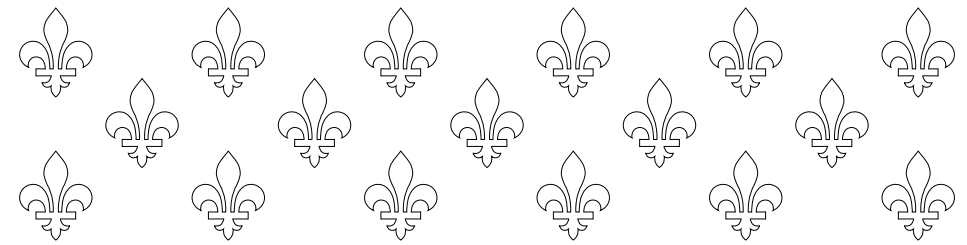

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SIXTH LEGISLATURE

Bill 54
(2002, chapter 7)

An Act to reform the Code of Civil Procedure

Introduced 13 November 2001
Passage in principle 9 April 2002
Passage 6 June 2002
Assented to 8 June 2002

Québec Official Publisher
2002

EXPLANATORY NOTES

This bill amending the Code of Civil Procedure reforms the rules governing such matters as the institution of proceedings, proceedings in appeal, the recovery of small claims and class action suits.

A single mode is introduced for the institution before the courts of any type of action or application, namely the motion to institute proceedings. This integrated procedural approach will replace the present provisions governing the declaration as a means to commence an action, the simplified procedure by way of a declaration, special proceedings concerning certain personal and property matters and family law proceedings.

Various measures are also proposed to speed up court proceedings and facilitate their orderly conduct. Notable among these is the introduction of a 180-day peremptory time limit for the inscription of a case for proof and hearing. Moreover, the bill increases the role of the court as regards the management of proceedings, encourages recourse to conciliation and settlement conferences, gives preference to oral contestation, simplifies the procedure for opposing incidental proceedings and relaxes certain evidentiary rules.

In another connection, the threshold amount for an appeal as of right from a judgment is increased to $50,000. The Court of Appeal is given the authority to hold a proceeding management conference or, with the consent of the parties, a settlement conference.

Furthermore, the jurisdictional limit of the Court of Québec is increased to $70,000. As regards the recovery of small claims, claims of up to $7,000 will now be admissible, the role of the clerk in assisting parties is widened particularly in the area of execution of judgments, a mediation service for small claims is set up and the procedure is simplified.

In addition, certain provisions regarding class action suits are amended, principally to allow legal persons having 50 employees or less to be members of a group, to simplify the rules governing the content, publication and dissemination of notices, and to facilitate the liquidation and distribution of the amounts awarded.

Finally, the bill contains transitional measures and consequential amendments.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);

– Cities and Towns Act (R.S.Q., chapter C-19);

– Code of Civil Procedure (R.S.Q., chapter C-25);

– Professional Code (R.S.Q., chapter C-26);

– Municipal Code of Québec (R.S.Q., chapter C-27.1);

– Act respecting municipal courts (R.S.Q., chapter C-72.01);

– Act respecting school elections (R.S.Q., chapter E-2.3);

– Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);

– Act respecting the Régie du logement (R.S.Q., chapter R-8.1);

– Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10).

Bill 54

AN ACT TO REFORM THE CODE OF CIVIL PROCEDURE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Code of Civil Procedure (R.S.Q., chapter C-25) is amended by inserting the following articles after article 4:

"**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.

"**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.

"**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."

2. Article 9 of the said Code is amended

(1) by replacing "declared mandatory" in the second line by "peremptory";

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

"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."

3. Article 26 of the said Code is amended

(1) by replacing "$20 000" in the third line of subparagraph 1 of the first paragraph by "$50,000";

(2) by inserting ", 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" after "submitted to the Court of Appeal" in the second paragraph;

(3) by replacing subparagraph 4 of the second paragraph by the following subparagraph:

"(4) from any judgment rendered under article 846;";

(4) by striking out the third paragraph.

