

**UNIFORM LAW CONFERENCE OF CANADA**

**CIVIL SECTION**

**ULCC Acts and the Quebec Civil Code**

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Labrador  
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[1] **Accumulations Act, 1968 – Québec, 1991 (arts. 1123, 1212, 1221, 1272, 1273, 1294 and 2649 CCQ); New Brunswick and Ontario have enacted this Act**

[2] The purpose of the Act is to limit the duration of property accumulation.

[3] Under the Civil Code of Lower Canada, a prohibition to alienate had no time limit (art. 968). The Civil Code of Québec has modified the former law. Now under art. 1212, the stipulation of inalienability is valid only if it is temporary and justified by a serious and legitimate interest. Art. 2649 states the same rule regarding the stipulation of unseizability. Usufruct is also limited (see art. 1123 CCQ). Articles 1272 and 1273 establish the duration of a trust. A private or social trust may be perpetual, but under art. 1294 a court can put an end to it. Lastly, under art. 1221, a substitution may not extend to more than two successive ranks of persons exclusive of the initial institute.

[4] **Arbitration Act, 1990 – Québec, 1986 (arts. 940 to 951.2 CCP);**

[5] The purpose of the Act is to establish the procedure for arbitration. Québec enacted arbitration legislation in 1986 which is very similar to the ULCC Arbitration Act. The sections can be found in the Code of Civil Procedure (arts. 940 to 951.2). The number of arbitrators determined by the Act in the absence of a specific agreement by the parties is one for the Uniform Act and three for the CCP. The time period for requesting an arbitration award be annulled is shorter in the Uniform Act than in the Québec legislation (30 days versus 3 months), a similar situation for recusal of the arbitrator (10 days versus 30 days). The Uniform Act in addition provides for the possibility of appealing the award if the parties have so consented, the time period being 30 days. In Québec law, an application to have an award annulled is the only remedy against it (art. 947 CCP). The parties may nonetheless depart from that provision so long as they set their own time limits. In Québec law, the same provisions apply to international commercial arbitration, whereas another Uniform Act deals specifically with that subject-matter.

[6] **Bills of Sale Act, 1928 – Québec 1866, am. 1991, in part (arts. 2663 and 2696 CCQ);**

[7] The purpose of the Act is to regulate sales and mortgages of chattels. Provided they are evidenced in writing they can be registered.

[8] Under Québec law, a sale can be evidenced without writing and it would be valid (arts. 1385 and 1710). Sales of chattels cannot be registered, except assignments of debts and instalment sales (arts. 1642 and 1742(2) CCQ). Only the mortgage of chattels, which is new under the Civil Code of Québec, has to be evidenced in writing and must be registered (arts. 2663 CCQ and 2696 CCQ).

[9] **Bulk Sales Act, 1920 – Québec N/A;**

[10] The sale of an enterprise was specifically provided for in the Civil Code of Lower Canada (arts. 1569a to 1569e CCLC) and those provisions were incorporated into the new Civil Code (arts. 1767-1778 CCQ). However, the *Act to amend the Civil Code and other legislative provisions* repealed those provisions on June 13, 2002.

[11] **Change of Name Act, 1987 – Québec, 1991, in part (arts. 57 to 70 and 393 CCQ);**

[12] The purpose of the Act is to establish a legal framework for the change of a natural person's name. Two avenues are possible, one administrative, the other judicial. Although not quite as liberal, Québec law has taken some significant steps in this direction (see arts. 57 to 70 CCQ).

[13] The Uniform Act provides for the possibility of having one's name changed after 3 months of residence (in the province having passed the Act), whereas the Civil Code requires domicile of one year in Québec plus Canadian citizenship. It is possible under the Uniform Act to have a person's name changed in certain circumstances without the person's consent through a motion to the court. The Civil Code is silent on this point. The Uniform Act requires no prior publicity, contrary to the Civil Code. The Uniform Act also provides for copies of the name change to be sent to foreign public servants if the person whose name was changed was born or married outside the province. Under the Civil Code, that responsibility falls on the person concerned. A married woman under the Uniform Act may change her name for that of her husband or for a composite name containing elements from both names, but under the Civil Code, the spouses keep the names they had going into the marriage. (art. 393 CCQ).

[14] **Child Evidence Act, 1993 –Québec, 1965, am. 1991 (art. 2844 CCQ);**

[15] Article 2844 of the Civil Code of Québec incorporates art. 301 of the Code of Civil Procedure which has consequently been repealed. Contrary to the Uniform Act, the Civil Code states that a judgment may not be based solely on the testimony of a child who does not comprehend the nature of an oath.

[16] **Child Status Act 1980 – Québec, 1980, am. 1991 (arts. 522 et seq., 3155 and 3167 CCQ);**

[17] The purpose of the Act is to establish equality between all children regardless of their circumstances of birth. This principle is set out in art. 522 CCQ.

[18] The Uniform Act also establishes presumptions of paternity. Article 525 CCQ has the same presumption and art. 526 CCQ addresses the question of voluntary acknowledgement. The *Act to amend the Civil Code and other legislative provisions* added the possibility of taking samples of bodily substances on certain conditions in order to establish filiation. Those provisions came into force on June 13, 2002.

[19] The Uniform Act also addresses the question of insemination, as does the Civil Code in arts. 538 to 542 in a more general way (medically assisted procreation rather than insemination only).

[20] The Uniform Act contains provisions pertaining to the recognition of extra-provincial determination of paternity. Articles 2155 and 3167 CCQ are very liberal on this point.

[21] **Class Proceedings Act, 1996 – Québec, 1978 (arts 999 to 1051 CCP and R.S.Q., c. R-2.1);**

[22] Québec enacted legislation in 1978 which was made part of the Code of Civil Procedure (see arts. 999-1051 CCP) and created the Fonds d'aide aux recours collectives (*Act respecting the class action*, R.S.Q., c. R-2.1).

[23] **Condominium Insurance Act, 1971 – Québec 1991 (art. 1073 CCQ);**

[24] The purpose of the Act is to insure that the Corporation has an insurable interest and to require the Corporation to obtain and maintain insurance. A unit owner may do the same thing but is under no obligation to do so.

[25] The Civil Code provides the same (see art.1073 CCQ) for the syndicate (the co-owners as a body, see art. 1039 CCQ). Each co-owner is the owner of his or her fraction. As such, the co-owner can contract insurance for the increase in value added to the fraction.

[26] **Conflict of Law Rules for the Trust Act, 1987 – Québec 1991 (arts. 3107-3108 CCQ);**

[27] The Act applies only between the provinces and territories in Canada. It is based on the Hague Convention on the Law Applicable to Trusts and on their Recognition. The Civil Code of Québec has rules on the conflict of laws for trusts, (see arts. 3107-3108) which are also based on the Hague Convention. A number of more general rules complete the legal framework which does not differentiate according to whether the trust was established in or outside Canada.

[28] **Conflict of Law (Traffic Accidents) Act 1970 –Québec, in part (R.S.Q., c. A-25);**

[29] The Act establishes conflict of law rules for traffic accidents. The *Automobile Insurance Act*, R.S.Q., c. A-25 also provides for conflict of law rules for traffic accident liability (see ss. 7 and 8). The residence of the victim, the place of registration and the place where the accident occurred are all to be considered. The end result might differ in a particular situation from the result achieved by the Uniform Act.

[30] **Construction Liens and Arbitration (provisions) 1998 – Québec N/A;**

[31] The purpose of the Act is to establish rules for situations where construction lien proceedings may enter into conflict with arbitration, given that the parties involved are not necessarily the same. The Civil Code reform replaced construction liens with a legal hypothec.

[32] **Contributory Fault Act 1924, – Québec, 1991 in part (art. 1478 to 1481 CCQ);**

[33] The purpose of the Act is to apportion liability between several wrongdoers; in the Civil Code that purpose is to be found in arts. 1478 to 1481. Those articles are partly new and codify in part the former law. Contrary to the Uniform Act, solidarity is provided for only in cases where it is impossible to determine who actually caused the damage.

[34] Also contrary to the Uniform Act, when one of the wrongdoers is exempted from liability his or her share is assumed equally by the other persons responsible for the injury.

