 57, s. 411; 1996, c. 5, s. 55; 2000, c. 42, s. 134.

901. *A sale by agreement takes place on the conditions and according to the modalities fixed in the judgment authorizing it.*

1965 (1st sess.), c. 80, a. 901; 1992, c. 57, s. 411.

902. *If the judge or the clerk authorizes the sale, he determines the method, specifies the conditions and, if he considers it expedient, fixes a reserve price. He designates the person proposed by the applicant to proceed with the sale and prescribes the terms and conditions of his remuneration; he may, however, by a decision giving reasons therefor, make any appointment he considers appropriate. If he refuses to authorize the sale, he also gives the reasons for his decision.*

1965 (1st sess.), c. 80, a. 902; 1992, c. 57, s. 411.

903. *The judge or clerk fixes the reserve price at the market value or appraisal of the property. However, he may, on an application, reduce the reserve price if the circumstances or the market so justify.*

In the case of securities that are not listed and traded on a recognized stock exchange, the reserve price must correspond to the appraisal made by an independent accountant.

1965 (1st sess.), c. 80, a. 903; 1992, c. 57, s. 411.

DIVISION II

APPRAISAL

1992, c. 57, s. 411.

904. *In the case of movable property, the application must be accompanied with an appraisal made by a competent person; where the circumstances so justify, the judge or clerk may exempt the applicant from furnishing an appraisal in respect of the property he determines.*

1965 (1st sess.), c. 80, a. 904; 1986, c. 95, s. 65; 1992, c. 57, s. 411.

905. *In the case of an immovable, the application is accompanied with the assessment of the immovable appearing on the assessment roll of the municipality, multiplied by the factor established for the roll by the Minister of Municipal Affairs, Regions and Land Occupancy under the Act respecting municipal taxation (chapter F-2.1).*

The clerk or secretary-treasurer of a municipality is bound to disclose, wherever required, the assessment of the immovable and the factor used to obtain it to a person who applies for an authorization to sell.

1965 (1st sess.), c. 80, a. 905; 1992, c. 57, s. 411; 1999, c. 43, s. 13; 2003, c. 19, s. 250; 2005, c. 28, s. 196; 2009, c. 26, s. 109.

906. *In the case of securities listed and traded on a recognized stock exchange, the application is accompanied with the security listing section of two newspapers published on the last Friday preceding the date of the application, or with a report from a brokerage firm.*

In the case of over-the-counter securities, the application must be accompanied with attestations of the recognized value supplied by two brokerage firms. Each attestation states the list price of the security at the close of the market for the same date.

In the case of other securities, the appraisal is made by an independent accountant who determines their fair market value, unless the securities are subject to a shareholders' agreement which includes an appraisal formula which applies to the sale of such securities.

1965 (1st sess.), c. 80, a. 906; 1992, c. 57, s. 411.

907. *The judge or clerk may, even of his own motion, order that an appraisal be made by a chartered assessor or by another independent expert if he has reasons to believe that the appraisal of the property does not correspond to its value.*

1965 (1st sess.), c. 80, a. 907; 1992, c. 57, s. 411.

DIVISION III

REPORT AND DISTRIBUTION OF THE PROCEEDS OF THE SALE

1992, c. 57, s. 411.

908. *Within 10 days of the sale, the person in charge of the sale files his report at the office of the court. He attaches to his report any supporting vouchers and, in particular, any previously obtained appraisal.*

If securities listed and traded on a recognized stock exchange have been sold, the person in charge of the sale also attaches to his report the notice of execution of the brokerage firm in charge of the transactions.

1965 (1st sess.), c. 80, a. 908; 1992, c. 57, s. 411.

909. *If the sale could not take place, or if the report is not filed 10 days before the time limit prescribed, the juge or the clerk may give new instructions.*

1965 (1st sess.), c. 80, a. 909; 1992, c. 57, s. 411.

910. *The proceeds of the sale are distributed among the persons entitled thereto, according to the instructions of the judge or the clerk, if any.*

1965 (1st sess.), c. 80, a. 910; 1992, c. 57, s. 411; 1996, c. 5, s. 56.

DIVISION IV

SPECIAL RULES GOVERNING SALES UNDER JUDICIAL AUTHORITY

1996, c. 5, s. 57.

910.1. *The person designated by the court to proceed with a sale under judicial authority prepares a scheme of collocation in accordance with articles 712 to 723. The person must notify the proposed scheme to the debtor, to the creditors whose names appear on the statement certified by the registrar and to the municipality and school board concerned.*

1996, c. 5, s. 57.

910.2. *The designated person, on his own initiative or at the request of an interested person, may correct the proposed scheme of collocation upon determining that it contains an error. In that case, notification is repeated, and the time for contesting the proposed scheme begins to run anew from the date of such notification.*

Any interested person may, by motion, contest the proposed scheme of collocation and ask that the court determine to whom the proceeds of the sale must be distributed. Such a remedy may be exercised within 15 days after the date of notification of the proposed scheme. The motion must be served on the person having prepared the proposed scheme, on the debtor and on every creditor whose name appears in the proposed scheme.

1996, c. 5, s. 57.

910.3. *If there has been no contestation within 30 days after notification of the proposed scheme of collocation, the person having prepared the proposed scheme must distribute the proceeds of the sale as provided in the proposed scheme.*

Until the distribution, the proceeds of the sale must be conserved as provided in article 1341 of the Civil Code.

1996, c. 5, s. 57.

911. *(Replaced).*

1965 (1st sess.), c. 80, a. 911; 1992, c. 57, s. 411.

912. *(Replaced).*

1965 (1st sess.), c. 80, a. 912; 1986, c. 95, s. 66; 1992, c. 57, s. 411.

913. *(Replaced).*

1965 (1st sess.), c. 80, a. 913; 1992, c. 57, s. 411.

914. *(Replaced).*

1965 (1st sess.), c. 80, a. 914; 1992, c. 57, s. 411.

915. *(Replaced).*

1965 (1st sess.), c. 80, a. 915; 1992, c. 57, s. 411.

916. *(Replaced).*

1965 (1st sess.), c. 80, a. 916; 1992, c. 57, s. 411.

917. *(Replaced).*

1965 (1st sess.), c. 80, a. 917; 1986, c. 95, s. 67; 1992, c. 57, s. 411.

918. *(Replaced).*

1965 (1st sess.), c. 80, a. 918; 1992, c. 57, s. 411.

919. *(Replaced).*

1965 (1st sess.), c. 80, a. 919; 1992, c. 57, s. 411.

920. *(Replaced).*

1965 (1st sess.), c. 80, a. 920; 1992, c. 57, s. 411.

921. *(Replaced).*

1965 (1st sess.), c. 80, a. 921; 1992, c. 57, s. 411.

922. *(Replaced).*

1965 (1st sess.), c. 80, a. 922; 1992, c. 57, s. 411.

923. *(Replaced).*

1965 (1st sess.), c. 80, a. 923; 1977, c. 5, s. 14; 1992, c. 57, s. 411.

924. *(Replaced).*

1965 (1st sess.), c. 80, a. 924; 1992, c. 57, s. 411.

925. *(Replaced).*

1965 (1st sess.), c. 80, a. 925; 1992, c. 57, s. 411.

926. *(Replaced).*

1965 (1st sess.), c. 80, a. 926; 1992, c. 57, s. 411.

927. *(Replaced).*

1965 (1st sess.), c. 80, a. 927; 1974, c. 70, s. 470; 1992, c. 57, s. 411.

928. *(Replaced).*

1965 (1st sess.), c. 80, a. 928; 1992, c. 57, s. 411.

929. *(Replaced).*

1965 (1st sess.), c. 80, a. 929; 1992, c. 57, s. 411.

930. *(Replaced).*

1965 (1st sess.), c. 80, a. 930; 1992, c. 57, s. 411.

931. *(Replaced).*

1965 (1st sess.), c. 80, a. 931; 1992, c. 57, s. 411.

932. *(Replaced).*

1965 (1st sess.), c. 80, a. 932; 1992, c. 57, s. 411.

933. *(Replaced).*

1965 (1st sess.), c. 80, a. 933; 1992, c. 57, s. 411.

934. *(Replaced).*

1965 (1st sess.), c. 80, a. 934; 1992, c. 57, s. 411.

935. *(Replaced).*

1965 (1st sess.), c. 80, a. 935; 1992, c. 57, s. 411.

936. *(Replaced).*

1965 (1st sess.), c. 80, a. 936; 1992, c. 57, s. 411.

937. *(Replaced).*

1965 (1st sess.), c. 80, a. 937; 1992, c. 57, s. 411.

938. *(Replaced).*

1965 (1st sess.), c. 80, a. 938; 1992, c. 57, s. 411.

939. *(Replaced).*

1965 (1st sess.), c. 80, a. 939; 1992, c. 57, s. 411.

BOOK VII

ARBITRATIONS

1986, c. 73, s. 2.