4. The said Code is amended by inserting the following article after article 26:

"**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."

5. Article 34 of the said Code is amended by replacing "$30,000" in subparagraphs 1, 2 and 3 of the first paragraph by "$70,000".

6. Article 44.1 of the said Code is amended

(1) by inserting "modification of an agreement under article 151.2," after "amendment," in subparagraph 1 of the first paragraph;

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

"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."

7. Article 46 of the said Code is replaced by the following article:

"**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."

8. Article 65 of the said Code is amended by inserting "or plaintiff-appellant" after "plaintiff".

9. The said Code is amended by inserting the following article after article 75 and before Chapter III.1 :

"**75.0.1.** In exceptional cases and in the interest of the parties, the chief judge or chief justice or the judge designated by the chief judge or chief justice may, at any stage of a proceeding, order that a trial be held or an application relating to the execution of a judgment be heard in another district."

10. Article 82.1 of the said Code is amended by replacing "for the purposes of filing at the office of the court, service and evidence" in the first paragraph by "for the purposes of notification, service, filing at the office of the court or evidence" and by adding the following sentence at the end of that paragraph : "The signature of the advocate, notary or court bailiff is sufficient to certify the authenticity of the document."

11. Article 94.5 of the said Code is repealed.

12. Article 94.6 of the said Code is amended by replacing "after the expiry of the period prescribed in article 94.5" by "after the expiry of the time fixed to appear".

13. Article 94.8 of the said Code is repealed.

14. The headings of Title I, Chapter I and Section I which precede article 110 and articles 110 and 111 of the said Code are replaced by the following :

"TITLE I

"INTRODUCTION OF ACTIONS AND APPLICATIONS, APPEARANCE AND CASE MANAGEMENT

"CHAPTER I

"PRELIMINARY PROVISIONS

"SECTION I

"PROCEDURE APPLICABLE TO ACTIONS AND APPLICATIONS

"**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.

"**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.

The court may, upon a request presented no earlier than 30 days before the expiry of the 180-day time limit, extend the time limit if warranted by the complexity of the matter or special circumstances.

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.

"CHAPTER I.1

"SUMMONS

"SECTION I

"CONTENT AND FORM OF MOTION

"**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.

"**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."

15. Article 117 of the said Code is repealed.

16. Article 119 of the said Code is replaced by the following article:

"**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 ten 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."

17. Article 139 of the said Code is amended

(1) by striking out "of a declaration" in the first line of the first paragraph;

(2) by replacing "declaration" in the fourth line of the first paragraph and in the fifth paragraph by "motion to institute proceedings".

18. Article 148 of the said Code is amended

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

"**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.";

(2) by striking out the second paragraph;

(3) by replacing "proceeding instituting the suit" in the third line of the third paragraph by "motion to institute proceedings".

19. The said Code is amended by inserting the following after article 151 and before Title II:

"CHAPTER IV

"CASE MANAGEMENT

"SECTION I

"AGREEMENT BETWEEN PARTIES AS TO CONDUCT OF PROCEEDING

"**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 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.

"**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 peremptory time limit. If there is a disagreement between the parties, the court may, on request, authorize any modification it considers appropriate.

"**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.

“SECTION II

“PRESENTATION OF ACTION OR APPLICATION

“**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.

“**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.

“**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.

"**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.

"**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.

"**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.

"**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.

"SECTION III

"SPECIAL CASE MANAGEMENT

"**151.11.** Where required by the nature or complexity of the proceeding or in cases where the 180-day 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.

"**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.

"**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.

"SECTION IV

"SETTLEMENT CONFERENCE

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

"**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.

"**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.

"**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.

"**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.

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

"**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.

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

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

"**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."

20. Articles 152 to 154 of the said Code are replaced by the following articles:

"**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.

"**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."

21. Articles 159 to 162 of the said Code are replaced by the following article:

"**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."

22. Article 168 of the said Code is amended by replacing "declaration" in subparagraph 6 of the first paragraph by "motion to institute proceedings".