[35] **Cost of Credit Disclosure Act, 1997 – Québec 1978, in part (R.S.Q., c. P-40.1);**

[36] The Uniform Act addresses a commitment made under the Agreement on Internal Trade. In Québec, the *Consumer Protection Act*, R.S.Q., c. P-40.1, provides that "The merchant must state the credit charges in terms of dollars and cents, and indicate that they apply to the entire term of the contract in the case of a contract for the loan of money or a contract involving credit, or to the period covered by the statement of account in the case of a contract extending variable credit" (s. 71).

[37] The implementation of the commitment in the AIT in Québec may see this section fleshed out to parallel the Uniform Act.

[38] **International Sales Conventions (see International Sale of Goods Act)**

[39] **Court Jurisdiction and Proceedings Transfer Act, 1994 – Québec 1991 in part (arts. 3134 to 3154 CCP);**

[40] The Act establishes rules of jurisdiction and provides for a mechanism of transfer of proceedings from the court which is a less appropriate forum to the court which is a more appropriate one.

[41] Québec's Civil Code includes rules of international jurisdiction which are very similar to the rules of the Uniform Act (see arts. 3134 to 3154), except that transfer of proceedings has not been provided for. The Court can decline

jurisdiction if it considers a more appropriate foreign forum exists (art. 3135 CCQ), which is new under Québec law.

[42] **Court Orders Compliance Act, 1992, – Québec, 1965 am. 1966, 1979, 1990, 1992, in part (arts. 49 to 54 CCP);**

[43] The Uniform Act establishes rules to force a person by court order to comply with the person's duty to do or to refrain from doing something. Rules for contempt of court can be found in arts. 49 to 54 of the Code of Civil Procedure. A fine not exceeding \$5,000 or imprisonment for a period not exceeding one year can be imposed. Under the Uniform Act, imprisonment is for 6 months or less and the fine cannot exceed \$50,000.

[44] Like the Uniform Act, the Code of Civil Procedure abolishes imprisonment in civil matters (art. 1) but contrary to the Uniform Act, it is possible under Québec law to obtain a contempt of court order for the non-payment of money.

[45] **Criminal Injuries Compensation Act, 1970 – Québec 1971 (R.S.Q., c. I-6 and A-13.2);**

[46] The Act establishes a body responsible for compensating victims of criminal acts. The money is paid out of the Consolidated Revenue Fund. The victim can also bring civil proceedings against the author of the damage and the body is subrogated to the person's rights.

[47] In Québec, the *Crime Victims Compensation Act*, R.S.Q., c. I-6, and the *Act respecting assistance for victims of crime*, R.S.Q., c. A-13.2 are quite similar to the Uniform Act.

[48] **Custody Jurisdiction and Enforcement Act, 1974 – Québec 1991, in part (art. 3142 CCQ);**

[49] Article 3142 CCQ provides that the court has jurisdiction to rule on the custody of a child so long as the child is domiciled in Québec, rather than having a habitual residence as is the case for the Uniform Act. Habitual residence is, however, defined in the Uniform Act in a manner quite similar to the definition of domicile in Québec law. A minor is domiciled with his or her tutor (art. 80 CCQ). The father and mother of a child are of right tutors of their child (art. 192 CCQ). If the father and mother have no common domicile, the minor is presumed to be domiciled with the parent with whom the child usually

resides unless the court has fixed the domicile of the child elsewhere (art. 80 CCQ). (Compare to s. 3(2) of the Act).

[50] There is no specific provision in Québec law for the recognition and enforcement of extra-provincial custody orders.

[51] **Defamation Act, 1944 – Québec, 1964, am. 1968, 1977, 1982, 1997 (R.S.Q., c. P-19 and A-23.1; art. 1457 CCQ);**

[52] The purpose of the Act is to establish a legal framework for defamation proceedings against newspapers and broadcasting media. It indicates which defences may be valid and what remedies the plaintiff can pursue, and codifies the defence of fair comment. In Québec, the *Press Act* R.S.Q., c. P-19 provides for a similar framework for newspapers only, all other cases being governed by the general regime of civil liability contained in the Civil Code. Case law in Québec regularly mentions the defence of fair comment in reference to the criteria retained by the Supreme Court. However, in *Prud'homme vs Prud'homme*, 2002 SCC 85, the Supreme Court set out that this borrowing from the common law was not appropriate in civil law, a system complete in itself. The Uniform Act also provides for Parliamentary privilege, the corresponding sections being found in Québec in the *Act respecting the National Assembly*, R.S.Q., c. A-23.1, ss. 42 et seq.

[53] **Dependant's Relief Act, 1974 – Québec 1991 (arts. 684 to 695 CCQ);**

[54] The Act provides for the survival of the obligation to provide support which is a new feature of the Québec Civil Code (see arts. 684 to 695).

[55] **Devolution of Real Property Act, 1927 am. 1962 – Québec 1866, am. 1991 (arts. 776 et seq. CCQ);**

[56] The Act provides a legal framework for the devolution upon death of real property by the deceased's representative. The Québec Civil Code provides for the liquidation of successions with certain provisions being new and others codifying the former law. Liquidation consists among other things in determining the content of the succession, recovering claims and delivering the property (art. 776 CCQ). The liquidator may make certain payments (art. 807 and following). Any interested person may apply to the court for the replacement of the liquidator (art. 791 CCQ). Partition may not take place or be applied for before the liquidation is terminated (art. 836 CCQ).



[57] **Domicile Act, 1961 – Québec 1866, am. 1991 (arts. 76 et seq.);**

[58] The Québec Civil Code defines "domicile" in the same way the Uniform Act (see art. 76 CCQ).

[59] A person under curatorship is domiciled with his or her curator (art. 81 CCQ). Unlike the Uniform Act, court approval is not necessary to change the domicile but protective supervision of an adult is reviewed periodically by the Court (art. 278 CCQ) and the tutorship council supervises the tutorship (art. 222 CCQ) and the curatorship council (art. 266 CCQ) may intervene at any time (art. 233 CCQ) to apply to the court for the replacement of the tutor or curator (art. 250 CCQ).

[60] **Effect of Adoption, 1969 – Québec 1980, am. 1991 (arts. 577 and 581 CCQ);**

[61] As is the case for the Uniform Act, the Civil Code of Québec provides that adoption confers on the adopted person a filiation which replaces the original filiation (art. 577 CCQ). Recognition of an adoption judgment rendered outside Québec produces the same effects as a judgment rendered in Québec (art. 581 CCQ).

[62] **Electronic Commerce, 1999 – Québec 2001 (R.S.Q., c. C-1.1);**

[63] The purpose of the Act is to enable persons to use electronic devices without fear of the validity of their transaction being contested solely for that reason. The *Act to establish a legal framework for information technology*, R.S.Q., c. C-1.1 has the same aim but uses a different approach and different language.

[64] **Enforcement of Canadian Judgments and Decrees Act – Enforcement of Canadian Decrees Act – Enforcement of Canadian Judgments and Decrees Act, 1992 – Québec 1965, am. 1991, in part (arts. 3155 et seq. CCQ);**

[65] The Uniform Act embodies the notion of "full faith and credit" in the enforcement of judgments (ordering payment of a sum of money) and/or decisions (ordering something to be done or not done) between the provinces and territories of Canada.

[66] The Civil Code of Québec is quite liberal concerning the enforcement of foreign judgments. It makes no distinction between out of Québec judgments and out of Canada judgments. In both cases, the jurisdiction of the court of origin must be ascertained under the provisions of the Civil Code (see art. 3155 and following). Judgments for the payment of a sum of money as well as orders to do or not to do something are enforceable under Québec law.

[67] **Electronic Evidence Act, 1999 – Québec 1991, am. 2001 (arts. 2837 to 2842, 2855, 2860 and 2874 CCQ);**

[68] The Act introduces provisions that concern documentary evidence in a non-paper form. The *Act to establish a legal framework for information technology*, R.S.Q., c. C-1.1, amended the Civil Code as regards electronic evidence (arts. 2837 to 2842, 2855, 2860 and 2874 CCQ).

[69] **Enforcement of Judgments Conventions Act, 1998 – Québec N/A;**

[70] The Act implements bilateral legal assistance conventions to which Canada is a party (United Kingdom and France). Québec is not a party to the conventions.

