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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SIXTH LEGISLATURE

## Bill 122

**An Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information, the Act respecting the protection of personal information in the private sector, the Professional Code and other legislative provisions**

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### Introduction

**Introduced by  
Mr Robert Perreault  
Minister of Relations with the Citizens and Immigration**

## **EXPLANATORY NOTES**

*The main purpose of this bill is to amend the Act respecting Access to documents held by public bodies and the Protection of personal information, the Act respecting the protection of personal information in the private sector and the Professional Code, to introduce various measures stemming from the latest five-year review of the implementation of the legislation.*

*The bill broadens the scope of the Act respecting Access to documents held by public bodies and the Protection of personal information by bringing local development centres and regional development councils and, to the extent determined by the Professional Code, professional orders, within its purview and by broadening the notion of municipal body.*

*As regards access to documents held by public bodies, the bill proposes special procedures to facilitate access to documents distributed in computerized form only. It also provides that decisions of the Government and the Conseil du trésor may be released after a 25-year non-disclosure period. The access procedure is modified to provide for a single 30-day response period and to enable third persons concerned by a request for access to information to be advised by public notice.*

*As regards the protection of personal information, the bill clarifies the quality of the consent required of the person concerned before personal information may be disclosed, specifies that information relating to expenses incurred in the performance of public functions is public information and creates new obligations in respect of security measures to ensure the confidentiality of personal information. The provisions dealing with the protection of personal information held by a public body are reinforced through a new provision prohibiting the use of information for purposes non-relevant to the purpose for which the information was collected.*

*The bill specifies the content of agreements concerning the exchange of personal information between public bodies, determines the elements that the Commission may consider before approving or rejecting an agreement, and defines the approval procedure. Under the bill, the authorization of the Commission or the Government will be required before personal information files may be compared. As*

*regards the management of information files, the bill proposes to replace the current declaration to the Commission by the keeping of a file inventory by public bodies which can be accessed by all persons and which, in certain cases, will be transmitted to the Commission. The bill adjusts provisions regarding the rights of persons to whom personal information relates and their representatives so that access to that information is facilitated. The bill also provides for adapted access measures for handicapped persons.*

*The bill proposes several measures to improve organization within the Commission, in particular to allow the investigative powers conferred on the Commission to be exercised by a member acting alone, to allow a member who has been replaced to continue to examine a matter the member has begun to hear, to clarify the Commission's investigative powers and its powers to make orders. Provision is made for an appeal to the Court of Québec from an order issued following an investigation. The Commission is granted a new power to designate a mediator to settle disputes, and the appeal procedure before the Court of Québec is streamlined through the removal of the requirement to obtain leave to appeal.*

*The bill amends the penal provisions to specify which offences are penal offences and to increase the amounts of fines to a level similar to the fines provided for in the Act respecting the protection of personal information in the private sector.*

*The bill broadens the scope of the five-year report by the Commission as prescribed in the Act to require a review of the provisions that apply notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information and the Act respecting the protection of personal information in the private sector.*

*Various technical and consequential amendments including harmonizing amendments are contained in the bill, in particular to replace the concept of nominative information by that of personal information and to adjust the concept of mandate as regards contracts for services and contracts of enterprise.*

*The bill also introduces various new measures into the Act respecting the protection of personal information in the private sector.*

*Thus, as regards the confidentiality of personal information, the bill introduces, in addition to minor adjustments made for harmonization or clarity purposes, a new obligation in respect of security measures to ensure the confidentiality of personal information, increases the protection of personal information outside Québec, broadens the exception applicable to recovery of the debts of an enterprise, and authorizes communication of files containing personal information to an archival agency or for research purposes under specified conditions and for determined time periods. The bill enables an enterprise to disclose information that by law is public information without the consent of the person concerned, and provides for adapted access measures for handicapped persons. In the case of information concerning a third person, it will no longer be necessary, in order to refuse access to the information, to prove that disclosure may harm the third person.*

*To improve the administration of the Act, the penal provisions are set out in greater detail and a new offence is introduced in respect of personal information officers.*

*The bill makes technical and consequential amendments to the Act respecting the protection of personal information in the private sector and amendments to harmonize that Act with the Act respecting Access to documents held by public bodies and the Protection of personal information, in particular as concerns mediation, the removal of the obligation to seek leave to appeal to the Court of Québec and the exercise of the Commission's investigative powers by a member acting alone.*