23. Article 170 of the said Code is repealed.

24. Article 171 of the said Code is replaced by the following article:

"**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."

25. Articles 173 and 174 of the said Code are repealed.

26. The said Code is amended by inserting the following articles after article 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.

"**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.

"**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."

27. Article 176 of the said Code is repealed.

28. Article 182 of the said Code is replaced by the following article:

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

29. Article 184 of the said Code is replaced by the following article:

"**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."

30. Article 186 of the said Code is amended by striking out paragraph 2.

31. Article 192 of the said Code is amended by replacing the first paragraph by the following paragraphs:

"**192.** If the defendant fails to appear within ten 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."

32. Article 194 of the said Code is amended

(1) by replacing "for services rendered or goods sold and delivered" in subparagraph 3 of the first paragraph by "pertaining to the sale price of a movable that has been delivered or the price of a contract for services that have been provided";

(2) by adding the following sentence at the end of the third paragraph: "The clerk may also validate any seizure before judgment made in the proceeding."

33. Articles 199 to 203 of the said Code are replaced by the following articles:

"**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.

"**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 service of the amended pleading or from the date of the judgment authorizing the amendment, as the case may be."

34. Article 205 of the said Code is amended

(1) by replacing "Notwithstanding the provisions of article 200, the" by "The";

(2) by replacing "simple oral motion" in the third line by "an oral request".

35. Article 206 of the said Code is amended

(1) by replacing "declaration" in the second line by "motion to institute proceedings";

(2) by striking out "; and the action, so far as he is concerned, is considered to have commenced only with such service" in the second, third and fourth lines.

36. Article 207 of the said Code is amended by replacing "declaration" in the second line by "motion to institute proceedings".

37. Articles 210 to 214 of the said Code are replaced by the following articles:

"**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 ten 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.

"**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."

38. Article 217 of the said Code is replaced by the following article:

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

39. Article 218 of the said Code is repealed.

40. Article 221 of the said Code is repealed.

41. The said Code is amended by inserting the following article after article 223:

"**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."

42. Article 224 of the said Code is amended by replacing the first paragraph by the following paragraph:

"**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."

43. Articles 225 to 227 of the said Code are repealed.

44. Article 228 of the said Code is amended by striking out ", and the time limit prescribed by article 227 runs only from the date of such deposit".

45. Article 229 of the said Code is repealed.

46. Article 231 of the said Code is repealed.

47. Article 234 of the said Code is amended

(1) by inserting "in particular" after "recused" in the first line;

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

"(10) if there is reasonable cause to fear that the judge will not be impartial."

48. Article 236 of the said Code is replaced by the following article:

"**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."

49. Article 237 of the said Code is amended

(1) by replacing “Recusation is proposed by motion within 10 days of notification” in the first line of the first paragraph by “The recusation motion is proposed after notification”;

(2) by adding the following paragraph:

“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.”

50. Article 238 of the said Code is replaced by the following article:

“**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.”

51. Article 240 of the said Code is replaced by the following article:

“**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.”

52. Article 245 of the said Code is replaced by the following article:

“**245.** A disavowal motion is served on the attorney disavowed and notified to all parties in the case.”

53. Article 246 of the said Code is repealed.

54. Article 249 of the said Code is replaced by the following article:

“**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 ten 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.”

55. Article 253 of the said Code is amended by replacing “unless all the parties consent” by “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”.

56. Articles 259 to 261 of the said Code are replaced by the following article:

"**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 ten 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."

57. The said Code is amended by inserting the following article after article 264:

"**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."

58. Chapter X of Title IV of Book II of the said Code, comprising articles 265 to 269, is repealed.

59. Article 270 of the said Code is amended by striking out "and inscribed" in the second and third lines and by striking out "; where the rules of practice provide for the issue of a certificate of readiness, the certificate must have been issued in each case" in the sixth and seventh lines.

60. Article 271 of the said Code is amended

(1) by striking out "and inscribed" in the first line of the first paragraph;

(2) by striking out the second paragraph.