TITLE I

ARBITRATION PROCEEDINGS

1986, c. 73, s. 2.

CHAPTER I

GENERAL PROVISIONS

1986, c. 73, s. 2.

940. *The provisions of this Title apply to an arbitration where the parties have not made stipulations to the contrary. However, articles 940.2, 941.3, 942.7, 943.2, 945.8 and 946 to 947.4, as well as article 940.5 where the object of the service is a judicial proceeding, are peremptory.*

1965 (1st sess.), c. 80, a. 940; 1986, c. 73, s. 2.

940.1. *Where an action is brought regarding a dispute in a matter on which the parties have an arbitration agreement, the court shall refer them to arbitration on the application of either of them unless the case has been inscribed on the roll or it finds the agreement null.*

The arbitration proceedings may nevertheless be commenced or pursued and an award made at any time while the case is pending before the court.

1986, c. 73, s. 2.

940.2. *Except in the case of article 940.1 or matters under the exclusive jurisdiction of the Superior Court, the court or judge referred to in this Title is the court or judge having jurisdiction to decide the matter in dispute submitted to the arbitrators.*

1986, c. 73, s. 2.

940.3. *A judge or the court cannot intervene in any question governed by this Title except in the cases provided for therein.*

1986, c. 73, s. 2.

940.4. *A judge or the court may grant provisional measures before or during arbitration proceedings on the motion of one of the parties.*

1986, c. 73, s. 2.

940.5. *The service of documents shall be made in accordance with this Code.*

1986, c. 73, s. 2.

940.6. *Where matters of extraprovincial or international trade are at issue in an arbitration, the interpretation of this Title, where applicable, shall take into consideration*

(*1*) *the Model Law on International Commercial Arbitration as adopted by the United Nations Commission on International Trade Law on 21 June 1985;*

(*2*) *the Report of the United Nations Commission on International Trade Law on the work of its eighteenth session held in Vienna from 3 to 21 June 1985;*

(*3*) *the Analytical Commentary on the draft text of a model law on international commercial arbitration contained in the report of the Secretary-General to the eighteenth session of the United Nations Commission on International Trade Law.*

1986, c. 73, s. 2.

CHAPTER II

APPOINTMENT OF ARBITRATORS

1986, c. 73, s. 2.

941. *There shall be three arbitrators. Each party shall appoint one arbitrator, and the two so appointed shall appoint the third.*

1965 (1st sess.), c. 80, a. 941; 1986, c. 73, s. 2.

941.1. *If one of the parties fails to appoint an arbitrator within 30 days after having been notified by the other party to do so, or if the arbitrators fail to concur on the choice of the third arbitrator within 30 days after their appointment, a judge shall make the appointment on the motion of one of the parties.*

1986, c. 73, s. 2.

941.2. *If the procedure of appointment contained in the arbitration agreement proves difficult to put into practice, a judge may on the motion of one of the parties take any necessary measure to bring about the appointment.*

1986, c. 73, s. 2.

941.3. *The decision of the judge under articles 941.1 and 941.2 is final and without appeal.*

1986, c. 73, s. 2.

CHAPTER III

INCIDENTAL CESSATION OF ARBITRATOR'S APPOINTMENT

1986, c. 73, s. 2.

942. *In addition to the grounds set forth in articles 234 and 235, an arbitrator may be recused if he does not have the qualifications agreed by the parties.*

1965 (1st sess.), c. 80, a. 942; 1986, c. 73, s. 2.

942.1. *An arbitrator must declare to the parties any ground of recusation to which he is liable.*

1986, c. 73, s. 2.

942.2. *The party having appointed an arbitrator may propose his recusation only on a ground of recusation which has arisen or been discovered since the appointment.*

1986, c. 73, s. 2.

942.3. *The party proposing recusation shall make a written statement of his reasons to the arbitrators within 15 days after becoming aware of the appointment of all the arbitrators or of a ground of recusation.*

If the arbitrator whose recusation is proposed does not withdraw or the other party does not accept the recusation, the other arbitrators shall come to a decision on the matter.

1986, c. 73, s. 2.

942.4. *If the recusation cannot be obtained under article 942.3, a party may within 30 days of being so advised apply to a judge to decide the matter.*

The arbitrators, including the arbitrator whose recusation is proposed, may continue the arbitration proceedings and make their award while such a case is pending.

1986, c. 73, s. 2.

942.5. *If an arbitrator is unable to perform his duties or fails to perform them in reasonable time, a party may apply to a judge to have his appointment revoked.*

1986, c. 73, s. 2.

942.6. *If the procedure of recusation or revocation of appointment of an arbitrator contained in the arbitration agreement proves difficult to put into practice, a judge may on the motion of one of the parties decide the matter of the recusation or revocation of appointment.*

1986, c. 73, s. 2.

942.7. *The judge's decision on the matter of recusation or revocation of appointment is final and without appeal.*

1986, c. 73, s. 2.

942.8. *The prescribed procedure for the appointment of an arbitrator applies for his replacement.*

1986, c. 73, s. 2.

CHAPTER IV

COMPETENCE OF ARBITRATORS

1986, c. 73, s. 2.

943. *The arbitrators may decide the matter of their own competence.*

1965 (1st sess.), c. 80, a. 943; 1986, c. 73, s. 2.

943.1. *If the arbitrators declare themselves competent during the arbitration proceedings, a party may within 30 days of being notified thereof apply to the court for a decision on that matter.*

While such a case is pending, the arbitrators may pursue the arbitration proceedings and make their award.

1986, c. 73, s. 2.

943.2. *A decision of the court during the arbitration proceedings recognizing the competence of the arbitrators is final and without appeal.*

1986, c. 73, s. 2.

CHAPTER V

ORDER OF ARBITRATION PROCEEDINGS

1986, c. 73, s. 2.

944. *A party intending to submit a dispute to arbitration must notify the other party of his intention, specifying the matter in dispute.*

The arbitration proceedings commence on the date of service of the notice.

1965 (1st sess.), c. 80, a. 944; 1986, c. 73, s. 2.

944.1. *Subject to this Title, the arbitrators shall proceed to the arbitration according to the procedure they determine. They have all the necessary powers for the exercise of their jurisdiction, including the power to appoint an expert.*

1986, c. 73, s. 2.

944.2. *The arbitrators may require each of the parties to produce a statement of his claims with the supporting documents within an allotted time.*

Each of the parties shall transmit a copy of the statement and documents to the opposite party within the same time.

Every expert's report or other document which the arbitrators may invoke in support of their decision must be transmitted to the parties.

1986, c. 73, s. 2.

944.3. *Proceedings are oral. A party may nevertheless produce a written statement.*

1986, c. 73, s. 2.

944.4. *The arbitrators must give notice to the parties of the date of the hearing and, where such is the case, the date on which they will inspect the property or visit the place.*

1986, c. 73, s. 2.

944.5. *The arbitrators shall record the default and may continue the arbitration proceedings if one of the parties fails to state his claims, to appear at the hearing or to produce the evidence in support of his claims.*

If the party having submitted the dispute to arbitration fails to state his claims, the arbitrators shall terminate the proceedings unless one of the other parties objects.

1986, c. 73, s. 2.

944.6. *Witnesses are summoned in accordance with articles 280 to 283.*

Where a person who has been duly summoned and to whom a loss of time indemnity and travel, meal and overnight accommodation allowances have been advanced fails to appear, a party may request the judge to compel the person to appear in accordance with article 284.

1986, c. 73, s. 2; 2002, c. 7, s. 147.

944.7. *The arbitrators have the power to administer oaths.*

1986, c. 73, s. 2; 1999, c. 40, s. 56.

944.8. *Where, without a valid reason, a witness refuses to answer or refuses to produce any real evidence in his possession which is connected with the dispute, a party may with leave of the arbitrators apply to a judge to issue a rule under article 53.*

1986, c. 73, s. 2; 1994, c. 28, s. 39.

944.9. *Articles 307, 308, 309, 316 and 317 apply to the hearing of witnesses.*

1986, c. 73, s. 2.

944.10. *The arbitrators shall settle the dispute according to the rules of law which they consider appropriate and, where applicable, determine the amount of the damages.*

They cannot act as amiables compositeurs except with the prior concurrence of the parties.

They shall in all cases decide according to the stipulations of the contract and take account of applicable usage.

1986, c. 73, s. 2.

944.11. *Every decision of the arbitrators shall be rendered by a majority of voices. One arbitrator, however, with authorization of the parties or of all the other arbitrators may decide questions of procedure.*

Written decisions must be signed by all the arbitrators; if one of them refuses to sign or cannot sign, the others must record that fact and the decision has the same effect as if it were signed by all of them.

1986, c. 73, s. 2.

CHAPTER VI

ARBITRATION AWARD

1986, c. 73, s. 2.

945. *The arbitrators are bound to keep the advisement secret. Each of them may nevertheless, in the award, state his conclusions and the reasons on which they are based.*

1965 (1st sess.), c. 80, a. 945; 1986, c. 73, s. 2.