*The bill amends the Professional Code to subject professional orders, as regards documents held in connection with the supervision of professional practice, to the general regime of access to information and the protection of personal information and to provide for the necessary adjustments adapted to the particular circumstances of the professional orders. Other documents held by professional orders are to be subject to the Act respecting the protection of personal information in the private sector.*

*New provisions in the Code define the information that a professional order may or must refuse to disclose and the information that is public information. The bill lists the documents open to all persons and determines the cases in which a professional order may transmit personal information without the consent of the person concerned.*

*The bill also amends the Archives Act to enable research to be carried out in documents that may contain personal information and to determine the maximum periods for which access to personal information may be prohibited. An amendment is proposed to the Environment Quality Act to authorize access to documents to which reference is made in the register kept by the Minister of the Environment. The Act respecting the Québec sales tax is amended to exempt from tax the supply of personal information under the Act respecting the protection of personal information in the private sector.*

*Lastly, the bill proposes amendments to the Act respecting the Institut de la statistique du Québec to provide for a special regime to apply to the protection of personal information and access to the institute's data in the light of that body's inherent particularities. The institute will be required to periodically inform the Commission d'accès à l'information of information exchanges and to adopt a policy on the comparison, pairing and cross-matching of personal information files. The release of files for such purposes will be made within the scope of a written agreement that must fulfil the conditions set out in the Act and be submitted for an opinion to the Commission and the Government. The bill also clarifies the confidentiality requirements with which the institute is bound to comply.*

#### **LEGISLATION AMENDED BY THIS BILL :**

- Civil Code of Québec ;
- Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) ;
- Financial Administration Act (R.S.Q., chapter A-6) ;
- Archives Act (R.S.Q., chapter A-21.1) ;
- Automobile Insurance Act (R.S.Q., chapter A-25) ;
- Health Insurance Act (R.S.Q., chapter A-29) ;
- Building Act (R.S.Q., chapter B-1.1) ;
- Highway Safety Code (R.S.Q., chapter C-24.2) ;
- Professional Code (R.S.Q., chapter C-26) ;
- Public Curator Act (R.S.Q., chapter C-81) ;

- Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Election Act (R.S.Q., chapter E-3.3);
- Act to establish the permanent list of electors (R.S.Q., chapter E-12.2);
- Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011);
- Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1);
- Environment Quality Act (R.S.Q., chapter Q-2);
- Act respecting the Régie de l’assurance maladie du Québec (R.S.Q., chapter R-5);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);
- Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Act respecting the Bureau d’accréditation des pêcheurs et des aides-pêcheurs du Québec (1999, chapter 32).

## **Bill 122**

### **AN ACT TO AMEND THE ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION, THE ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR, THE PROFESSIONAL CODE AND OTHER LEGISLATIVE PROVISIONS**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. 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 inserting the following section after section 1 :

“1.1. This Act also applies to documents held by professional orders to the extent provided in the Professional Code (chapter C-26).”

2. Section 4 of the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended by adding the following paragraph at the end :

“For the purposes of this Act, local development centres and regional development councils accredited under the Act respecting the Ministère des Régions (chapter M-25.001) are also government agencies.”

3. Section 5 of the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended by replacing paragraphs 1 and 2 by the following paragraphs :

“(1) municipalities, urban communities, the Commission de développement de la métropole, intermunicipal boards, intermunicipal transit authorities, intermunicipal boards of transport and the Kativik Regional Government ;

“(2) any body declared by law to be the mandatary or agent of a municipality, and any body whose board of directors is composed in the majority of members of the council of one or more municipalities, except the Union des municipalités du Québec, the Fédération québécoise des municipalités locales et régionales (FQM) and the Union des municipalités de banlieue sur l’Île de Montréal ;

“(2.1) any body whose board of directors includes at least one elected municipal officer designated as such and whose budget is adopted or approved

by a municipality or an urban community, or more than one-half of the financing of which is provided by a municipality or an urban community, except legal persons constituted under chapters 56, 61 and 69 of the statutes of 1994 and chapter 84 of the statutes of 1995;” .

4. Section 13 of the said Act is amended by adding the following paragraph at the end :

“However, if a document is distributed in computerized form only, the applicant may obtain an intelligible transcript of the document. In such a case, the fees prescribed for the issue of a copy of a document may be charged to the applicant.”

5. Section 26 of the said Act is amended by inserting “life,” after “hazard to the” in the third line of the first paragraph.