61. Article 272 of the said Code is amended by replacing "under article 270 or article 271" by "under article 270 or 271 may be issued at any stage of a proceeding, but it".

62. Article 273 of the said Code is amended by adding the following paragraph:

"An order by the Court of Québec suspending the hearing may be revoked if warranted by new circumstances."

63. Chapter XII of the said Code, comprising articles 273.1 and 273.2, is replaced by the following:

“CHAPTER XII

“SPLITTING OF ACTION

“**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.

“**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.”

64. Article 274 of the said Code is replaced by the following articles:

“**274.** If the defence is in writing, either party may, as soon as the issue is joined, inscribe the case for proof and hearing.

“**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.

“**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.

“**274.3.** The inscription form must be filed at the office of the court within a peremptory time limit of 180 days 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."

65. Article 275 of the said Code is replaced by the following article:

"**275.** The clerk keeps such rolls as are determined by the rules of practice of the court."

66. Article 276 of the said Code is repealed.

67. Article 279 of the said Code is amended by inserting "or scheduled for proof and hearing" after "inscribed" in the first line of the first paragraph.

68. Article 280 of the said Code is amended

(1) by replacing "five clear days" in the first paragraph by "ten days" and by striking out the second sentence in that paragraph;

(2) by replacing "twelve" in the second paragraph by "24".

69. Article 281 of the said Code is amended by adding the following paragraphs:

"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."

70. The said Code is amended by inserting the following article after article 281:

"**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."

71. Article 284 of the said Code is amended

(1) by inserting "and, if applicable, a loss of time indemnity and meal and overnight accommodation allowances" after "expenses" in the second line of the first paragraph;

(2) by striking out "and not later than the eighth day following his arrest" in the second paragraph.

72. Article 294.1 of the said Code is replaced by the following article:

"**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."

73. Subsections 1 and 2 of Section I and Section II of Chapter I.1 of Title V of Book II of the said Code, comprising articles 331.2 to 331.8, are replaced by the following:

"§1. — *General provisions*

"**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.

"**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.

"**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.

"**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.

"**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.

"**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.

"§2. — *Special provisions applicable to certain proceedings and to applications presented during proceedings*

"**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."

74. Article 395 of the said Code is amended by inserting the following paragraph after the first paragraph:

"The provisions of this chapter also apply, with the necessary modifications, to cases in which the defence is presented orally."

75. The said Code is amended by inserting the following articles before article 397 in Subsection 1 of Section II:

"**396.1.** No examination on discovery is permitted where the amount claimed or the value of the property claimed is less than $25,000.

"**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.

"**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.

"**396.4.** The court may, on an application, terminate an examination that it considers excessive, vexatious or useless, and rule on the costs."

76. Article 397 of the said Code is amended

(1) by replacing "one clear day's" in the first and second lines of the first paragraph by "two days'";

(2) by striking out the last paragraph.

77. Article 398 of the said Code is amended by replacing "one clear day's" in the first line of the first paragraph by "two days'".

78. Article 398.1 of the said Code is amended by replacing "of Sections I and II" in the fourth line of the first paragraph by "of Section I".

79. The said Code is amended by inserting the following article after the heading of Subsection 1 of Section V and before article 414:

"**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."

80. Section VII of Chapter III of Title V of Book II of the said Code, comprising article 437.1, is repealed.

81. Article 448 of the said Code is amended by replacing ", by filing in the office of the court a joint motion containing a statement of the question involved and of the facts which give rise to it, and their respective conclusions" by ". 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".

82. Article 449 of the said Code is repealed.

83. Article 450 of the said Code is repealed.

84. Article 452 of the said Code is amended by replacing "upon conforming to the requirements of articles 448 and 449" in the second and third lines by "by means of a joint motion pursuant to article 88".

85. Article 453 of the said Code is replaced by the following article:

"**453.** Any person who has in 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."

86. Article 454 of the said Code is replaced by the following article:

"**454.** The motion must state the matter in dispute and be served on the other parties and on all interested persons."