[71] **Evidence Act, 1941 – Québec, 1866, 1965, am 1991 (arts. 2803 to 2874 CCQ);**

[72] The Uniform Act provides for a very complete legal framework concerning evidence.

[73] The law of evidence is codified in the Civil Code of Québec (see arts. 2803 to 2874 CCQ). The burden of proof, the rules of admissibility and the various types of evidence (testimony, recorded evidence and material evidence) are similar.

[74] The Code of Civil Procedure also provides for rules on the examination of witnesses and on exhibits (arts. 294 to 331.9 CCP), on representation and hearing of a minor or an incapable person of full age (arts. 394.1 to 394.5 CCP), on expert testimony (arts. 414 to 425 CCP) and on commissions for the examination of witnesses who reside outside Québec (arts. 426 to 437).

[75] Research has been conducted by a student into the main differences. I can provide you with a copy of the research report if you wish.

[76] **Extra-Provincial Custody Orders Enforcement Act (see Maintenance and Custody Enforcement Act)**

[77] **Family Support Act, 1980 – Québec 1866, am. 1980 in part (art. 585 CCQ and art. 825.5 CCP);**

[78] Both the Uniform Act and the Civil Code provide that spouses and relatives in the direct line in the first degree owe each other support (art. 585 CCQ). Standards for the determination of child support to be made by a parent have been established since 1996 by regulation (art. 825.8 CCP).

[79] Unlike the Uniform Act, under Québec law there is no obligation to provide support between unmarried persons but they can make a contract which will be enforceable. Also, contrary to the Uniform Act, there is no support obligation between a person and a child if no filiation exists between them.

[80] **Fatal Accidents Act, 1964 – Québec 1866, am. 1991 in part (art. 625 CCQ);**

[81] Both under the Uniform Act and the Civil Code, the right of action of the deceased against the tortfeasor survives the death. Under Québec law, however, the heirs are seised of all the rights of action of the deceased (art. 625 CCQ). The heirs can be descendants or ascendants (the Uniform Act restricts the right of action to these persons) but they can also be the brothers, sisters and even other persons.

[82] **Foreign Arbitral Awards Act, Québec, 1985 – Québec 1986 (arts. 948 CCP et seq.);**

[83] The Act implements the *United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards* of 1958. The Code of Civil Procedure does the same but is not limited to Contracting States (arts. 948 CCP and following). The Act was replaced by the *International Commercial Arbitration Act*.

[84] **Foreign Judgments Act, 1923-1925, am. 1927-1933, 1959, 1961, 1962, 1982, 1994-2001;**

[85] **Foreign Money Claims Act, 1989, Québec 1991 in part (art. 3161 CCQ);**

[86] The Act provides for a date of conversion for orders in a currency other than the currency of Canada. It also provides for the rate of interest payable in those circumstances. Article 3161 of the Civil Code also provides for conversion and interest, but in a different way.

[87] **Franchises Act 1984 – Québec N/A**

[88] The Act provides a legal framework for franchise agreements. An important feature of this framework is the disclosure requirement. The Civil Code has no specific provisions for franchise agreements. The general provisions apply. Contracts of adhesion, in which the essential stipulations are imposed or drawn up by one of the parties, are subject to special rules intended to protect the adhering party (arts. 1379, 1432, 1435 to 1437 CCQ).

[89] **Frustrated Contracts Act, 1948, – Québec 1866 am. 1991 (arts. 1553 et seq. CCQ);**

[90] The Act provides for remedies in the case a contract cannot be performed. The Civil Code like the Uniform Act provides that the provisions apply only in the absence of a contrary stipulation in the contract.

[91] Both the Act and the Civil Code provide for a requirement to reconstitute benefits already received. The correlative obligations may in some circumstances be reduced and an indemnity may be awarded (see arts. 1553 CCQ and following, especially art. 1604 CCQ).

[92] **Health Care Directives (Recognition), 1992 – Québec 1991 (art. 3109 CCQ);**

[93] The Act provides for choice of law rules governing formalities of directives in health care: the law of the place where the deed is drawn up or the law of the usual residence of the drafter.

[94] The Civil Code provides that the form of a juridical act is governed by the law of the place where it is made or by the law of the domicile of the person making the instrument (art. 3109 CCQ). Those rules would apply to a mandate given in anticipation of the mandator's incapacity.

[95] **Highway Traffic and Vehicles Act (Responsibility of Owner & Driver for Accidents), 1962 – 1977 Québec in part (R.S.Q., c. A-25 and C-24.2);**

[96] The Uniform Act sets up a civil and criminal liability regime for owners and drivers of motor vehicles. In 1977, Québec enacted a no-fault system for bodily injury (see *Automobile Insurance Act*, R.S.Q., c. A-25).

[97] Regarding loss or damage to property, the Uniform Act and the *Automobile Insurance Act* have similar provisions. The owner of an automobile operating in Québec must have liability insurance (s. 84) and is liable for property damage caused by the vehicle (s. 108). Similarly, the driver of an automobile is solidarily liable with the owner for property damage caused by the automobile (s.109). A person in possession of the automobile may also be liable (thief or garage operator, see s. 108). The same applies to regulatory offences under the *Highway Safety Code*, R.S.Q., c. C-24.2. The definition of owner in those two Acts is very similar to the definition in the Uniform Act.

[98] **Hotelkeepers Act, 1962 – Québec 1866 am. 1991 (arts. 2298 et seq. CCQ);**

[99] The Civil Code of Québec provides for specific rules governing the liability of the innkeeper for the loss of property deposited in his care (see arts. 2298 and following CCQ). The innkeeper is entitled to retain the property as security for the cost of lodging the guest (art. 2302 CCQ).

[100] **Human Tissue Donation, 1989 – Québec 1991, (arts. 19, 25, 43, 44 and 45 CCQ);**

[101] Like the Uniform Act, the Civil Code provides for rules concerning human tissue donation but with a few notable differences. Under the Civil Code, a person 14 years of age or older may consent to human tissue donation in the event of the person's death. A person under 14 years of age may also do so with the consent of the parents or tutor (art. 43 CCQ). Under the Uniform Act, the age is 16.

[102] In the absence of knowledge or presumed knowledge of the wishes of the deceased, the removal of human tissue from the deceased may proceed with the consent of the person who could give consent to medical care (art. 44 CCQ).

[103] A person of full age who is capable of giving consent may alienate a part of his body *inter vivos*, provided the risk incurred is not disproportionate to the benefit that may reasonably be anticipated (art. 19 CCQ). Unlike the Uniform Act, there is no need for an independent study each time the alienated part is not capable of regeneration.

[104] Also unlike the Uniform Act, all alienation by a person of a part or product of his body must be gratuitous (art. 25 CCQ).

[105] As in the Uniform Act, no part of the body may be removed before the death of the donor is attested by 2 physicians who do not participate in either the removal or the transplantation (art. 45 CCQ). Consent is not required where 2 physicians attest in writing certain facts (art. 44 CCQ).

[106] **Information Reporting Act, 1977, Québec 1993 (R.S.Q., c. P-39.1);**

[107] The Act provides for the protection of personal information used and collected by reporting agencies. The *Act respecting the protection of personal information in the private sector*, R.S.Q., c. P-39.1, provides a more general framework.

[108] **Intercountry Adoption (Hague Convention) Act, 1993 – Québec N/A;**

[109] Québec is not a signatory to this Convention.

[110] **Inter-Jurisdictional Child Welfare Orders Act, 1988 – Québec 1977 (R.S.Q., c. P-34.1);**

[111] Under section 131 of the *Youth Protection Act*, R.S.Q., c. P-34.1, orders rendered outside Québec are enforceable in Québec. As in the Uniform Act, the Director of Youth Protection may authorize a person to exercise certain of the Director's functions but the Director remains responsible for an order made by the Court in Québec even if it is to be executed outside Québec (see ss. 32 and 33).

[112] **International Child Abduction Act, 1981 – Québec 1984 (R.S.Q., c. A-23.01);**

[113] The Act implements the Hague Convention. Québec has done so by enacting the *Act respecting the civil aspects of international and interprovincial child abduction*, R.S.Q., c. A-23.01. This Act is different from the ULCC Act since the Convention is not annexed to the 45-section Act.