6. Section 30 of the said Act is amended by adding the following paragraph at the end :

“However, decisions of the Conseil exécutif, other than an order the publication of which is deferred, and decisions of the Conseil du trésor may be released at the expiry of 25 years from their date.”

7. Section 40 of the said Act is amended by inserting “, proficiency” after “aptitudes” in the second line.

8. Section 47 of the said Act is amended

- (1) by replacing “twenty” at the beginning of the first paragraph by “30”;
- (2) by striking out “or,” at the end of subparagraph 5 of the first paragraph;
- (3) by adding the following subparagraph after subparagraph 6 of the first paragraph :

“(7) inform the applicant that the third person concerned by the request cannot be notified by mail.”;

- (4) by striking out the second paragraph.

9. Section 49 of the said Act is amended

- (1) by replacing “twenty” in the second line of the first paragraph by “30”;
- (2) by inserting the following paragraph after the first paragraph :

“Where the person in charge, after taking reasonable means to notify a third person by mail, is unable to do so, he may notify the third person by other means, including a public notice in a newspaper or on radio or television. If



more than one notice is required, the notice is valid only after all notices have been given.”;

(3) by inserting “or within 20 days of the date of the public notice” after “charge” in the second line of the second paragraph;

(4) by inserting the following sentence after the first sentence of the third paragraph: “Where a public notice had to be resorted to, the person in charge shall only transmit notice of the decision to the third person if that person has presented written observations.”

10. Section 53 of the said Act is amended

(1) by replacing “Nominative” in the first line by “Personal”;

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

“(1) where the person concerned consents to its disclosure; in the case of a minor, consent may be given by the person having parental authority;”.

11. The said Act is amended by inserting the following section after section 53:

“53.1. Consent to the release or use of personal information must be manifest, free and enlightened, and must be given for specific purposes. Such consent is valid only for the length of time needed to achieve the purposes for which it was requested.

Consent given otherwise than in accordance with the first paragraph is without effect.”

12. Section 55 of the said Act is amended by replacing “nominative” by “confidential”.

13. Section 57 of the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended

(1) by inserting the following subparagraph after subparagraph 2 of the first paragraph:

“(2.1) the name of a person to whom an expense incurred in the exercise of functions within a public body is reimbursed, the type of expense, the date and amount of the expense, the number of persons in respect of whom the expense was incurred and the region in which it was incurred;”;

(2) by replacing “terms and conditions” in the second line of subparagraph 3 of the first paragraph by “financial conditions agreed upon as consideration for the performance”.

14. Section 59 of the said Act is amended

(1) by replacing “nominative” in the first line of the first and second paragraphs by “personal”;

(2) by replacing “68.1” in subparagraph 8 of the second paragraph by “70.1”.

15. The said Act is amended by inserting the following section after section 62:

“62.1. Every public body that collects, holds, uses or releases personal information must develop and apply security measures to ensure the confidentiality of the information.

The public body must, particularly in the use of technology, see to it that the confidentiality of personal information is preserved.”

16. Section 65 of the said Act is amended

(1) by replacing the introductory sentence of the first paragraph by the following sentence:

“65. Every person who, on behalf of a public body, collects personal information from the person concerned or from a third person must identify himself or herself and, upon collecting such information for the first time and thereafter on request, inform the person”;

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

“The information referred to in subparagraphs 1 and 2 of the first paragraph must appear on every written communication for the purpose of collecting personal information subsequent to the first collection of information.”;

(3) by replacing “nominative” in the third paragraph by “personal”.

17. The said Act is amended by inserting the following section after section 66:

“66.1. No public body may use personal information for any purpose not relevant to the purpose for which it is collected, unless the person concerned consents thereto or unless the use of the information is necessary for the carrying out of an Act in Québec. In the latter case, the public body must notify the Commission.

However, the Commission may authorize a public body to use personal information, in exercising its powers and duties or implementing a program under its management, for purposes other than those for which it is collected.”

18. Section 67.2 of the said Act is amended

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

“67.2. A public body may, without the consent of the person concerned, release personal information to any person or body if it is necessary for the carrying out of a mandate or the performance of a contract for services or a contract of enterprise given or awarded to that person or body by the public body.”;

- (2) by replacing “entrust the duties by a mandate” in subparagraph 1 of the second paragraph by “give the mandate or award the contract”;

- (3) by replacing “the mandate” in the first line of subparagraph 2 of the second paragraph by “the mandate or the contract”;

- (4) by inserting “or the performance of the contract” after “mandate” in the fourth line of subparagraph 2 of the second paragraph.