945.1. *If the parties settle the dispute, the arbitrators shall record the agreement in an arbitration award.*

1986, c. 73, s. 2.

945.2. *The arbitration award must be made in writing by a majority of voices. It must state the reasons on which it is based and be signed by all the arbitrators; if one of them refuses to sign or is unable to sign, the others must record that fact and the award has the same effect as if it were signed by all of them.*

1986, c. 73, s. 2.

945.3. *The arbitration award must contain an indication of the date and place at which it was made.*

The award is deemed to have been made at the indicated date and place.

1986, c. 73, s. 2.

945.4. *The arbitration award binds the parties upon being made. A copy signed by the arbitrators must be remitted to each of the parties immediately.*

1986, c. 73, s. 2.

945.5. *The arbitrators may of their own motion, within 30 days after making the arbitration award, correct any error in writing or calculation or any other clerical error in the award.*

1986, c. 73, s. 2.

945.6. *The arbitrators may, on the application of a party made within 30 days after receiving the arbitration award,*

(*1*) *correct any error in writing or calculation or any other clerical error in the award;*

(*2*) *interpret a specific part of the award, with the prior agreement of the parties;*

(*3*) *render a supplementary award on a part of the application omitted in the award.*

The interpretation forms an integral part of the award.

1986, c. 73, s. 2.

945.7. *Any decision of the arbitrators correcting, interpreting or supplementing the award pursuant to an application contemplated in article 945.6 must be rendered within 60 days after the application. Articles 945 to 945.4 apply to the decision.*

If the arbitrators do not render their decision before the expiry of the prescribed time, a party may apply to a judge to make any order for the protection of the rights of the parties.

1986, c. 73, s. 2.

945.8. *The decision of the judge under article 945.7 is final and without appeal.*

1986, c. 73, s. 2.

CHAPTER VII

HOMOLOGATION OF THE ARBITRATION AWARD

1986, c. 73, s. 2.

946. *An arbitration award cannot be put into compulsory execution until it has been homologated.*

1965 (1st sess.), c. 80, a. 946; 1986, c. 73, s. 2.

946.1. *A party may, by motion, apply to the court for homologation of the arbitration award.*

1986, c. 73, s. 2.

946.2. *The court examining a motion for homologation cannot enquire into the merits of the dispute.*

1986, c. 73, s. 2.

946.3. *The court may postpone its decision on the homologation if an application has been made to the arbitrators by virtue of article 945.6.*

If the court acts pursuant to the first paragraph, it may, on the application of the party applying for homologation, order the other party to provide security.

1986, c. 73, s. 2.

946.4. *The court cannot refuse homologation except on proof that*

(*1*) *one of the parties was not qualified to enter into the arbitration agreement;*

(*2*) *the arbitration agreement is invalid under the law elected by the parties or, failing any indication in that regard, under the laws of Québec;*

(*3*) *the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings or was otherwise unable to present his case;*

(*4*) *the award deals with a dispute not contemplated by or not falling within the terms of the arbitration agreement, or it contains decisions on matters beyond the scope of the agreement; or*

(*5*) *the mode of appointment of arbitrators or the applicable arbitration procedure was not observed.*

In the case of subparagraph 4 of the first paragraph, the only provision not homologated is the irregular provision described in that paragraph, if it can be dissociated from the rest.

1986, c. 73, s. 2.

946.5. *The court cannot refuse homologation of its own motion unless it finds that the matter in dispute cannot be settled by arbitration in Québec or that the award is contrary to public order.*

1986, c. 73, s. 2.

946.6. *The arbitration award as homologated is executory as a judgment of the court.*

1986, c. 73, s. 2.

CHAPTER VIII

ANNULMENT OF THE ARBITRATION AWARD

1986, c. 73, s. 2.

947. *The only possible recourse against an arbitration award is an application for its annulment.*

1965 (1st sess.), c. 80, a. 947; 1986, c. 73, s. 2.

947.1. *Annulment is obtained by motion to the court or by opposition to a motion for homologation.*

1986, c. 73, s. 2.

947.2. *Articles 946.2 to 946.5, adapted as required, apply to an application for annulment of an arbitration award.*

1986, c. 73, s. 2.

947.3. *On the application of one party, the court, if it considers it expedient, may suspend the application for annulment for such time as it deems necessary to allow the arbitrators to take whatever measures are necessary to remove the grounds for annulment, even if the time prescribed in article 945.6 has expired.*

1986, c. 73, s. 2.

947.4. *The application for annulment must be made within three months after reception of the arbitration award or of the decision rendered under article 945.6.*

1986, c. 73, s. 2.

TITLE II

OF RECOGNITION AND EXECUTION OF ARBITRATION AWARDS MADE OUTSIDE QUÉBEC

1986, c. 73, s. 2.

948. *This Title applies to an arbitration award made outside Québec whether or not it has been ratified by a competent authority.*

The interpretation of this Title shall take into account, where applicable, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards as adopted by the United Nations Conference on International Commercial Arbitration at New York on 10 June 1958.

1965 (1st sess.), c. 80, a. 948; 1986, c. 73, s. 2.

949. *An arbitration award shall be recognized and executed if the matter in dispute is one that may be settled by arbitration in Québec and if its recognition and execution are not contrary to public order.*

1965 (1st sess.), c. 80, a. 949; 1986, c. 73, s. 2.

949.1. *An application for recognition and execution is made by way of a motion for homologation to the court which would have had competence in Québec to decide the matter in dispute submitted to the arbitrators.*

The motion must be accompanied with the original or a copy of the arbitration award and of the arbitration agreement. These originals or copies must be authenticated by an official representative of the Government of Canada, by a delegate-general, delegate or head of delegation of Québec carrying on his duties outside Québec, or by the government or a public officer of the place where the award was made.

1986, c. 73, s. 2.

950. *A party against whom an arbitration award is invoked may object to its recognition and execution by establishing that*

(*1*) *one of the parties was not qualified to enter into the arbitration agreement;*

(*2*) *the arbitration agreement is invalid under the law elected by the parties or, failing any indication in that regard, under the laws of the place where the arbitration award was made;*

(*3*) *the party against whom the award is invoked was not given proper notice of the appointment of an arbitrator or of the arbitration proceedings or was otherwise unable to present his case;*

(*4*) *the award deals with a dispute not contemplated by or not falling within the terms of the arbitration agreement, or it contains decisions on matters beyond the scope of the agreement;*

(5) *the manner in which the arbitrators were appointed or the arbitration procedure did not conform with the agreement of the parties or, if there was not agreement, with the laws of the place where the arbitration took place; or*

(6) *the arbitration award has not yet become binding on the parties or has been set aside or suspended by a competent authority of the place or pursuant to the laws of the place in which the arbitration award was made.*

In the case of subparagraph 4 of the first paragraph, if the irregular provision of the arbitration award described in that paragraph can be dissociated from the rest, the rest may be recognized and declared executory.

1965 (1st sess.), c. 80, a. 950; 1970, c. 63, s. 3; 1986, c. 73, s. 2.

951. *The court may postpone its decision in respect of recognition and execution of an arbitration award if the competent authority referred to in subparagraph 6 of the first paragraph of article 950 has made an application to have the award set aside or suspended.*

If the court postpones its decision, it may, on the application of the party applying for recognition and execution of the award, order the other party to furnish security.

1965 (1st sess.), c. 80, a. 951; 1986, c. 73, s. 2.

951.1. *A court examining an application for recognition and execution of an arbitration award cannot enquire into the merits of the dispute.*

1986, c. 73, s. 2.

951.2. *The arbitration award as homologated is executory as a judgment of the court.*

1986, c. 73, s. 2.

952. *(Set aside by consolidation).*

1965 (1st sess.), c. 80, a. 952.

BOOK VIII

ACTIONS INVOLVING SMALL CLAIMS

2002, c. 7, s. 148.

TITLE I

GENERAL PROVISIONS

2002, c. 7, s. 148.

CHAPTER I

JURISDICTION OVER SMALL CLAIMS

2002, c. 7, s. 148.

953. *The money claimed in an action involving a small claim, that is,*

(a) a claim not exceeding $15,000, exclusive of interest,

(b) for a debt owed to a person, partnership or association in the name of and for the account of that person, partnership or association, to a tutor, a curator or a mandatary in the execution of a mandate given in anticipation of the mandator's incapacity or to any other administrator of the property of another,

may only be recovered before the courts pursuant to this Book.

The same applies to any action which seeks the dissolution, resiliation or cancellation of a contract where neither the value of the contract or, where applicable, the amount claimed exceeds $15,000.

A legal person, partnership or association may, as creditor, avail itself of the provisions of this Book only if, at all times during the 12-month period preceding the application, not more than five persons bound to it by contract of employment were under its direction or control.