[114] **International Commercial Arbitration Act, 1986 – Québec 1986 (arts. 940 et seq. CCP);**

[115] The Act implements the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958 and the 1985 UNCITRAL model law on international commercial arbitration. Québec has done so by enacting arts. 940 and following of the Code of Civil Procedure.

[116] **International Financial Leasing (Unidroit Convention) Act 1995 – Québec N/A;**

[117] Canada is not a signatory to this Convention.

[118] **Uniform International Protection of Adults (Hague Convention) Implementation Act, 2001 - Québec N/A;**

[119] Canada is not a signatory to this Convention.

[120] **Uniform Parental Responsibility and Measures for the Protection of Children (Hague Convention) Implementation Act – Québec N/A;**

[121] Canada is not a signatory to this Convention.

[122] **International Interests in Mobile Equipment Act (Aircraft Equipment), 2001 – Québec N/A;**

[123] Québec is not a signatory to this Convention.

[124] **Uniform International Financial Leasing (Unidroit Convention) Act, 1995 – Québec N/A;**

[125] Canada is not a signatory to this Convention.

[126] **International Sales Conventions Act, 1998 replaces the International Sale of Goods Act, 1985 – Québec 1991, in part (R.S.Q., c. C-67.01);**

[127] The Uniform Acts implement the Vienna Convention. Québec has done so by enacting the *Act respecting the United Nations Convention on contracts for the international sale of goods*, R.S.Q., c. C-67-01. The Act has only 2 sections (the Uniform Act has 5) and the Convention is a schedule to the Act (as in the case of the Uniform Act).

[128] The International Sales Conventions Act also implements the Convention on the Limitation Period in the International Sale of Goods. Canada is not yet a signatory to that Convention.

[129] **International Trusts Act, 1987 – Québec N/A;**

[130] The purpose of the Act is to implement the *Hague Convention on the Law Applicable to Trusts and their Recognition* except between the provinces and territories of Canada. Québec is not a signatory to this Convention. The Civil Code of Québec does have conflict of law rules for trusts (see arts. 3107-3108 CCQ) which draw on the Hague Convention. More general rules complete the legal framework which does not differentiate according to whether the trust was established in or outside Canada.

[131] **Interpretation Act, 1938 – Québec 1964, am. 1968, 1982 (R.S.Q., c. I-16);**

[132] The Uniform Act corresponds to the *Interpretation Act* (R.S.Q., c. I-16) which provides that the Act comes into force unless otherwise provided on the 30<sup>th</sup> day after assent. Under the Uniform Act, the effective date is the date of assent. Other differences exist but do not appear to be fundamental.

[133] **Interprovincial Subpoena Act 1974 – Québec, 1965 (arts. 282 and 284 CCP; R.S.Q., c. P-27);**

[134] The Act provides for reciprocal enforcement of subpoenas between the provinces and territories of Canada. Article 282 of the Code of Civil Procedure provides that a person residing in the Province of Ontario may be compelled to appear as a witness if the judge or the clerk is satisfied that the person's presence is necessary and if there is no other action between the



same parties for the same cause pending in the Province of Ontario. Article 284 adds that a defaulting witness who resides in the Province of Ontario can only be punished for contempt of court by the court within whose jurisdiction the witness resides, upon a certificate of the court attesting the default. Under the *Special Procedure Act*, R.S.Q., c. P-27, evidence from a witness residing in Québec can be received by a court in Québec for the benefit of a proceeding in another country or province of Canada.

**[135] Intestate Succession Act, 1925 – Québec 1866, am. 1991, in part (arts. 666 et seq. CCQ);**

[136] The Civil Code like the Uniform Act establishes rules for the devolution of intestate succession. The rules differ however (see arts. 666 to 683 CCQ). Under Québec law, the spouse inherits the entire intestate succession if there are no descendants, privileged ascendants or privileged collaterals.

[137] In the Uniform Act, the spouse inherits the entire estate if there are no descendants. If there is no spouse, the estate devolves in its entirety to the descendants in both the Québec legislation and the Uniform Act.

[138] If there is a spouse and descendants, in Québec law the spouse takes 1/3 of the succession and the descendants, the other 2/3. Under the Uniform Act, the spouse takes all the estate and if it involves \$100,000 or more, one-half of the amount exceeding \$100,000.

[139] If there is no descendants, in Québec law the spouse takes 2/3 of the succession and privileged ascendants the other 1/3. In the Uniform Act, the share of the spouse stays the same.

[140] If there is neither a spouse or descendants, the succession is partitioned equally between the privileged ascendants under the Uniform Act, to which the privileged collaterals are added under Québec law. Under both the Civil Code and the Uniform Act, where there are no privileged ascendants, the privileged collaterals take all. The contrary hypothesis is not covered in Québec law.

[141] The ordinary ascendants and collaterals in Québec law are not called to the succession unless the deceased leaves no spouse, no descendants and no privileged ascendants or collaterals. Failing ordinary ascendants, the ordinary collaterals take all, and inversely. Relatives beyond the eighth degree

do not inherit. If the deceased leaves no spouse or relatives in a degree able to inherit, or all successors renounce the succession or no successor is known or comes forward to claim, the State takes of right the property of the succession situated in Québec (arts. 696 and following CCQ). This latter situation is dealt with in similar fashion in the Uniform Act.

[142] Each coheir is bound to return to the mass what has been received from the deceased by gift or by will under an express obligation to return it (art. 867 CCQ). The Uniform Act requires the co-heir to make a report.

[143] **Judgment Interest Act, 1982 – Québec 1866, am. 1991 (arts. 1586, 1617 to 1621 CCQ);**

[144] The Act determines the circumstances in which an order to pay a sum of money entails a requirement to pay interest. In Québec law, arts. 1586, 1617 and 1621 CCQ deal with the matter.

[145] **Uniform Jurisdiction and Choice of Law Rules in Domestic Property Proceedings Act, 1997 – Québec 1991, in part (arts. 3089, 3123, 3145 and 3154 CCQ);**

[146] The Uniform Act establishes jurisdictional and choice of law rules that pertain to matrimonial regimes and how family property is to be divided. It harmonizes the civil law and the common law on those aspects.

[147] **Jurors' Qualification Act, 1976 – Québec 1976, in part, (R.S.Q., c. J-2);**

[148] The Uniform Act lists the persons who may be called to serve as jurors and enumerates the reasons for disqualification and exemption. The *Jurors Act*, R.S.Q., c. J-2, is quite similar but contains additional provisions on the procedure for jury selection. The Québec enactment, contrary to the Uniform Act, applies only to criminal matters.

[149] **Legitimacy Act, 1920 – Québec N/A;**

[150] Article 237 of the Civil Code of Lower Canada to the effect that the subsequent marriage of the parents of a child legitimates the child was repealed on passage of Book 2 of the new Civil Code of Québec in 1980.

[151] **Liens Act, 1996 – Québec 1991, in part;**

[152] The Uniform Act creates a lien for repairers, storers and carriers which must be registered to be set up as against third parties. Those persons are not required to remain in possession of the goods to protect the lien.

[153] With the enactment of the new Civil Code of Québec in 1991, all liens have been replaced either by a legal hypothec (must be registered) or by a prior claim (need not be registered).

[154] The claims of persons having the right to retain movable property are collocated before the claims of other creditors, even secured creditors. The claims do not need to be published to be set up as against other creditors or third parties.

[155] A party who, with the consent of the other contracting party, retains property belonging to the latter has a right to do so pending full payment of the claim against that party, if the claim is payable and is directly related to the property being retained (art. 1592 CCQ).

[156] The carrier, the depositor (storer) (art. 2293 CCQ) and the repairer (art. 2058 CCQ) may retain the property, as well as many other people: a person who finds an object, an heir (art. 875 CCQ), an institute (art. 1250 CCQ), an administrator of the property of others (art. 1369 CCQ), the mandatary (art. 2185 CCQ), an innkeeper (art. 2302 CCQ), a borrower (art. 2324 CCQ), etc.

[157] The prior claim exists as long as the good remains in the possession of the creditor.