87. Article 455 of the said Code is repealed.

88. Article 465 of the said Code is amended

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

"**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.";

(2) by replacing "six months or, as the case may be, within such additional time as is granted under the first paragraph" in the second and third lines of the second paragraph by "the time limit prescribed by the first paragraph";

(3) by replacing "more than five months" at the end of the last paragraph by "for five months or more and, in a small claims matter, for three months or more".

89. Article 477 of the said Code is amended

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

"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.";

(2) by replacing “Nevertheless, in” in the first line of the second paragraph by “In”;

(3) by replacing “992” in the second paragraph by “988”.

90. Title VIII of the said Code, comprising articles 481.1 to 481.17, is repealed.

91. Article 494 of the said Code is amended by replacing “5 clear days” in the fourth line of the third paragraph by “10 days”.

92. Article 495.2 of the said Code is amended by replacing “An appeal” in the first line by “If the appellant or his attorney intends to use a deposition in support of the appeal, the appeal”.

93. Article 497 of the said Code is amended by replacing the second paragraph by the following paragraph:

“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.”

94. Article 501 of the said Code is amended

(1) by inserting the following subparagraph after subparagraph 4 of the first paragraph:

“(4.1) the fact that the appeal has no reasonable chance of success;”;

(2) by striking out “if it does not dismiss the appeal, the Court may subject it to such conditions as it may determine” in the first and second lines of subparagraph 5 of the first paragraph;

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

“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.”;

(4) by inserting the following paragraph after the second paragraph:

“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.”;

(5) by inserting ", 4.1" after "4" in the second line of the fourth paragraph.

95. The said Code is amended by inserting the following articles before article 509:

"**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.

"**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.

"**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.

"**508.4.** A settlement conference is held without formality and requires no prior written documents.

"**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."

96. Article 511 of the said Code is amended

(1) by replacing "the appellant must file his factum with the office of the court and serve it on the respondent within 15 days of filing the inscription for appeal and the respondent is not required to file a factum" in the third

paragraph by "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.";

(2) by striking out the fourth paragraph.

97. Article 523 of the said Code is amended by replacing "has all the powers necessary for the exercise of its jurisdiction and may make any order necessary to safeguard the rights of the parties. It may even" in the first, second and third lines by "may".

98. Article 547 of the said Code is amended by adding the following subparagraph at the end of the first paragraph:

"(*j*) judgments under article 75.2."

99. Article 580.1 of the said Code is amended by replacing "appearing in Schedule 2 to the Code" by "determined by the Minister of Justice".

100. Article 603 of the said Code is amended by replacing "one clear day's" in the fourth and fifth lines by "two days'".

101. Article 740 of the said Code is amended by replacing "declaration" in the first line of the first paragraph by "motion to institute proceedings".

102. Article 752 of the said Code is amended by replacing "action" in the first line of the first paragraph by "a motion to institute proceedings".

103. Article 753.1 of the said Code is amended

(1) by replacing "motion for injunction" and "declaration" in the first paragraph by "application for an interlocutory injunction" and "motion to institute proceedings", respectively;

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

"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.";

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

"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."

104. Article 754 of the said Code is amended by replacing “motion” in the first line by “application for an interlocutory injunction”.

105. Article 754.1 of the said Code is amended by replacing “motion” and “party making the motion” in the fifth line by “application for an interlocutory injunction” and “applicant”, respectively and by replacing “motion” in the sixth line by “application”.

106. Article 754.2 of the said Code is amended

(1) by replacing “motion” in the first line of the first paragraph by “application for an interlocutory injunction”;

(2) by replacing “motion” in the first line of the third paragraph by “application for an interlocutory injunction”.

107. Chapter I of Title II of Book V of the said Code, comprising articles 762 to 773, is repealed.

108. Article 774 of the said Code is amended

(1) by striking out the first paragraph;

(2) by replacing “These applications” in the first line of the second paragraph by “Applications relating to the integrity of the person”.

109. Article 776 of the said Code is amended by adding the following paragraphs at the end:

“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.”

