

This is a translation of the

Loi (1839) sur les remises de biens

(Chapter 04.840)

as in force on 1 January 2019

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Loi (1839) on remissions¹ of property²

WHEREAS the Law on remissions of property into the hands of the Court is defective, inasmuch as the said remissions are granted without any prior examination to verify the statement presented to the Court, and that often the persons who have obtained this indulgence refuse, to the great prejudice of their creditors, to be guided by the advice and counsel of the Jurats:³

Article 1

Whoever applies for permission to remit his or her property into the hands of the Court shall be required to present a detailed statement of his or her property, movable and immovable.

The applicant shall be required, if the Court does not dismiss the application forthwith, to declare on oath that said statement is true and faithful.

Article 2

The Court, before granting the application, shall appoint 2 Jurats to make an examination of the said property; and the said Jurats shall within a fortnight make a report to the Royal Court of the value of the said property, and shall give their opinion as to whether it is expedient to grant the said remission.

¹ *remises*

² *i.e.* of immovable property

³ *des autorisés de Justice*

The Court, after the presentation of the said report and having heard those who oppose the said remission, shall grant or refuse the said permission. This decision shall be final and without appeal.

Article 3

The Jurats so appointed, before making their report, may employ one or more competent persons –

- (a) to value the said movable and immovable property;
- (b) to arrange a meeting of the creditors and other interested parties in order, if need be, to consult them on the application made to the Court to remit the said property into the hands of the Court,

and otherwise to assist them in the examination of the property which it is proposed be remitted into the hands of the Court.

Article 4

The Act⁴ which grants the remission of property into the hands of the Court shall contain, on behalf of the person who obtains the said permission, authority to the persons appointed by the Court to examine the said property to lease, sell, alienate, and otherwise deal with the said movable and immovable property.

Article 5

Whoever has obtained permission to remit his or her property into the hands of the Court may not act other than according to the advice and counsel of the Jurats authorised to examine the said property.

Article 6

If the property remitted into the hands of the Court is not sufficient to discharge all the debts and claims, the authorised Jurats may, if the immovable property is sufficient to discharge the *rentes* and hypothecs, cause to be sold the said movable and immovable property, and, after payment in full of the privileged debts, distribute the proceeds of sale amongst the other creditors.

Article 7

The application to remit one's property into the hands of the Court shall produce in the case of a *décret* the same effects, relative to the date of contracts and Acts of the Court,

⁴ of the Royal Court

that are governed by Articles 23 and 24 of the *Loi (1832) sur les décrets*, upon an application to make cession.

Article 8

No Act of Court obtained in the 10 days before the application for a remission of property,⁵ or of an application to make cession, shall give any preference to the person who obtained the Act as against the other creditors, whether over movable or immovable property.

Article 9

The authorised Jurats may employ one or more competent persons whose fees they shall pay from the realisation of the property remitted into the hands of the Court.

Article 10

The costs incurred by the authorised Jurats in the examination of property are privileged over all debts and hypothecs; and in the case of a décret or dégrèvement, shall be payable by the person who takes the immovable property as *tenant* in such case.

⁵ (under this Law)