[158] **Limitations of Actions Act 1962, am. 1976 – Québec 1991 in part (arts. 2875 to 2933 CCQ);**

[159] The Act establishes a comprehensive legal framework which finds its counterpart in Book Eight, Title Three of the Civil Code on extinctive prescription. The time periods vary however. The Civil Code retains periods of 10, 3 and 1 years while the Uniform Act retains periods of 10, 6, 5, 2 and 1 years.

[160] Both the Uniform Act and the Civil Code provide that prescription does not run against persons if it is impossible for them to act (art. 2904 CCQ).

They also provide that when the right of action arises from damage appearing progressively or tardily, the period runs from the day the damage appears for the first time (art. 2926 CCQ). In the case of an action in nullity of contract, the period runs from the day the person becomes aware of the cause of nullity (art. 2927 CCQ).

[161] **Limited Liability Partnership Act, 1999 – Québec 2001 in part (S.Q., 2001, c. 34);**

[162] The Act introduces a new type of enterprise. Québec enacted the *Act to amend the Professional Code and other legislative provisions as regards the carrying on of professional activities within a partnership or company*, S.Q., 2001, c. 34, which unlike the Uniform Act applies only to professionals.

[163] **Maintenance and Custody Enforcement Act, 1985 – Québec 1981, am. 1995 in part (R.S.Q., c. P-2.2);**

[164] The Act provides for the appointment of a Director responsible for the enforcement of maintenance orders and custody orders.

[165] From 1981 to 1995, a collector of support payments appointed by the Québec Minister of Justice could cause compulsory enforcement on the application of the creditor of an order awarding support.

[166] Since 1995, the Minister of Revenue is responsible for enforcing maintenance orders. The clerk of the court notifies all judgments to the Minister. The Minister may seize salaries, goods, immovables, etc. to enforce the judgments. The person authorized by the Minister may conduct an inquiry. Information obtained is confidential. (see the *Act to facilitate the payment of support*, R.S.Q., c. P-2.2).

[167] The parents alone are responsible for enforcing custody orders.

[168] **Married Women's Property Act, 1943 – Québec 1964, am. 1970, am. 1980, am. 1994 in part (arts. 391 and 432 CCQ);**

[169] The Act provides for the full capacity of married women and the separation as to property. In Québec, spouses who married before July 1, 1970 hold their property in community of property if they have not agreed otherwise. Those married after that date hold their property in partnership of acquests, unless they have agreed otherwise.

[170] **Medical Consent of Minors Act, 1975 – Québec 1991 in part (arts. 14 et seq. CCQ);**

[171] The Act establishes 16 years old as the age for consenting to medical treatment. Under the Civil Code, a minor 14 years of age or older may give consent to medical care. The Civil Code also provides, contrary to the Uniform Act, that the authorization of the court is necessary to cause a minor 14 years of age or older to undergo care the minor refuses, except in case of emergency if the minor's life is in danger or his or her integrity is threatened (arts. 14 and 16 CCQ). Both the Uniform Act and the Civil Code require the authorization of the court to override a refusal of the holder of parental authority in similar circumstances.

[172] **Mental Health Act, 1987 – Québec 1991, am. 1997 (arts. 26 to 31 CCQ and R.S.Q., c. P-38.001);**

[173] The purpose of the Act is to provide a comprehensive legal framework to apply when a person needs psychiatric care and it is intended to ensure the person's rights are protected.

[174] The Civil Code provides for the same (see arts. 26 to 31 CCQ), along with the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others*, R.S.Q., c. P-38.001.

[175] **Occupiers' Liability Act, 1973 – Québec 1866, am. 1991 (arts. 1457, 1465 to 1469, 1474 and 1475 CCQ);**

[176] The Act determines the care that an occupier is required to show towards persons entering on the premises. Under the Civil Code, every person is liable in certain cases to reparation for injury caused to another by the act of things in the person's custody (art. 1457 CCQ). See in particular arts. 1465 to 1469 CCQ. A person may exclude or limit liability by agreement (see arts. 1474 and 1475 CCQ).

[177] **Partnerships Registration Act, 1938 – Québec 1866, am. 1991, 1993 and 1997 (R.S.Q., c. P-45);**

[178] The Act provides that partnerships carrying on business must be registered. The *Act respecting the legal publicity of sole proprietorships, partnerships and legal persons*, R.S.Q., c. P-45, enacted in 1993, creates a

more comprehensive regime of registration of all persons carrying on commercial activities. Civil and regulatory penalties exist and any interested person may petition the Inspector General entrusted with maintaining the register to correct or strike off any inaccurate information appearing in the register.

[179] **Perpetuities Act, 1972 – Québec 1866, am. 1991 in part (arts. 617, 1122, 1242, 1279 and 1814 CCQ);**

[180] The Act sets the time limit for transferring a real right under pain of nullity, in particular in the case of an unborn child.

[181] It has equivalent civil law provisions that deal with the particular circumstances of succession (art. 617 CCQ), usufruct (art. 1122 CCQ), substitution (art. 1242 CCQ), trusts (art. 1279 CCQ) and gifts *inter vivos* (art. 1814 CCQ). In those circumstances, the person to whom the property is intended must exist at the time the provision becomes effective in their regard. A child must be conceived and born living and viable.

[182] **Personal Property Security, 1971 – Québec 1991 in part (arts. 2663, 2665, 2696 to 2714, 3102 to 3106 CCQ);**

[183] The Act creates a very comprehensive legal framework for security interests in goods, chattels and other property (arts. 2665 and 2696 to 2714 CCQ). The Québec Civil Code provides for hypothecs on movables which must be registered to be set up as against third parties (art. 2663 CCQ). Conflict of law rules are also provided (arts. 3102 to 3106 CCQ).

[184] **Powers of Attorney Act, 1978 – Québec 1866 am. 1991 in part (arts. 2152, 2157 et seq. and 2177 and 2181 CCQ);**

[185] The Act has only two sections, one relating to the attorney's and the grantor's liability on termination of authority under the power of attorney, the other on the continuation of the authority in the case of mental infirmity.

[186] The Civil Code of Lower Canada contained provisions dealing specifically with mandates given to an attorney (art. 1732 CCLC). The rules that referred to the general rules on mandate were subsequently abolished. The Civil Code contains rules specific to mandate and other rules that govern mandates given in anticipation of the mandator's incapacity. There are no longer any specific rules on representation by an attorney. The mandatary and

mandator are personally liable to third parties for the acts performed by the mandatary after the end of the mandate in certain circumstances (arts. 2152, 2157 and following and 2181 CCQ.) In the case of inability to act, the mandate may be terminated (art. 2177 CCQ).

**[187] Presumption of Death Act, 1960 – Québec 1866 am. 1991 (art. 92 CCQ);**

[188] The Act provides for orders by a court concerning an absent person and distribution of the person's estate. The Civil Code provides for the same (see art. 92 CCQ). Seven years after disappearance, a declaratory judgment of death may be pronounced. The effects of the judgment cease if the person returns and the person may recover his or her property in certain circumstances.

**[189] Privacy Act, 1994 – Québec 1991 (arts. 35, 36, 1457 and 1590 CCQ);**

[190] The Act confers a right of action for violation of a person's privacy. Under the Civil Code, every person has a right to the respect of his privacy. No one may invade the privacy of a person (art. 35). Certain acts enumerated in art. 36 may be considered as invasions of the privacy of a person. The general principle of art. 1457 CCQ (liability) and art. 1590 CCQ (remedies to enforce performance) apply to the violation of the right to privacy.

**[191] Proceedings Against the Crown Act, 1950 – Québec, 1965 am. 1991 (arts. 1376, 1457 and 1590 CCQ and arts. 94.4 and 94.10 CCP);**

[192] The Act provides for the liability of the Crown in tort and establishes the procedure for proceedings in damages. As stated in article 1376 of the Civil Code, the rules set forth in Book V, which contains rules on liability, apply to the State and its bodies. Service upon the Attorney General is made at the office of the Director General of the legal department in Montreal or in Québec City (art. 94.4 CCP). Art. 94.10 CCP provides for payment out of the Consolidated Revenue Fund when the Attorney General is found liable.