110. Article 779 of the said Code is amended by replacing “one clear day” in the third line of the first paragraph by “two days”.

111. Article 785 of the said Code is replaced by the following article:

“**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.”

112. Article 788 of the said Code is amended by replacing the second paragraph by the following paragraph:

"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."

113. Article 790 of the said Code is amended by replacing "motion" in the fourth line by "a motion to institute proceedings".

114. Article 795 of the said Code is repealed.

115. Article 801 of the said Code is amended by striking out "is introduced by way of a motion and".

116. Article 804 of the said Code is amended by replacing the first two paragraphs by the following paragraph:

"**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."

117. Article 805 of the said Code is amended

(1) by striking out ", by motion," in the first paragraph;

(2) by replacing "Cette" in the first line of the French text of the second paragraph by "La".

118. Article 809 of the said Code is replaced by the following article:

"**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."

119. Article 812 of the said Code is repealed.

120. The said Code is amended by striking out the heading of Subsection 1 of Section I of Chapter I of Title IV of Book V.

121. Article 813 of the said Code is replaced by the following article:

"**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."

122. Articles 813.1 and 813.2 of the said Code are repealed.

123. Article 813.3 of the said Code is replaced by the following article:

"**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."

124. The said Code is amended by striking out the heading of Subsection 2 of Section I of Chapter I of Title IV of Book V.

125. Article 813.5 of the said Code is replaced by the following article:

"**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."

126. The said Code is amended by striking out the heading of Subsection 3 of Section I of Chapter I of Title IV of Book V.

127. Articles 813.6 to 813.8 of the said Code are repealed.

128. Article 813.9 of the said Code is replaced by the following article:

"**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 ten days after it is served. The application is heard and decided by preference."

129. Articles 813.11 to 813.15 and 813.17 to 814 of the said Code are repealed.

130. The said Code is amended by striking out the heading of Subsection 4 of Section I of Chapter I of Title IV of Book V.

131. Article 814.1 of the said Code is replaced by the following article:

"**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."

132. Article 814.2 of the said Code is repealed.

133. Article 819 of the said Code is amended by striking out "In cases of urgency, the judge may reduce the prescribed time."

134. Article 827.1 of the said Code is amended by striking out "is brought by a declaration which".

135. Article 832 of the said Code is repealed.

136. Article 834 of the said Code is repealed.

137. Article 835 of the said Code is amended

(1) by replacing "10 clear days" in the third and fourth lines by "10 days";

(2) by adding the following sentence at the end: "No written appearance is required."

138. Articles 835.4 and 835.5 of the said Code are repealed.

139. Article 863.4 of the said Code is amended by adding the following paragraph:

"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."

140. Article 863.9 of the said Code is amended

(1) by inserting ", the tutorship council" after "minor" in the first line of the first paragraph;

(2) by replacing "within 10 days of the deposit of the minutes" in the sixth and seventh lines of the second paragraph by "before the date of the deposit".

141. Article 863.10 of the said Code is amended

(1) by striking out “within 10 days of the deposit of the minutes” in the second paragraph;

(2) by adding “by sending them a copy” at the end of the third paragraph.

142. Article 877 of the said Code is amended by replacing the second paragraph by the following paragraph:

“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.”

143. The said Code is amended by inserting the following article after article 877.0.1:

“**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.”

144. Article 878 of the said Code is amended by replacing the last sentence of the third paragraph by the following sentences: “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.”

145. Article 884.7 of the said Code is amended by replacing “notified by the notary to the mandatary and, where applicable, to” in the first and second lines of the second paragraph by “, where applicable, notified to the mandatary and to”.

146. Article 890 of the said Code is amended by adding the following paragraph at the end:

“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.”

147. Article 944.6 of the said Code is amended by replacing the second paragraph by the following paragraph:

"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."