1971, c. 86, s. 1; 1975, c. 83, s. 57; 1977, c. 73, s. 36; 1982, c. 32, s. 53; 1984, c. 26, s. 23; 1984, c. 46, s. 7; 1992, c. 63, s. 1; 1992, c. 57, s. 412; 1999, c. 40, s. 56; 2002, c. 7, s. 178; 2002, c. 7, s. 148; 2002, c. 54, s. 5; 2014, c. 10, s. 2.

954. *This Book does not apply to actions arising from the lease of a dwelling or land referred to in article 1892 of the Civil Code, to actions for the payment of support or to class actions. Nor does it apply to suits for slander or to actions for the recovery of a claim instituted by a person, partnership or association to whom the claim was assigned in return for payment.*

1971, c. 86, s. 1; 1975, c. 83, s. 58; 1978, c. 8, s. 2; 1979, c. 48, s. 119; 1992, c. 57, s. 413; 2002, c. 7, s. 148.

954.1. *(Replaced).*

1977, c. 73, s. 37; 2002, c. 7, s. 148.

955. *Persons, partnerships or associations may not, even indirectly, divide a claim exceeding $15,000 into two or more claims that do not exceed that amount in order to avail themselves of this Book, on pain of dismissal of the action.*

However, this article shall not operate to prevent the recovery of

(a) a claim voluntarily reduced by the plaintiff to $15,000 or less;

(b) a claim arising from a credit contract providing for repayment by instalments, or

(c) a claim arising from a contract involving the sequential performance of obligations such as a lease, a work contract, a disability insurance contract or the like.

1971, c. 86, s. 1; 1975, c. 83, s. 59; 1984, c. 26, s. 24; 1992, c. 57, s. 414; 1999, c. 40, s. 56; 2002, c. 6, s. 125; 2002, c. 7, s. 148; 2014, c. 10, s. 3.

955.1. *(Repealed).*

1975, c. 83, s. 60; 1992, c. 57, s. 415.

956. *Two or more plaintiffs may join in the same action if their claims have the same juridical basis or raise the same questions of law or fact. However, the judge may, if he or she is of the opinion that the ends of justice will be better served, order that the actions be heard separately.*

If each of the actions of the persons, partnerships or associations joining in the same action involves a small claim, the action is governed by the rules contained in this Book. Otherwise, it is governed by the rules contained in the other Books of this Code.

Despite the preceding paragraph, the execution of a judgment rendered on a small claim is effected pursuant to this Book.

1971, c. 86, s. 1; 1992, c. 63, s. 2; 2002, c. 7, s. 148.

957. *Where a party challenges the validity or constitutionality of a legislative or regulatory provision, an order, an order in council or a proclamation of the Gouvernement du Québec, the Lieutenant Governor, the Governor General or the Governor General in Council, the judge may order that the action be transferred to the court of competent jurisdiction.*

1971, c. 86, s. 1; 1984, c. 46, s. 8; 1999, c. 40, s. 56; 2002, c. 7, s. 148.

957.1. *(Replaced).*

1975, c. 83, s. 61; 1977, c. 73, s. 38; 1982, c. 32, s. 54; 1984, c. 26, s. 25; 1992, c. 63, s. 3; 2002, c. 7, s. 178; 2002, c. 7, s. 148.

958. *An action involving a small claim must be brought before the court of the defendant's domicile or last known place of residence, the court of the insured's domicile where the action is brought against an insurer, the court of the place where the cause of action arose or the court of the place where the contract was formed. If the defendant is not domiciled in Québec, the action may also be brought before the court of the defendant's place of residence or establishment in Québec.*

If the plaintiff resides more than 80 kilometres from the defendant's domicile, the plaintiff may file the statement of claim at the court of the plaintiff's own domicile or, if the plaintiff is not domiciled in Québec, at the court of the plaintiff's place of residence or establishment in Québec. In such a case, the statement of claim is transmitted by the clerk to the office of the court chosen by the plaintiff pursuant to the first paragraph.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

958.1. *(Replaced).*

1984, c. 46, s. 9; 1986, c. 95, s. 68; 1992, c. 63, s. 4; 1999, c. 40, s. 56; 2002, c. 7, s. 148.

CHAPTER II

REPRESENTATION OF PARTIES

2002, c. 7, s. 148.

959. *Natural persons must represent themselves; they may, however, give a mandate to their spouse, a relative, a person connected by marriage or a friend to represent them. The mandate must be gratuitous and be set out in a signed writing stating the reasons why the person is unable to represent himself or herself.*

The State, legal persons, partnerships and associations may only be represented by an officer or another person bound exclusively to them under a contract of employment.

Notwithstanding the Charter of human rights and freedoms (chapter C-12), no advocate or collection agent may act as a mandatary. By way of exception, where a case raises a complex legal issue, the judge may, on his or her own initiative or at the request of a party and with the consent of the chief judge of the Court of Québec, allow the parties to be represented by an advocate. Except in the case of parties not admissible as plaintiffs under this Book, the fees and costs of the advocates are borne by the Minister of Justice and may not exceed the fees and costs set out in the tariff of fees prescribed by the Government under the Act respecting legal aid and the provision of certain other legal services (chapter A-14).

1971, c. 86, s. 1; 1984, c. 46, s. 10; 2002, c. 7, s. 148; 2010, c. 12, s. 34.

TITLE II

PROCEDURE

2002, c. 7, s. 148.

CHAPTER I

INSTITUTION OF ACTION AND CONTESTATION

2002, c. 7, s. 148.

960. *The clerk provides the parties who so request with any information they may need at any stage of the proceeding or the execution of the judgment, particularly as regards the essential elements of procedure and the rules governing the communication of exhibits and the presentation of evidence. Where necessary, the clerk assists the parties in preparing pleadings or completing the forms placed at their disposal. In no case may the clerk give legal advice to the parties.*

1971, c. 86, s. 1; 1984, c. 46, s. 11; 2002, c. 7, s. 148.

960.1. *(Replaced).*

1975, c. 83, s. 62; 1984, c. 46, s. 12; 1999, c. 40, s. 56; 2002, c. 7, s. 148.

961. *The statement of claim must set out the facts on which the action is based, the nature and amount of the claim, the amount of the interest, and the conclusions sought. It must also state the name, domicile and place of residence of the plaintiff and the name and last known place of residence of the defendant.*

If the plaintiff is a legal person, partnership or association, the statement of claim must also contain a declaration that not more than five persons bound to it by a contract of employment were under its direction or control at any time in the 12-month period preceding the institution of the action.

1971, c. 86, s. 1; 1975, c. 83, s. 63; 1997, c. 42, s. 18; 2002, c. 7, s. 148.

962. *The plaintiff or the plaintiff's mandatary prepares the statement of claim, or explains the facts and the conclusions sought to the clerk and asks the clerk to prepare the statement of claim. The statement of claim must be signed by the plaintiff or the plaintiff's mandatary and be supported by the signatory's oath verifying the accuracy of the facts and the existence of the debt; the statement of claim must be presented together with any exhibits supporting the plaintiff's allegations.*

1971, c. 86, s. 1; 1975, c. 83, s. 64; 2002, c. 7, s. 148.

963. *If the action is admissible, the statement of claim is filed at the office of the court and a court record is thereby opened.*

If the action is not admissible, the clerk informs the plaintiff, indicating that the decision may be reviewed by a judge at the plaintiff's request within 15 days of its notification.

1971, c. 86, s. 1; 1975, c. 83, s. 65; 2002, c. 7, s. 148.

964. *The clerk notifies a copy of the statement of claim to the defendant, together with a list of the exhibits filed by the plaintiff and a notice setting out the options available to the defendant.*

The notice must reproduce the text determined by the Minister of Justice and must state that if the defendant fails to indicate an option to the clerk within 20 days of the notification, judgment may be rendered against the defendant without further notice or extension.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

965. *The options available to the defendant are*

(*1*) *to pay the amount claimed and the plaintiff's disbursements, either to the clerk or to the plaintiff, in the latter case forwarding proof of payment or the acquittance obtained from the plaintiff to the clerk; or*

(*2*) *to make a settlement with the plaintiff, and send a copy of the agreement to the clerk;*

(*3*) *to contest the merits of the action, and so advise the clerk, specifying the grounds for the contestation.*

In addition, a defendant who chooses to contest the action may

(*1*) *request that the dispute be referred to mediation;*

(*2*) *apply for the referral of the case to another judicial district or to another court, specifying the grounds for the request;*

(*3*) *request that another person be impleaded to allow a complete resolution of the dispute, in which case the defendant informs the clerk of the person's name and last known address; and*

(*4*) *make a counter-claim against the plaintiff provided it arises out of the same source as the plaintiff's claim or from a related source and is admissible under this Book.*

1971, c. 86, s. 1; 1975, c. 83, s. 66; 1996, c. 5, s. 58; 2002, c. 7, s. 148; 2002, c. 54, s. 6.

966. *(Repealed).*

1971, c. 86, s. 1; 1975, c. 83, s. 67; 2002, c. 7, s. 148; 2004, c. 17, s. 1.