**[193] Products Liability Act, 1984 – Québec 1991 (arts. 1468, 1470, 1473 and 3128 CCQ);**

[194] The Act renders the supplier of a defective product liable when personal injury, damage to property or economic loss occurs or when a false

statement concerning a product is made. It also provides for the exclusion of liability in certain circumstances. Art. 1468 CCQ provides that the manufacturer and the person who distributes the thing are liable to reparation for injury caused to a third person by reason of a safety defect in the thing. Exonerations are provided for in article 1470 and following (see art. 1473 CCQ). Contractual liability may be incurred if a party does not reveal what should be known about the product. Article 3128 CCQ establishes a rule of conflict of laws.

[195] **Reciprocal Enforcement of Judgments Act; Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland, the Northwest Territories, Nova Scotia, Ontario, Prince Edward Island, Saskatchewan and Yukon enacted the Act which has replaced by the Enforcement of Canadian Judgments Act – the Uniform Enforcement of Canadian Decrees Act – and the Uniform Enforcement of Canadian Judgments and Decrees Act, 1992 – (see those Acts).**

[196] **Reciprocal Enforcement of Judgments (United Kingdom) Act 1982;**

[197] Québec is not a party to the Canada-United Kingdom bilateral Convention.

[198] **Reciprocal Enforcement of Maintenance Orders Act, 1946 – Québec 1952 (R.S.Q., c. E-19);**

[199] Québec passed the *Act respecting reciprocal enforcement of maintenance orders*, R.S.Q., c. E-19, in 1952. It has been amended on a few occasions since then.

[200] **Uniform Registered Plan (Retirement Income) Exemption Act or Uniform Registered Plan (Retirement Income) Exemption Act, 1999 – Québec 1965, in part (arts. 553(7) and 553(11)a CCP);**

[201] Under the Act, registered retirement plans (benefits and contributions) are exempt from any legal process. In Québec law, only benefits payable under a supplementary pension plan to which the employer has contributed on behalf of employees and the contributions payable by the employer are exempt from seizure (arts. 553, par. (7) and subpar. a of 3<sup>rd</sup> par. in par. 11).



[202] **Regulations Act, 1943 – Québec, 1976, am. 1986 (R.S.Q., c. R-3 and c. R-18.1);**

[203] The Act provides for the publication of regulations and for the appointment of a Registrar responsible. The *Regulations Act*, R.S.Q., c. R-18.1, provides for the publication of the regulations and for their approval by the Department of Justice before they are made. The *Act respecting the consolidation of the statutes and regulations*, R.S.Q., c. R-3 provides for their continuing consolidation.

[204] **Regulatory Offences Procedure Act, 1992 – Québec 1987 (R.S.Q., c. C-25.1);**

[205] The Act provides for a comprehensive legal framework for offences created by an Act of the legislature other than the Criminal Code. The *Code of Penal Procedure*, R.S.Q., c. C-25.1 does the same.

[206] **Retirement Plan Beneficiaries Act, 1975 – Québec 1866, am. 1991 (arts. 2379, 2446, 2449 and 2450 CCQ);**

[207] The Act provides a framework for the designation of beneficiaries under a retirement plan and indicates the formalities to be respected when the designation is revoked. The rules in the Civil Code are similar but for one aspect: under art. 2449 CCQ, the designation of a spouse is irrevocable unless otherwise stipulated.

[208] Under art. 2379 CCQ, the designation of an annuitant in connection with a pension plan is covered by the rules governing contracts of insurance. Under those rules, the designation of beneficiaries is made in the contract or in another writing which may or may not be in the form of a will (art. 2446 CCQ). A designation of a beneficiary other than the spouse may be revoked, unless stipulated otherwise. The revocation must be in writing but need not be express (art. 2449 CCQ).

[209] A will may revoke a designation if it refers to the pension plan in question specifically. A designation or revocation made in a will does not prevail against another designation or revocation subsequent to the signing of the will. The designation or revocation in a will that is null be reason of a defect is not null for that sole reason, unless the will is revoked (art. 2450 CCQ).

[210] **Sale of Goods Act, 1981 – Québec 1866, am. 1991 in part (arts. 1371 to 1805 CCQ) and R.S.Q., c. P-40.1);**

[211] The Act provides for a comprehensive legal framework for contracts of sale of goods. The Civil Code also has such a framework (see arts. 1708 to 1805) which applies with more general rules on the formation of contracts, remedies in case of non-performance, etc. (arts. 1371 to 1707 CCQ) and with specific consumer protection rules (see the *Consumer Protection Act*, R.S.Q., c. P-40.1).

[212] The two sets of rules, those of the Uniform Act and those of the Civil Code, have many differences which are rooted in the differences between common law and civil law. There is extensive research on this subject which I can provide you with along with the researcher's report if you wish.

[213] **Service of Process by Mail Act, 1945 – Québec 1965 (arts. 138 and 140 CCP);**

[214] The Act adds another method of service: mail with proof of delivery. Such service is deemed to have been made on the date of acknowledgement of receipt signed by the party at the time of delivery. Articles 138 and 140 of the Code of Civil Procedure are to the same effect but a judge or a clerk has to authorize this type of service first.

[215] **Settlement of International Investment Disputes Act, 1998 – Québec N/A;**

[216] Canada is not a party to this Convention, the agreement of all the provinces is necessary. Québec and Alberta have not given their agreement to the federal government for Canada to join the Convention.

[217] **Statutes Act, 1975 – Québec 1982 (R.S.Q., c. A-25.1 and c. R-3);**

[218] The Act provides for a form of enacting clauses, the publication of Acts and the duties of the clerk of the Legislature. The *Act respecting the National Assembly*, R.S.Q., c. A-25.1 is similar. The *Act respecting the consolidation of the statutes and regulations*, R.S.Q., c. R-3, provides for the continuing consolidation of statutes.

[219] **Survival of Actions Act, 1963 – Québec 1866, 1991 (art. 625 CCQ);**

[220] The Act provides for the survival of causes of action vested in a deceased person and their transfer to the person's estate. This is a very old principle of civil law whereby the heirs are seized of the rights of the deceased (*le mort saisit le vif*) (art. 625 CCQ).

[221] **Survivorship Act, 1939 – Québec 1866, am. 1991 (art. 616 CCQ);**

[222] The Act provides for the devolution of estates when two or more persons die at the same time. The Uniform Act also determines the situation of joint tenants and provides that the substitute personal representative is to act if the testator and the designated executor die at the same time. Article 603 CCLC did not apply if several persons were called to each other's succession. Article 616 CCQ applies if at least one of the persons is called to the succession of the other, as is the case in the Uniform Act.

[223] **Testamentary Additions to Trust Act, 1968 – Québec 1991 (art. 1293 CCQ);**

[224] The Act provides for the possibility of adding goods to a trust by will. Under art. 1293 CCQ, any person may increase the trust patrimony by transferring property to it by contract or will. The person does not acquire the rights of a settler by that fact. The transferred property is mingled with the other property of the trust patrimony and is administered in accordance with the provisions of the constituting act.

[225] **Trade Secrets Act, 1987 – Québec 1991 (art. 1472 CCQ);**

[226] The Act provides that a person who discloses a trade secret is liable and determines the rights of action available to persons entitled to the benefit of the trade secret, and the causes of exoneration of liability. Article 1472 CCQ provides that a person may be freed from liability for injury caused to another as a result of the disclosure of a trade secret by proving that considerations of general interest prevailed over keeping the secret. Otherwise the general rules of liability apply.

[227] **Transboundary Pollution Reciprocal Access Act, 1982 – Québec N/A;**

[228] The purpose of the Act is to determine international jurisdiction and choice of law rules between reciprocating jurisdictions in cases of Canado-american pollution. Traditionally, for an action to proceed, the author of the injury must be in the place where the injury occurs. Also, the courts of a jurisdiction are not competent to hear disputes relating to injury caused in another jurisdiction. Under the Uniform Act, the court in the place where the injury occurred has, in principle, jurisdiction. It applies the law of the jurisdiction, excluding choice of law rules.

[229] **Trustee (Investments), 1957, am. 1997 – Québec 1866, am. 1991 in part (arts. 1278, 1339 and 1343 CCQ);**

[230] Rather than listing investments presumed sound for the investor, the Act gives the investor a power to invest in any kind of property or security. This power would be subject to a general duty to exercise the degree of care, skill, and judgment that a prudent investor would employ. The provisions incorporate features of portfolio theory including diversification, covariance, and risk and return analysis. They also address the issue of delegation of investment authority by trustees.