148. Book VIII of the said Code, comprising articles 953 to 998, is replaced by the following:

"BOOK VIII

"ACTIONS INVOLVING SMALL CLAIMS

"TITLE I

"GENERAL PROVISIONS

"CHAPTER I

"JURISDICTION OVER SMALL CLAIMS

"**953.** The money claimed in an action involving a small claim, that is,

(*a*) a claim not exceeding $7,000, 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,

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 $7,000.

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.

"**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.

"**955.** Persons, partnerships or associations may not, even indirectly, divide a claim exceeding $7,000 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 $7,000 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.

"**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.

"**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.

"**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.

"CHAPTER II

"REPRESENTATION OF PARTIES

"**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 Legal Aid Act (chapter A-14).

"TITLE II

"PROCEDURE

"CHAPTER I

"INSTITUTION OF ACTION AND CONTESTATION

"**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.

"**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.

"**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.

"**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.

"**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.

"**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, 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.

"**966.** If the action involves a claim for a debt that is liquidated and payable, the clerk requests a bailiff to effect personal service of the statement

of claim on the defendant or, in the case of a legal person, a partnership or an association, on an officer of the defendant.

On serving the statement of claim, the bailiff must inform the defendant of the possibility of paying, making a settlement, or contesting the action, and of the consequences of failing to act. The bailiff may accept payment or receive an offer to settle on behalf of the plaintiff, or record the defendant's intention to contest. The bailiff records the payment, the offer to settle or the intention to contest on the certificate of service and files the certificate in the court record without delay. If the defendant intends to contest, he or she must be informed of the possibility of requesting mediation. If the defendant decides to request mediation, the bailiff enters the request on the certificate of service.

"**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, 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.

"**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.

"**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.

"**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.

"**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 and transfers the case so that it may be continued pursuant to this Book.

"CHAPTER II

"SUMMONING OF PARTIES AND WITNESSES

"**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.

"CHAPTER III

"MEDIATION

"**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.

“CHAPTER IV

“HEARING

“**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.

“**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.

“**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.

“**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.

“**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.

“**979.** At the hearing, the defendant or any impleaded party may present any grounds of contestation or propose terms and conditions of payment.

“**980.** A party may produce a written statement as testimony provided it was filed at the office of the court at least ten 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.

"**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.

"**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.

"CHAPTER V

"JUDGMENT

"**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.

"**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.

"**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.

"**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 ten 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 ten days of the demand, the entire amount of the debt becomes due and execution is proceeded with.

"**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.

"**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.

"CHAPTER VI

"REVOCATION OF JUDGMENT

"**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.

"**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.

"TITLE III

"COMPULSORY EXECUTION OF JUDGMENTS

"**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.

"**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.

"**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.

"**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 $7,000, the court may order that the record be referred for continuation of the procedure pursuant to the other Books of this Code.

"TITLE IV

"MISCELLANEOUS PROVISIONS

"**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.

"**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 proves that he or she is a recipient under a social welfare program established under the Act respecting income support, employment assistance and social solidarity (chapter S-32.001) 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.

"**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.

"**998.** Any provision of the other Books of this Code consistent with the provisions of this Book applies to the recovery of small claims."

149. Article 999 of the said Code is amended

(1) by replacing paragraph *c* by the following paragraph:

"(*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;";

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

"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."

150. Article 1002 of the said Code is amended

(1) by striking out "; the allegations of the motion are supported by an affidavit" in the third and fourth lines of the second paragraph;

(2) by adding "; the motion may only be contested orally and the judge may allow relevant evidence to be submitted" after "action" at the end of the second paragraph.

151. Article 1025 of the said Code is amended by inserting the following paragraph after the first paragraph:

"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."

152. Article 1032 of the said Code is amended

(1) by inserting "or with a financial institution operating in Québec," after "office of the court" in the first paragraph;

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

"Where the court orders that an amount be deposited with a financial institution, the interest on the amount accrues to the members."

153. The said Code is amended by inserting the following article after article 1033:

"**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."

154. Article 1035 of the said Code is amended by inserting "and the remuneration referred to in article 1033.1" after "notification" in paragraph 1.

155. Article 1046 of the said Code is replaced by the following article:

"**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."