967. *If the defendant has paid the plaintiff, the clerk closes the record; if the parties have reached a settlement and one of the parties so requests, the clerk confirms the agreement as a judgment.*

If the defendant has requested that the case be referred to another judicial district or to another court, the clerk so advises the plaintiff and submits the request to the judge. If the judge finds the request well-founded, the clerk refers the case to the clerk of the court of competent jurisdiction and it is continued before that court as though it had originally been brought before that court.

1971, c. 86, s. 1; 1977, c. 73, s. 39; 1995, c. 39, s. 15; 2002, c. 7, s. 148; 2002, c. 54, s. 7.

968. *If the defendant chooses to contest the merits of the action, the defendant so advises the clerk and sets out the grounds for contestation in a written contestation. The defendant files the exhibits supporting the defendant's allegations at the office of the court. The clerk notifies a copy of the contestation to the plaintiff, together with a list of the exhibits filed by the defendant.*

If the defendant wishes to make a counter-claim against the plaintiff, arising out of the same source as the plaintiff's claim or from a related source and the counter-claim is admissible under this Book, the defendant may demand payment thereof in the contestation and file the exhibits supporting the related allegations.

1971, c. 86, s. 1; 1975, c. 83, s. 68; 2002, c. 7, s. 148.

969. *If the defendant has requested that another person be impleaded, the defendant presents the grounds for the request to the clerk and files the exhibits supporting the related allegations. The clerk so notifies the plaintiff and serves copies of the statement of claim and the contestation on the impleaded party, together with a list of the exhibits in the clerk's possession. The clerk also notifies the impleaded party that the party's presence is required at the request of the defendant.*

1971, c. 86, s. 1; 2002, c. 7, s. 148.

970. *If the defendant fails to file an answer, the judge or the special clerk, as the case may be, renders judgment after examining the exhibits in the record and, if necessary, after hearing the plaintiff's evidence.*

In the case of an action to which article 194 applies, the clerk renders judgment on the face of the statement of claim and the exhibits in the record.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

970.1. *(Replaced).*

1977, c. 73, s. 40; 1988, c. 21, s. 66; 2002, c. 7, s. 148.

971. *A defendant sued pursuant to the other Books of this Code who would be admissible as a plaintiff under this Book may request that the case be heard pursuant to this Book.*

Such a request may be made to the clerk of the court seized of the case, at any time before inscription for judgment by the clerk or inscription for proof and hearing before the court. If the request is found to be admissible, the clerk immediately notifies the plaintiff; the decision of the clerk may be reviewed by a judge, following a request in writing filed within 15 days of the notification. On the expiry of that time limit, the clerk transfers the case so that it may be continued pursuant to this Book.

1971, c. 86, s. 1; 1975, c. 83, s. 69; 2002, c. 7, s. 148; 2002, c. 54, s. 8.

CHAPTER II

SUMMONING OF PARTIES AND WITNESSES

2002, c. 7, s. 148.

972. *When the case is ready, the clerk summons the parties to the hearing. The summons must indicate that a party may, on request, obtain a copy of the documents, statements and reports filed at the office of the court by the other parties; it must also indicate that any person representing a person, partnership or association must produce a written mandate.*

In the summons, the clerk informs the parties that all documents, statements and reports must be filed at least 15 days before the date of the hearing. The clerk also informs the parties that they must bring their witnesses to the hearing and identify any witnesses they wish the clerk to summon.

The clerk summons the witnesses requested by the parties. A party who summons a witness may be ordered to pay the costs if the judge considers that the witness was summoned and required to attend unnecessarily.

1971, c. 86, s. 1; 1975, c. 83, s. 70; 2002, c. 7, s. 148.

CHAPTER III

MEDIATION

2002, c. 7, s. 148.

973. *The clerk must inform the parties at the earliest opportunity that they may at no additional cost submit their dispute to mediation. If both parties consent, they may ask the clerk to refer them to the mediation service. The mediation session is presided by an advocate or a notary who is certified as a mediator by his or her professional order.*

The mediator must file a report at the office of the court giving an account of the facts, the positions of the parties, the questions of law raised, the evidence the parties intend to file and the witnesses they propose to call at the hearing. However, no offers tendered or statements made by the parties in an effort to settle the dispute may be put in evidence at a hearing, except with the consent of the parties.

If the parties settle their dispute, they draft an agreement and sign it; they file a copy of the agreement, or a notice that the case has been settled, at the office of the court. If the agreement is filed, it is confirmed by the judge or the clerk and thereby becomes equivalent to a judgment.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

CHAPTER IV

HEARING

2002, c. 7, s. 148.

974. *In all cases where a hearing is necessary, the clerk, where reasonably practicable, fixes a time and place for the hearing which will allow the parties and their witnesses to attend. The judge may hold a hearing elsewhere than at the place where the action was instituted.*

On the day fixed for the hearing, the clerk, in the absence of the judge, may postpone a case at the request of a party if the clerk considers that the ends of justice will be better served; in such a case, the clerk must notify the other party without delay and rule on that party's costs; the clerk's decision as to costs may be revised by the judge during the hearing on the merits.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

975. *If an action having the same juridical basis or raising the same questions of law as an action brought pursuant to this Book is before the Superior Court or the Court of Québec, the judge suspends the hearing of the case, if one of the parties so requests, until the judgment on the other action has become definitive, provided no serious prejudice may be caused to the opposite party. Such decision may be revised by a judge at the request of one of the parties, if warranted by new circumstances.*

1971, c. 86, s. 1; 2002, c. 7, s. 148.

976. *At the time fixed for the hearing, the clerk calls the case and ascertains whether the parties are present and the judge presiding judges the case according to the evidence presented.*

At any time before the hearing on the merits, a judge may hear any preliminary application and issue any order as appropriate.

1971, c. 86, s. 1; 1975, c. 83, s. 71; 1992, c. 63, s. 5; 2002, c. 7, s. 148.

977. *The judge instructs the parties summarily as to the applicable rules of evidence and the procedure that appears appropriate. On the invitation of the judge, the parties state their allegations and call their witnesses.*

The judge examines the parties and the witnesses and gives them equitable and impartial assistance so as to render effective the substantive law and ensure that it is carried out.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

977.1. *(Replaced).*

1984, c. 26, s. 26; 1988, c. 21, s. 66; 2002, c. 7, s. 148.

978. *Whenever possible, the judge attempts to reconcile the parties.*

If a settlement is reached, the judge instructs the clerk to record the agreement; the agreement, signed by the parties and countersigned by the judge, is equivalent to a judgment.

1971, c. 86, s. 1; 1999, c. 40, s. 56; 2002, c. 7, s. 148.

979. *At the hearing, the defendant or any impleaded party may present any grounds of contestation or propose terms and conditions of payment.*

1971, c. 86, s. 1; 1975, c. 83, s. 72; 1995, c. 39, s. 16; 2002, c. 7, s. 148.

980. *A party may produce a written statement as testimony provided it was filed at the office of the court at least 15 days before the hearing and the opposite party was notified by the clerk that the statement was available for examination and reproduction. The opposite party may request that the clerk summon the deponent to the hearing. The judge may award costs against a party having requested a deponent to be summoned if the judge believes the written statement was sufficient and the deponent's attendance unnecessary.*

1971, c. 86, s. 1; 2002, c. 7, s. 148; 2002, c. 54, s. 9.

981. *The judge may accept the filing of a document, statement or report after the expiry of the prescribed time if the judge considers that no prejudice is caused to the opposite party or that the ends of justice will be better served.*

1971, c. 86, s. 1; 1975, c. 83, s. 73; 2002, c. 7, s. 148.

982. *The judge may, on his or her own initiative, if it is the judge's opinion that the ends of justice will be better served, visit the premises or order an expert's appraisal of the facts related to the case or a certified report by a competent person designated by the judge.*

The procedure applicable to the appraisal or report is determined by the judge.

The judge rules on the costs relating to the appraisal or report and determines whether they are to be borne by one of the parties or by both or, if the judge considers it appropriate and that the ends of justice will be better served, by the Minister of Justice.

1971, c. 86, s. 1; 1975, c. 83, s. 74; 1995, c. 39, s. 17; 2002, c. 7, s. 148.

CHAPTER V

JUDGMENT

2002, c. 7, s. 148.

983. *The judgment, including a summary of the reasons for the decision, is recorded in writing and signed by the judge, special clerk or clerk who rendered it. The judgment in a contested action must be rendered within four months of the hearing; any other judgment must be rendered within 30 days after the record is complete.*

Unless the judgment is rendered at the hearing in the presence of the parties, the clerk sends a certified copy of the judgment to each party as soon as it is rendered.

The clerk sends a notice to the debtor, with the copy of the judgment, stating that a judgment has been rendered against the debtor and that upon the failure to pay the debt due, the debtor's property may be seized and, if necessary, sold by judicial sale.