[231] Article 1278 CCQ subjects the trustee to the rules that apply to the administration of the property of others. Article 1339 CCQ provides a list of such investments presumed sound that includes securities and shares in mutual funds. Under art. 1343 CCQ, an administrator who acts in accordance with those provisions is presumed to act prudently and is not liable for losses. The Civil Code makes no reference to the portfolio theory and does not provide for delegation to a mandatary.

[232] **Variation of Trusts Act, 1961 – Québec 1991 (arts. 1294 and 1295 CCQ);**

[233] The Act empowers a court to make changes to a trust. Articles 1294 and 1295 provide that a court may on the application of an interested person terminate the trust or substitute another purpose closely related to the original purpose of the trust. Notice of the application must be given to a large number of persons.

[234] **Vital Statistics Act, 1949 – Québec 1866 am. 1991 (arts. 103 to 152 CCQ);**

[235] The Act provides for the registration of births, marriages and deaths, of names, changes of names or sex, adoption, etc. It specifies the powers and duties of the Director of Vital Statistics. Articles 103 to 152 CCQ provide likewise. Since 1994, the registrar of civil status is the sole officer of civil status.

[236] **Warehouse Receipts Act, 1945 – Québec 1866, am. 1991 in part (art. 2285 CCQ);**

[237] The Act creates the basic requirements for warehouse receipts which may be negotiable or non-negotiable. Different consequences and liabilities follow. The Civil Code contains only one provision in reference to receipts for deposit: when the depositary has issued a receipt or any other document evidencing the deposit or giving the person holding it the right to withdraw the property, the depositary may require that the document be returned (art. 2285 CCQ).

[238] **Warehousemen's Lien Act, 1962 – Québec 1866, am. 1991 in part (arts. 1592, 2293 and 2651 CCQ);**

[239] The Uniform Act creates a lien in favour of the warehouseman. With the enactment of the new Civil Code of Québec in 1991, all privileges were replaced either by a legal hypothec (must be registered) or a prior claim (need not be registered). A party who, with the consent of the other contracting party, retains property belonging to the latter has a right to do so pending full payment of the claim against that party, if the claim is payable and is directly related to the property being retained (art. 1592 CCQ). The depositary (art. 2293 CCQ) may retain the property. The prior claim subsists as long as the property remains in the creditor's possession (art. 2651 CCQ). The claims of person having a right of retention over movable property are collocated before the claims of the other creditors, even preferred creditors. The claims need not be registered to be set up against other creditors or third parties.

[240] **Wills Act, 1953 – Québec 1866 am. 1991 in part (arts. 703 to 775, 3098 to 3101 CCQ);**

[241] The Act provides for a comprehensive legal framework for wills: forms of wills, revocation, effect of divorce, conflict of laws, etc. It also implements the Unidroit Convention on the form of international wills. Québec is not a signatory to that Convention, but arts. 703 to 775 CCQ create the legal framework regarding wills. Notarial wills are valid as well as holograph wills

and wills made in the presence of witnesses. A legacy lapses if the legatee does not survive the testator unless there is representation (arts. 749 to 750 CCQ). A legacy made to the spouse before divorce is revoked unless the testator manifested a contrary intention. Conflict of law rules are provided for in arts. 3098 to 3101 CCQ.

### **Uniform Acts enacted by Québec**

- Accumulations Act** - Québec, 1991 in force in 1994 (a. 1123, 1212, 1221, 1272, 1273, 1294, 2649 C.C.Q.)
- Arbitration Act** – Québec, 1986 (a. 940 to 951.2 C.C.P.)
- Child Evidence Act** - Québec, 1965, am. 1991 in force in 1994 (a. 2844 C.C.Q.)
- Child Status Act** - Québec, 1980, am. 1991 in force in 1994 (a. 522, 525, 526, 538 to 542, 3155 and 3167 C.C.Q.)
- Class Proceedings Act** – Québec, 1978 (An Act respecting the class action, R.S.Q., c. R-2.1)
- Condominium Insurance Act** - Québec, 1991 in force in 1994 (a. 1039, 1073 C.C.Q.)
- Conflict of Laws, Rules for Trusts Act** - Québec, 1991 in force in 1994 (a. 3107, 3108 C.C.Q.)
- Criminal Injuries Compensation Act** – Québec, 1988 (An Act respecting assistance for victims of crime, R.S.Q., c. A-13.2) and 1971 (Crime Victims Compensation Act, R.S.Q., c. I-6)
- Dependants' Relief Act** - Québec, 1991 in force in 1994 (a. 684 to 695 C.C.Q.)
- Devolution of Real Property Act** - Québec, 1866, am. 1991 in force in 1994 (a. 776, 791, 807, 836 C.C.Q.)
- Effect of Adoption Act** - Québec, 1980, am. 1991 in force in 1994 (a. 577, 581 C.C.Q.)
- Electronic Commerce Act** – Québec, 2001 (An Act to establish a legal framework for information technology, R.S.Q., c. C-1.1)
- Electronic Evidence Act** - Québec, 1991 in force in 1994, am. 2001 (a. 2837 to 2742, 2855, 2860, 2874 C.C.Q.)
- Evidence Act** – Québec, 1866, am. 1991 in force in 1994, am. 2001 (a. 2803 to 2874 C.C.Q.); 1965 (a. 294 to 331.9; a. 394.1 to 394.5; 414 to 437 C.C.P.)
- Foreign Arbitral Awards Act** – Québec, 1986 (a. 948 C.C.P. and following)
- Frustrated Contracts Act** – Québec, 1866, am. 1991 in force in 1994 (a. 1553 C.C.Q. and following in particular a. 1604 C.C.Q.)
- Health Care Directives (Recognition) Act** - Québec, 1991 in force in 1994 (a. 3109 C.C.Q.)
- Hotelkeepers Act** - Québec, 1866, am. 1991 in force in 1994 (a. 2292 and following in particular 2302 C.C.Q.)
- Information Reporting Act** – Québec, 1993 (An Act respecting the protection of personal information in the private sector, R.S.Q., c. P-39.1)
- Inter-Jurisdictional Child Welfare Orders Act** – Québec, 1977 (Youth Protection Act, R.S.Q., c. P-34.1, ss. 31, 32, 131)

**International Child Abduction Act** – Québec, 1984 (An Act respecting the civil aspects of international and interprovincial child abduction, R.S.Q., c. A-23.01)

**International Commercial Arbitration Act** - Québec, 1986 (a. 948 C.C.P. and following)

**International Sale of Goods Act** – Québec, 1991 (An Act respecting the United Nations Convention on Contracts for the International Sale of Goods, R.S.Q., c. C-67.01)

**Interpretation Act** – Québec, 1964 (Interpretation Act, R.S.Q. c. I-16)

**Judgment Interest Act** - Québec, 1866, am. 1991 in force in 1994 (a. 1586, 1617 to 1621 C.C.Q.)

**Mental Health Act** - Québec, 1991 in force in 1994 (a. 26 to 31 C.C.Q.); 1997 (An Act respecting the protection of persons whose mental state presents a danger to themselves or to others, R.S.Q., c. P-38.001)

**Occupiers Liability Act** - Québec, 1866, am. 1991 in force in 1994 (a. 1457, 1465 to 1469, 1474, 1475 C.C.Q.)

**Partnerships Registration Act** - Québec, 1993 (An Act respecting the legal publicity of sole proprietorships, partnerships and legal persons, R.S.Q., c. P-45)

**Presumption of Death Act** - Québec, 1866, am. 1991 in force in 1994 (a. 92 C.C.Q.)

**Privacy Act** - Québec, 1991 in force in 1994 (a. 35, 36, 1457, 1590 C.C.Q.)

**Proceedings Against the Crown Act** - Québec, 1991 in force in 1994 (a. 1376 C.C.Q.); 1965 (a. 94.4 to 94.10 C.C.P.)

**Product Liability Act** - Québec, 1991 in force in 1994 (a. 1468, 1470, 1473, 3128 C.C.Q.)

**Reciprocal Enforcement of Maintenance Orders Act** - Québec, 1952 (An Act respecting reciprocal enforcement of maintenance orders, R.S.Q., c. E-19)