156. Article 1048 of the said Code is amended

(1) by replacing the part of the first paragraph preceding subparagraph *a* by the following:

"**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";

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

"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."

157. Article 1050.1 of the said Code is amended by replacing the second paragraph by the following paragraph:

"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."

158. The said Code is amended by inserting the following article after article 1050.1:

"**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."

159. Book X of the said Code is repealed.

OTHER AMENDING PROVISIONS

160. The said Code is amended by replacing "declaration" wherever it appears in articles 112 to 115, 123, 143, the heading of Chapter II following article 146.3 and articles 756, 822 and 822.1 by "motion to institute proceedings".

161. Section 146.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended by striking out the last paragraph.

162. Section 348.2 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing "articles 762 to 773 of" in the second paragraph by "the rules of ordinary procedure prescribed by".

163. Section 348.3 of the said Act is amended by replacing "in accordance with the rules contained in articles 762 to 773 of" in the first paragraph by "in accordance with the rules of ordinary procedure prescribed by".

164. Section 397 of the said Act is amended by replacing "presented according to the particular rules of articles 763 to 773 of" by ", in accordance with the rules of ordinary procedure prescribed by".

165. Section 3.1 of the Professional Code (R.S.Q., chapter C-26) is amended by replacing "94.5" by "94.6".

166. Article 437.4 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing "articles 762 to 773 of" in the second paragraph by "the rules of ordinary procedure prescribed by".

167. Article 437.5 of the said Code is amended by replacing "in accordance with the rules contained in articles 762 to 773 of" in the first paragraph by "in accordance with the rules of ordinary procedure prescribed by".

168. Article 690 of the said Code is amended by replacing "according to the special rules of articles 763 to 773 of" in the first paragraph by "in accordance with the rules of ordinary procedure prescribed by".

169. Section 80 of the Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by replacing "$1000" by "$7,000".

170. Section 179 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by replacing "the rules of Chapter I of Title II of Book V of" by "the rules of ordinary procedure prescribed by".

171. Section 60 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended by striking out the second paragraph.

172. Section 84 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by replacing "articles 993 and 994" by "articles 991 to 994".

173. Section 137.0.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing "94.5" in the second paragraph by "94.6".

TRANSITIONAL AND FINAL PROVISIONS

174. The provisions of section 3 have no effect in respect of cases in first instance pending on 1 January 2003 or judgments already rendered on that date even if the time for filing an appeal has not expired.

175. The provisions of section 4 apply to cases in first instance pending on 1 January 2003 and to judgments already rendered on that date even if the time for filing an appeal has not expired.

176. The provisions of section 5 have no effect in respect of cases pending before the Superior Court on 8 June 2002.

177. The provisions of articles 953 to 955 of the Code of Civil Procedure introduced by section 148 do not apply to cases pending before the Court of Québec on 1 January 2003.

178. Articles 953 and 957.1 of the Code of Civil Procedure are amended by replacing "$3,000" wherever it appears by "$7,000".

179. Actions instituted before 1 January 2003 are governed by the former legislation, unless the parties agree to proceed under the new rules. However, such choice may not be exercised if the case falls within the scope of sections 174 to 177.

180. Not later than 1 April 2006, the Minister shall report to the Government on the implementation of the 180-day peremptory time limit prescribed by article 110.1 of the Code of Civil Procedure, on the application of the rules provided in articles 175.1 to 175.3 of the said Code, on the other major changes introduced by this reform and on the advisability of making such modifications as the Minister considers expedient.

The Minister shall determine the indicators that will measure the results of the implementation of the 180-day peremptory time limit and the application of the rules referred to in the first paragraph.

The report must be tabled in the National Assembly within 15 days after it is presented to the Government or, if the Assembly is not sitting, within 15 days of resumption.

In the year following the tabling of the report, the appropriate committee of the National Assembly shall examine the report and hear the representations of interested persons and bodies.

181. The provisions of this Act come into force on 1 January 2003, except sections 5, 176 and 178, which come into force on 8 June 2002.