1971, c. 86, s. 1; 1975, c. 83, s. 75; 1977, c. 73, s. 41; 1982, c. 32, s. 55; 1984, c. 26, s. 27; 1992, c. 63, s. 6; 1996, c. 5, s. 59; 2002, c. 7, s. 148.

984. *The judgment is final and without appeal.*

Actions involving small claims are not subject to the superintending and reforming power of the Superior Court, except where there is want or excess of jurisdiction.

1971, c. 86, s. 1; 1975, c. 83, s. 76; 1992, c. 63, s. 7; 1992, c. 57, s. 416; 2002, c. 7, s. 148.

984.1. *(Replaced).*

1992, c. 63, s. 8; 1996, c. 5, s. 60; 2002, c. 7, s. 148.

985. *The judgment has the authority of res judicata only as to the parties to the action and the amount claimed.*

The judgment cannot be invoked in an action based on the same cause and instituted before another court; the court, on its own initiative or at the request of a party, must dismiss any action or proof based on the judgment.

1971, c. 86, s. 1; 1992, c. 63, s. 9; 2002, c. 7, s. 148.

986. *The judgment may be executed on the expiry of 30 days from the day it is rendered, unless the judge has ordered otherwise. A judgment by default may be executed on the expiry of 10 days from the day it is rendered. However, if the creditor establishes, in a writing under oath, a fact permitting a seizure before judgment, the creditor may be authorized by the judge to execute the judgment before the expiry of the prescribed time.*

If the judgment orders payment of the debt by instalments or confirms a settlement between the creditor and the debtor and the latter fails to pay an instalment when due, the creditor may demand payment of the amount due in writing. If the debtor fails to pay the instalment within 10 days of the demand, the entire amount of the debt becomes due and execution is proceeded with.

1971, c. 86, s. 1; 1975, c. 83, s. 77; 2002, c. 7, s. 148.

987. *The judgment determines costs, including the allowances payable to witnesses, but only as regards those it specifies, according to the tariffs in force. In the case of a transfer from another court, the judgment also determines the costs incurred before the transmission of the record so that it may be continued pursuant to this Book.*

1971, c. 86, s. 1; 1996, c. 5, s. 61; 1999, c. 46, s. 16; 2002, c. 7, s. 148.

988. *In any action involving a claim admissible as a small claim which was not instituted pursuant to this Book, a defendant against whom a judgment by default is rendered for failure to appear or contest and who did not exercise the right to have the case transferred is liable for the plaintiff's costs according to the rules applicable under the other Books of this Code.*

1971, c. 86, s. 1; 1999, c. 46, s. 17; 2002, c. 7, s. 148.

CHAPTER VI

REVOCATION OF JUDGMENT

2002, c. 7, s. 148.

989. *If a party against whom a judgment by default is rendered was unable to contest the action or attend the hearing owing to surprise, fraud or any other sufficient cause, the party may apply for the revocation of the judgment.*

A party may also apply for the revocation of the judgment in any case described in article 483 that is not inconsistent with the provisions of this Book.

1971, c. 86, s. 1; 1982, c. 32, s. 56; 1984, c. 46, s. 13; 1986, c. 58, s. 19; 1988, c. 51, s. 109; 1992, c. 63, s. 11; 2002, c. 7, s. 148.

989.1. *(Replaced).*

1992, c. 63, s. 12; 2002, c. 7, s. 148.

989.2. *(Replaced).*

1992, c. 63, s. 12; 1998, c. 36, s. 178; 2002, c. 7, s. 148.

990. *The application for revocation must be in writing and supported by an affidavit. It must be filed at the office of the court within 15 days of knowledge of the judgment.*

The judge or the clerk examines the application and determines whether it is admissible; if it is found to be admissible, compulsory execution is suspended. The clerk notifies the parties and summons them to a new hearing on the appointed date to dispose of both the application for revocation and the main issue of the case.

1971, c. 86, s. 1; 1975, c. 83, s. 78; 2002, c. 7, s. 148.

TITLE III

COMPULSORY EXECUTION OF JUDGMENTS

2002, c. 7, s. 148.

991. *Compulsory execution of judgments rendered on small claims is effected pursuant to Title II of Book IV, subject to the provisions of this Book.*

1971, c. 86, s. 1; 1975, c. 83, s. 79; 1992, c. 63, s. 13; 2002, c. 7, s. 148.

992. *The creditor may request a bailiff or an advocate to execute the judgment; alternatively, a creditor who is a natural person may request the clerk of the court, or the person designated by the Minister, to execute the judgment.*

1971, c. 86, s. 1; 1975, c. 83, s. 80; 1977, c. 73, s. 42; 1982, c. 32, s. 57; 1984, c. 26, s. 28; 1992, c. 63, s. 14; 2002, c. 7, s. 148.

993. *The costs of the clerk or the person designated by the Minister or the fees of the bailiff or advocate paid by the creditor for the execution of the judgment may be claimed from the debtor, within the limits set out in the tariffs prescribed for that purpose; the debt is payable immediately.*

1971, c. 86, s. 1; 1975, c. 83, s. 81; 1980, c. 21, s. 13; 1982, c. 32, s. 58; 1984, c. 46, s. 14; 1986, c. 58, s. 20; 1992, c. 63, s. 15; 1995, c. 39, s. 18; 2002, c. 7, s. 148.

994. *Incidental applications concerning the execution of a judgment are disposed of pursuant to this Book. They are presented by way of a simple written notice to the clerk. The clerk advises the parties and the bailiff of the application without delay and calls the parties to a hearing on a specified date.*

However, if the value of the property involved in the execution procedure is over $15,000, the court may order that the record be referred for continuation of the procedure pursuant to the other Books of this Code.

1971, c. 86, s. 1; 1995, c. 39, s. 18; 2002, c. 7, s. 148; 2014, c. 10, s. 4.

994.1. *(Replaced).*

1992, c. 63, s. 16; 1995, c. 39, s. 18.

TITLE IV

MISCELLANEOUS PROVISIONS

2002, c. 7, s. 148.

995. *Subject to the provisions of this Book, pleadings, notices and other documents may be notified to or served on the parties and the clerk by any appropriate means.*

1971, c. 86, s. 1; 1975, c. 83, s. 82; 1995, c. 39, s. 19; 2002, c. 7, s. 148.

996. *Pleadings for which a filing fee is prescribed in the tariff of court fees may not be accepted by the clerk unless the fee is paid. The filing date and the amount of the fee and the date of payment must be indicated on the pleading. However, a person who provides proof of being a recipient under a last resort financial assistance program established under the Individual and Family Assistance Act (chapter A-13.1.1) is exempted from the payment of such fees.*

If institution of the action is refused, the amount sent or deposited with the clerk with the statement of claim is refunded to the plaintiff.

1971, c. 86, s. 1; 1994, c. 28, s. 40; 2002, c. 7, s. 148; 2005, c. 15, s. 152.

997. *The Government may make regulations establishing*

(a) a tariff of court fees payable for the filing or presentation of statements of claim or other pleadings under this Book, as well as a tariff of bailiff and advocate fees that may be claimed from the debtor;

(b) the conditions a mediator must satisfy to be certified;

(c) rules and obligations applicable to the function of certified mediator, as well as the sanctions for non-compliance with those rules and obligations;

(d) a tariff of fees payable to certified mediators by the mediation service and the maximum number of sessions for which a mediator may be paid such fees in relation to the same action.

1971, c. 86, s. 1; 2002, c. 7, s. 148.

997.1. *(Replaced).*

1977, c. 73, s. 43; 1992, c. 63, s. 17; 2002, c. 7, s. 148.

998. *Any provision of the other Books of this Code consistent with the provisions of this Book applies to the recovery of small claims.*

1971, c. 86, s. 1; 2002, c. 7, s. 148.

BOOK IX

CLASS ACTION

1978, c. 8, s. 3.

TITLE I

INTRODUCTORY PROVISIONS

1978, c. 8, s. 3.

999. *In this Book, unless the context indicates a different meaning,*

(a) "judgment" means a judgment of the court;

(b) "final judgment" means the judgment which decides the questions of law or fact dealt with collectively;

(c) "member" means a natural person, a legal person established for a private interest, a partnership or an association that is part of a group on behalf of which such a person, a partnership or an association brings or intends to bring a class action;

(d) "class action" means the procedure which enables one member to sue without a mandate on behalf of all the members.

A legal person established for a private interest, partnership or association may only be a member of a group if at all times during the 12-month period preceding the motion for authorization, not more than 50 persons bound to it by contract of employment were under its direction or control and if it is dealing at arm's length with the representative of the group.

1978, c. 8, s. 3; 2002, c. 7, s. 149.

1000. *The Superior Court hears exclusively, in first instance, suits brought under this Book.*

1978, c. 8, s. 3.

1001. *Unless the chief justice decides otherwise, the same judge designated by him hears the entire proceedings relating to the same class action.*

Where the chief justice considers that the interest of justice so requires, he may designate such judge notwithstanding articles 234 and 235.