**Regulations Act** - Québec, 1976 (An Act respecting the consolidation of the statutes and regulations, R.S.Q., c. R-3) and 1986 (Regulations Act, R.S.Q., c. R-18.1)

**Regulatory Infractions Act** - Québec, 1987 (Code of Penal Procedure, R.S.Q., c. C-25.1)

**Retirement Plan Beneficiaries Act** - Québec, 1866 am. 1991 in force in 1994 (a. 2379, 2446, 2449, 2459 C.C.Q.)

**Mail Service Act** - Québec, 1965 (a. 138, 140 C.C.P.)

**Statutes Act** - Québec, 1982 (R.S.Q., c. A-23.1); 1976 (An Act respecting the consolidation of the statutes and regulations, R.S.Q., c. R-3)

**Survival of Actions Act** - Québec, 1986, am. 1991 in force in 1994 (a. 625 C.C.Q.)

**Survivorship Act** - Québec, 1866, am. 1991 in force in 1994 (a. 616 C.C.Q.)



**Testamentary Additions to Trusts Act** - Québec, 1991 in force in 1994 (a. 1293 C.C.Q.)

**Trade Secrets Act** - Québec, 1991 in force in 1994 (a. 1472 C.C.Q.)

**Trustee (Investments) Act**– Québec, 1866, am. 1991 in force in 1994 (a. 1278, 1339, 1349 C.C.Q.)

**Variation of Trusts Act** - Québec, 1991 in force in 1994 (a. 1294-1295 C.C.Q.)

**Vital Statistics Act** - Québec, 1866, am. 1991 in force in 1994 (a. 103 to 152 C.C.Q.)

**Wills Act** – Québec, 1866, am. 1991 in force in 1994 (a. 703 to 775 C.C.Q.; a. 3098 to 3101 C.C.Q.)

#### **Uniform Acts enacted in part by Québec**

**Bills of Sale Act** – Québec, 1991 in force in 1994 (a. 1642, 1745 (2), 2663, 2696 C.C.Q.) [not for sales; just for hypothecs]

**Change of Name Act** – Québec, 1991 in force in 1994 (a. 57 to 70 C.C.Q.)

**Conflict of Laws (Traffic Accidents) Act** – Québec, 1977 (**Automobile Insurance Act, R.S.Q., c. A-25, ss. 7 and 8**)

**Contributory Negligence Act** – Québec, 1991 in force in 1994 (a. 1478 to 1481 C.C.Q.)

**Court Jurisdiction and Proceedings Transfer Act** – Québec, 1991 in force in 1994 (a. 3134 to 3154 C.C.Q.) [except for the transfert part]

**Courts Orders Compliance Act** – Québec, 1965 (a.1, 49 to 54 C.C.P.)

**Custody Jurisdiction and Enforcement Act** – Québec, 1991 in force in 1994 (a. 80, 192, 3142 C.C.Q.) [except for the enforcement part]

**Defamation Act** – Québec, 1982 (**An Act respecting the National Assembly, R.S.Q., c. A-23.1**); 1964 (R.S.Q., c. P-19); 1866, am. 1991 in force in 1994 (a. 1457 C.C.Q.)

**Domicile Act** – Québec, 1866, am. 1991 in force in 1994 (a. 76, 81, 222, 250, 266, 278 C.C.Q.)

**Enforcement of Canadian Judgments (and Decrees) Act** – Québec, 1991 in force in 1994 (a. 3155 to 3168 C.C.Q.) [except for the full faith and credit aspect]

**Family Support Act – Québec, 1980 am. 1991 in force in 1994 (a. 585 C.C.Q. and 825.8 C.C.P. and following ) [no support obligation between non-married spouses and between a person and a child if the filiation is not established]**

**Fatal Accidents Act – Québec, 1866, am. 1991 in force in 1994 ( a. 625 C.C.Q.)**

**Foreign Money Claims – Québec, 1991 in force in 1994 (a. 3161 C.C.Q.)**

**Highway Traffic and Vehicles Act (Responsibility of Owners & Drivers for Accidents) – Québec, 1977 (Automobile Insurance Act, R.S.Q., c. A-25, ss. 84, 108, 109) [no fault for bodily injury]; and 1986 (Highway Safety Code, R.S.Q., c. C-24.2)**

**Human Tissue Donation Act – Québec, 1991 in force in 1994 (a. 19, 25, 43, 44, 45 C.C.Q.)**

**Interprovincial Subpoena Act – Québec, 1965 (a. 282, 284) [only for Ontario]; and 1964 (Special Procedure Act, R.S.Q., c. P-27)**

**Intestate Succession Act – Québec, 1866, am. 1991 in force in 1994 (a. 653 C.C.Q. and following )**

**Jurors' Qualification Act - Québec, 1976 (Jurors Act, R.S.Q., c. J-2) [only in regulatory offence matters]**

**Limitations Act - Québec, 1866 am. 1991 in force in 1994 ( a. 2875 C.C.Q. and following)**

**Limited Liability Partnerships Act - Québec, 2001 (An Act to amend the Professional Code and other legislative provisions as regards the carrying on of professional activities within a partnership or company, S.Q. 2001, c. 34) [for professionals only]**

**Maintenance and Custody Enforcement Act - Québec, 1980, am. 1991 in force in 1994 (An Act to facilitate the payment of support, R.S.Q., c. P-2.2) [except for the custody enforcement part]**

**Married Women's Property Act – Québec, 1964, am. 1970, 1980 and 1991 in force in 1994 (a. 392 and 431 C.C.Q. and following)**

**Matrimonial Property and Choice of Law Rules Act – Québec 1991 in force in 1994 (a. 3089, 3123, 3145, 3154 C.C.Q.)**

**Medical Consent of Minors Act – Québec, 1991 in force in 1994 (a. 14 and following C.C.Q.)**

**Perpetuities Act – Québec, 1866, am. 1991 in force in 1994 (a. 617, 1122, 1242, 1279, 1874 C.C.Q.)**

**Personal Property Security Act – Québec, 1991 in force in 1994 (a. 2663, 2665, 2696 to 2714, 3102 to 3106 C.C.Q.)**

**Powers of Attorney Act – Québec, 1867, am. 1991 in force in 1994 (a. 2152, 2157 and following, a. 2177 and 2181 C.C.Q.)**

**Sale of Goods Act – Québec, 1866, am. 1991 in force in 1994 (a. 1371 to 1805 C.C.Q.); 1978 (Consumer Protection Act, R.S.Q., c. P-40.1)**

**Warehouse Receipts Act – Québec, 1866, am. 1991 in force in 1994 (a. 2285 C.C.Q.)**

### **Uniform Acts not enacted by Québec**

Bulk Sales Act

Construction Liens and Arbitration (provisions)

Cost of Credit Disclosure Act

Franchises Act

Legitimacy Act

Liens Act

Registered Plan (Retirement Income) Exemption Act

Warehousemen's Lien Act

Enforcement of Judgments Conventions Act (UK and France)

International Adoption

International Factoring

International Financial Leasing

International Interests in Mobile Equipment

International Protection of Adults (Hague Convention) Implementation Act

International Protection of Children (Hague Convention) Implementation Act

International Trust Act

Limitation Period in the International Sale of Goods

Reciprocal Enforcement of Judgments (United Kingdom) Act

Settlement of International Investment Disputes

Transboundary Pollution Reciprocal Access Act

Wills Act (the provisions concerning the Unidroit Convention)

**Uniform Acts not enacted by Québec because Québec is not a signatory to the implementing conventions**

Convention for the Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters, 1998

Intercountry Adoption Act (The Hague Convention), 1993

Uniform International Factoring (Unidroit Convention) Act, 1995

Uniform International Financial Leasing (Unidroit Convention) Act, 1995

Uniform International Sales Conventions Act, 1985, am. 1998 – Québec 1991 in part

International Trust Act, 1987

Reciprocal Enforcement of Judgments Act (United Kingdom), 1982

Settlement of International Investment Disputes Act, 1998

Wills Act, 1953