1978, c. 8, s. 3.

TITLE II

AUTHORIZATION TO INSTITUTE A CLASS ACTION

1978, c. 8, s. 3.

1002. *A member cannot institute a class action except with the prior authorization of the court, obtained on a motion.*

The motion states the facts giving rise thereto, indicates the nature of the recourses for which authorization is applied for, and describes the group on behalf of which the member intends to act. It is accompanied with a

notice of at least 10 days of the date of presentation and is served on the person against whom the applicant intends to exercise the class action; the motion may only be contested orally and the judge may allow relevant evidence to be submitted.

1978, c. 8, s. 3; 2002, c. 7, s. 150.

1003. *The court authorizes the bringing of the class action and ascribes the status of representative to the member it designates if of opinion that:*

(a) the recourses of the members raise identical, similar or related questions of law or fact;

(b) the facts alleged seem to justify the conclusions sought;

(c) the composition of the group makes the application of article 59 or 67 difficult or impracticable; and

(d) the member to whom the court intends to ascribe the status of representative is in a position to represent the members adequately.

1978, c. 8, s. 3.

1004. *If the court grants the motion, it refers the record to the chief justice who, taking into account the interest of the parties and of the members, fixes the district in which the class action is brought.*

1978, c. 8, s. 3.

1005. *The judgment granting the motion:*

(a) describes the group whose members will be bound by any judgment;

(b) identifies the principal questions to be dealt with collectively and the related conclusions sought;

(c) orders the publication of a notice to the members.

The judgment also determines the date after which a member can no longer request his exclusion from the group; the time limit for exclusion cannot be less than 30 days nor more than six months after the date of the notice to the members. Such time limit is peremptory; the court may nevertheless permit the exclusion of a member who shows that in fact it was impossible for him to act sooner.

1978, c. 8, s. 3; 1999, c. 40, s. 56.

1006. *The notice to the members indicates:*

(a) the description of the group;

(b) the principal questions to be dealt with collectively and the related conclusions sought;

(c) the right of a member to intervene in the class action;

(d) the district in which the class action is to be brought;

(e) the right of a member to request his exclusion from the group, the formalities to be followed and the time limit for requesting his exclusion;

(f) the fact that a member who is not a representative or an intervener cannot be called upon to pay the costs of the class action; and

(g) any other information the court deems it useful to include in the notice.

1978, c. 8, s. 3; 1999, c. 40, s. 56.

1007. *A member may request his exclusion from the group by notifying the clerk of his decision, by registered or certified mail, before the expiry of the time limit for exclusion.*

A member who has requested his exclusion is not bound by any judgment on the demand of the representative.

1978, c. 8, s. 3; 1992, c. 57, s. 420; 1999, c. 40, s. 56.

1008. *A member is deemed to have requested his exclusion from the group if he does not, before the expiry of the time limit for exclusion, discontinue a suit he has brought which the final judgment on the demand of the representative would decide.*

1978, c. 8, s. 3; 1999, c. 40, s. 56.

1009. *In the case of an application for a declaratory judgment, the notice replaces, with respect to the members, the service provided for by article 454.*

1978, c. 8, s. 3.

1010. *The judgment dismissing the motion is subject to appeal pleno jure by the applicant or , by leave of a judge of the Court of Appeal, by a member of the group on behalf of which the motion had been presented. The appeal is heard and decided by preference.*

The judgment granting the motion and authorizing the exercise of the recourse is without appeal.

1978, c. 8, s. 3; 1982, c. 37, s. 20.

1010.1. *Unless inconsistent therewith, Title III applies, with the necessary modifications, to this Title.*

1982, c. 37, s. 21.

TITLE III

CONDUCT OF THE ACTION

1978, c. 8, s. 3.

1011. *The representative brings his demand in accordance with the ordinary rules. If he does not do so within three months of the authorization, the court may declare it perempted upon motion by any interested party served on the representative and accompanied with a notice of at least 30 days of its presentation. The notice must also be published at least 15 days before the date of presentation of the motion, in the same manner as the notice of the judgment granting the motion to authorize the bringing of the class action, unless the court orders another mode of publication.*

So long as the motion is not decided, the representative or another member requesting to be substituted for him may still avoid the declaration of peremption of the authorization by bringing his demand; in such case, the court grants the motion, but for the costs only.

1978, c. 8, s. 3; 1982, c. 37, s. 22.

1012. *Except in the case where he claims to have a recourse in warranty, the defendant cannot urge a preliminary exception against the representative unless it is common to a substantial part of the members and bears on a question dealt with collectively.*

1978, c. 8, s. 3.

1013. *Proof or hearing of the demand brought by the representative cannot take place before the expiry of the time limit for exclusion.*

1978, c. 8, s. 3; 1999, c. 40, s. 56.

1014. *An admission by a representative binds the members unless the court considers that the admission causes them prejudice.*

1978, c. 8, s. 3.

1015. *The representative is deemed to have a sufficient interest notwithstanding his acceptance of the defendant's offers respecting his personal claim. However, another member may request to be substituted for him.*

1978, c. 8, s. 3.

1016. *The representative cannot amend a proceeding, or discontinue, in whole or in part, the action, a proceeding or a judgment, without the permission of the court and except on the conditions it deems necessary.*

1978, c. 8, s. 3.

1017. *A member cannot intervene voluntarily in demand except to assist the representative, to aid his demand or to support his pretensions.*

The court admits the intervention if of opinion that it is useful to the group.

1978, c. 8, s. 3.

1018. *In the case of a conservatory intervention, the court may at any time limit the right of an intervener to produce a proceeding or to participate in the proof or hearing, if it is of opinion that the intervention is prejudicial to the conduct of the action or is contrary to the interests of the members.*

1978, c. 8, s. 3.

1019. *A party cannot, before the final judgment, submit a member other than a representative or an intervener to an examination on discovery or a medical examination unless the court considers the examination on discovery or medical examination useful to the adjudication of the questions of law or fact dealt with collectively.*

1978, c. 8, s. 3.

1020. *A witness cannot be heard out of court without the permission of the court.*

1978, c. 8, s. 3.

1021. *A member cannot be examined on articulated facts.*

1978, c. 8, s. 3.

1022. *The court may, at any time, upon the application of a party, revise the judgment authorizing the bringing of the class action if it considers that the conditions set forth in paragraph a or c of article 1003 are no longer met.*

The court may then amend the judgment authorizing the bringing of the class action or annul it, or allow the representative to amend the conclusions sought.

In addition, if the circumstances so require, the court may, at any time, and even ex officio, change or divide the group.

1978, c. 8, s. 3.

1023. *The person wishing to waive his status of representative can only do so with the authorization of the court.*

The courts accepts the waiver if it is able to ascribe the status of representative to another member.

1978, c. 8, s. 3.

1024. *A member may, by motion, apply to the court to have himself or another member substituted for the representative.*

The court may substitute the applicant or another member consenting thereto for the representative if it is of opinion that the latter is no longer in a position to represent the members adequately.

The substituted representative accepts the trial at the stage it has then reached; he may, with the authorization of the court, refuse to ratify the proceedings already had if they have caused an irreparable prejudice to the members. He cannot be bound to pay the costs and other expenses for proceedings prior to the substitution, unless the court orders otherwise.

1978, c. 8, s. 3.

1025. *Transaction, acceptance of a tender or acquiescence, except where it is unconditional in the whole of the demand, is valid only if approved by the court. This approval cannot be given unless a notice has been given to the members.*

The notice must state

(a) that the transaction will be submitted to the court for approval, specifying the date and place of such proceeding;

(b) the nature of the transaction and the method of execution;

(c) the procedure to be followed by the members to prove their claims; and

(d) that the members have the right to present their arguments to the court as regards the transaction and the distribution of any balance remaining.

The judgment determines, if such is the case, the terms and conditions of application of articles 1029 to 1040.

1978, c. 8, s. 3; 1982, c. 17, s. 30; 2002, c. 7, s. 151.

1026. *If, after the demand of the representative is brought, the court annuls the judgment authorizing the bringing of the class action, the suit continues between the parties in accordance with the ordinary rules; where such is the case, the record is returned to the competent court.*

1978, c. 8, s. 3.

TITLE IV

JUDGMENT

1978, c. 8, s. 3.

CHAPTER I

CONTENT AND EFFECT OF THE FINAL JUDGMENT

1978, c. 8, s. 3.

1027. *Every final judgment describes the group and binds the member who has not requested his exclusion from the group.*

1978, c. 8, s. 3.

1028. *Every final judgment condemning to damages or to the reimbursement of an amount of money orders that the claims of the members be recovered collectively or be the object of individual claims.*

1978, c. 8, s. 3.

1029. *The court may, ex officio or upon application of the parties, provide measures designed to simplify the execution of the final judgment.*

1978, c. 8, s. 3.

1030. *When the final judgment acquires the authority of res judicata, the court of first instance orders the publication of a notice.*

The notice contains a description of the group and indicates the tenor of the judgment.

If the final judgment provides that a member may file his claim, the notice also indicates the questions remaining to be determined, the information and documents that must accompany the claim and any other information the court deems it useful to include in the notice.

1978, c. 8, s. 3.

CHAPTER II

COLLECTIVE RECOVERY

1978, c. 8, s. 3.

1031. *The court orders collective recovery if the evidence produced enables the establishment with sufficient accuracy of the total amount of the claims of the members; it then determines the amount owed by the debtor even if the identity of each of the members or the exact amount of their claims is not established.*

1978, c. 8, s. 3.

1032. *The judgment ordering the collective recovery of the claims orders the debtor either to deposit the established amount in the office of the court or with a financial institution operating in Québec, or to carry out a reparatory measure that it determines or to deposit a part of the established amount and to carry out a reparatory measure that it deems appropriate.*

Where the court orders that an amount be deposited with a financial institution, the interest on the amount accrues to the members.

The judgment may also, for the reasons indicated therein, fix terms and conditions of payment.

The clerk acts as seizing officer on behalf of the members.

1978, c. 8, s. 3; 1992, c. 57, s. 420; 2002, c. 7, s. 152.

1033. *If the judgment ordering collective recovery provides for the individual liquidation of the claims of the members or the distribution of an amount to each of them, this liquidation or distribution is effected in the manner provided in articles 1037 to 1040.*

Amounts not claimed or not distributed constitute the balance.

1978, c. 8, s. 3.

1033.1. *The court may designate a third person to liquidate individual claims or to distribute the amounts awarded by a judgment to each member and determine that person's remuneration.*

The distribution of the amounts awarded by the judgment or agreed by way of a homologated transaction is effected under the supervision of the court.

2002, c. 7, s. 153.

1034. *The court may, if of opinion that the liquidation of individual claims or the distribution of an amount to each of the members is impossible or too expensive, refuse to proceed with it and provide for the distribution of the balance of the amounts recovered collectively after collocating the law costs and the fees of the representative's attorney.*

1978, c. 8, s. 3.

1035. *The claims are collocated in the following order:*

(1) law costs, including the costs of notification and the remuneration referred to in article 1033.1;

(2) the fees of the representative's attorney; and

(3) the claims of the members, if any.

1978, c. 8, s. 3; 2002, c. 7, s. 154.

1036. *The court disposes of the balance in the manner it determines, taking particular account of the interest of the members, after giving the parties and any other person it designates an opportunity to be heard.*

1978, c. 8, s. 3.

CHAPTER III

INDIVIDUAL CLAIMS

1978, c. 8, s. 3.

1037. *This chapter applies where it is expedient to render judgment upon the individual claims of the members.*

1978, c. 8, s. 3.

1038. *When the final judgment acquires the authority of res judicata, a member may, within one year following the publication of the notice provided for in article 1030, file his claim at the office of the court of the district in which the class action was heard or of any other district as determined by the court.*

1978, c. 8, s. 3.

1039. *The court decides the claim of the member or orders the clerk to render judgment in accordance with the terms and conditions it determines.*

The court may, if it deems it necessary in the interest of justice and of the parties, determine special modes of proof and procedure.

1978, c. 8, s. 3; 1992, c. 57, s. 420.

1040. *The defendant may urge a preliminary exception against a claimant which article 1012 prevented him from moving earlier.*

1978, c. 8, s. 3.

CHAPTER IV

APPEAL

1978, c. 8, s. 3.

1041. *The final judgment is subject to appeal pleno jure by a party.*

1978, c. 8, s. 3.

1042. *If the representative does not appeal or if his appeal is dismissed for one of the reasons provided for in paragraph 1 or 3 of the first paragraph of article 501, a member may, within 60 days following the date of the publication of the notice contemplated in article 1030, apply to the Court of Appeal for leave to appeal and to be substituted for the representative. The Court grants the motion if it is of opinion that the interest of the members so requires.*

The time limit provided for in this article is peremptory.

1978, c. 8, s. 3; 1999, c. 40, s. 56.

1043. *The appealing party addresses the court of first instance for determination of the notice to be given to the members.*

1978, c. 8, s. 3.

1044. *If the Court of Appeal, in opposition to the Superior Court, maintains the demand of the representative, in whole or in part, it may order the record of the action returned to the court of first instance so that collective recovery may be proceeded with or judgment may be rendered on the individual claims of the members.*

1978, c. 8, s. 3.

TITLE V

MISCELLANEOUS PROVISIONS

1978, c. 8, s. 3.

1045. *The court may, at any stage of the proceedings in a class action, prescribe measures designed to hasten their progress and to simplify the proof, if they do not prejudice a party or the members; it may also order the publication of a notice to the members when it considers it necessary for the preservation of their rights.*

1978, c. 8, s. 3.

1046. *Every notice that must be given to the members must be written in plain language that will be easily understood by the persons to whom it is addressed. It must contain the description of the group and indicate the names of the parties and their addresses or the addresses of their attorneys. The court may authorize the publication and, if the court considers it expedient, the dissemination of a summary of the notice, which must state that the full text of the notice is available at the office of the court and that in the event of a discrepancy between the summary and the full text of the notice, the latter prevails.*

When the court orders the publication or dissemination of a notice, it determines the date, the form and the mode of such publication or dissemination according to publication costs, the nature of the case, the composition of the group and the geographic distribution of the members; where applicable, it indicates by name or description the members who are to be notified individually.

Except in the case of a notice under article 1006, 1025 or 1030, the court also determines the information to be included in the notice.

1978, c. 8, s. 3; 2002, c. 7, s. 155.

1047. *Where the Cities and Towns Act (chapter C-19), the Municipal Code (chapter C-27.1) or a municipal charter provides for the sending of a notice of claim as a precondition to the exercise of a recourse, the notice given by a member is valid for all the members of the group and the insufficiency of the notice cannot be urged against the representative.*

1978, c. 8, s. 3.

1048. *A legal person established for a private interest, partnership or association defined in the second paragraph of article 999 may apply for the status of representative if*

(a) one of its members designated by it is a member of the group on behalf of which it intends to bring a class action; and

(b) the interest of that member is linked to the objects for which the legal person or association has been constituted.

No legal person established for a private interest, partnership or association, except a legal person governed by Part III of the Companies Act (chapter C-38), a cooperative governed by the Cooperatives Act (chapter C-67.2) or an association of employees within the meaning of the Labour Code (chapter C-27), may obtain financial assistance from the Fonds d'aide aux recours collectifs for the prosecution of a class action.

1978, c. 8, s. 3; 1982, c. 37, s. 23; 1982, c. 26, s. 290; 1992, c. 57, s. 417; 2002, c. 7, s. 156; 2002, c. 54, s. 10.

1049. *The representative or member who applies to act as such must be represented by an attorney.*

1978, c. 8, s. 3.

1050. *(Repealed).*

1978, c. 8, s. 3; 1992, c. 57, s. 418.

1050.1. *In the case of a condemnation to pay the costs, the judicial fees are computed as in the case of an action of class II-A in the Tariff of judicial fees of advocates (chapter B-1, r. 22) and, in the computation, section 42 of the tariff does not apply.*

The special fee provided for in the tariff for important cases may only be granted after the final judgment is rendered, on a motion served on the opposite party and on the Fonds d'aide aux recours collectifs if it has complied with the obligation provided in the first paragraph of section 32 of the Act respecting the class action (chapter R-2.1); the court shall not then take into account that the Fonds d'aide aux recours collectifs may have guaranteed the payment of all or part of the costs.

1982, c. 37, s. 24; 2002, c. 7, s. 157.

1050.2. *A central registry of applications for authorization to institute a class action is kept at the office of the Superior Court, under the authority of the chief justice.*

2002, c. 7, s. 158.

1051. *The provisions of the other books of this Code that are inconsistent with this Book, particularly the second paragraph of article 172 and articles 270 to 272 and 382 to 394, do not apply to suits for the purposes of which the class action is brought.*

1978, c. 8, s. 3.

1052. *(This article ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

SCHEDULE 1
Repealed, 2002, c. 7, s. 159.

BOOK X

(Repealed).

1975, c. 83, s. 83; 1978, c. 8, s. 4; 1992, c. 57, s. 419; 1996, c. 5, s. 62; 2002, c. 7, s. 159.

SCHEDULE 2
(Repealed).

1975, c. 83, s. 83; 1977, c. 73, s. 44; 1986, c. 85, s. 3; 1992, c. 57, s. 419; 1999, c. 40, s. 56; 2002, c. 7, s. 159.

SCHEDULE 3
(Repealed).

1992, c. 57, s. 419; 2002, c. 7, s. 159.

SCHEDULE 4
(Repealed).

1999, c. 46, s. 18; 2002, c. 7, s. 159.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 80 of the statutes of 1965 (1st session), in force on 31 December 1977, is repealed, except articles 1 (part) and 952, effective from the coming into force of chapter C-25 of the Revised Statutes.