19. Section 67.3 of the said Act is amended

- (1) by replacing “nominative” in the second and fourth lines of the first paragraph by “personal”;

- (2) by replacing “68.1” in the third line of the first paragraph by “70.1”.

20. Section 68 of the said Act is amended

- (1) by replacing “nominative” in the second line of the first paragraph by “personal”;

- (2) by inserting “or a body of a government in Canada” after “body” in the first line of subparagraph 1 of the first paragraph;

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

“(1.1) to a public body or a body of a government in Canada where the release is for the benefit of the person concerned;”;

- (4) by replacing the second paragraph by the following paragraph:

“Any release of information under this section shall be made under the terms of a written agreement indicating

- (1) the purposes for which the information is released;

- (2) the nature of the information released or the type of information released;

- (3) the means used ;
- (4) the security measures taken to ensure the confidentiality of personal information ;
- (5) the frequency of the release ;
- (6) the means to be used to inform the persons concerned ; and
- (7) the duration of the agreement.”

21. Section 68.1 of the said Act is repealed.

22. Section 69 of the said Act is replaced by the following section :

“69. The release of personal information under sections 67, 67.1 and 67.2 shall be effected in such a manner as to ensure the confidentiality of the personal information.”

23. Section 70 of the said Act is amended

- (1) by replacing the first two paragraphs by the following paragraphs :

“70. Every agreement entered into under section 68 must be submitted to the Commission for its opinion.

The Commission may take into consideration, among other factors,

- (1) the conformity of the request with the provisions of section 68 ;
- (2) the security measures to be taken to ensure the confidentiality of the information released ;
- (3) any invasion of the privacy of the persons concerned that would result from the release of information ; and
- (4) the reasons why the collection of the information from the person concerned is not required in the circumstances.

The agreement comes into force on the day a favourable opinion is issued by the Commission or, failing the issue of an opinion, on the sixtieth day after receipt of the agreement by the Commission or on any later date indicated in the agreement.

An unfavourable opinion issued by the Commission must contain reasons.

If the Commission issues an unfavourable opinion, the Government may, on request, approve the agreement and fix the applicable conditions. Before giving its approval, the Government shall publish the agreement, and any

conditions it intends to fix, in the *Gazette officielle du Québec* with a notice stating that the agreement may be approved by the Government at the expiry of a period of 30 days from the publication. The agreement comes into force on the day it is approved or on any later date fixed by the Government or indicated in the agreement.”;

(2) by replacing “such opinion and approval” in the third line of the third paragraph by “the coming into force of the agreement”.

24. The said Act is amended by inserting the following section after section 70:

“70.1. No public body may, without the consent of the persons concerned, release a personal information file to a public body or to a person requesting such release for the purpose of comparing, pairing or cross-matching the file with a file held by the public body or the person, unless the public body or the person has obtained authorization from the Commission or the Government.

The Commission may take into consideration, among other factors,

(1) the necessity of comparing, pairing or cross-matching the files for the exercise of the powers and duties of the public body or the implementation of a program under its management or for the exercise of the functions of the person;

(2) the security measures to be taken to ensure the confidentiality of the information;

(3) the measures to be taken to verify the accuracy of the findings before making a decision in respect of a person; and

(4) any invasion of the privacy of the persons concerned that would result from the release of the information.

The Commission must decide an application for authorization within 60 days of its receipt. Failing the issue of a decision, the Commission is deemed to have granted an authorization on the sixtieth day after receipt of the application for authorization or on any later date indicated in the application.

A decision of the Commission refusing authorization must contain reasons.

If the Commission refuses authorization, the Government may, following an application, grant the authorization and fix the applicable conditions. Before granting authorization, the Government shall publish the application for authorization and any conditions it intends to fix in the *Gazette officielle du Québec* together with a notice stating that the authorization may be granted by the Government at the expiry of a period of 30 days from the publication.

The content of the application, whether authorization is granted or deemed granted, as well as the documents containing the Commission's refusal and the authorization of the Government, if any, shall be tabled in the National Assembly within 30 days of the authorization or of the date on which the authorization is deemed to have been granted or, if the Assembly is not in session, within 30 days of resumption.

In addition, the content of the authorization shall be published in the *Gazette officielle du Québec* within 30 days of the document being tabled in the National Assembly."

25. The said Act is amended by inserting the following section after section 72:

"72.1. A public body shall inform the person concerned when it makes a decision based solely on a comparison, pairing or cross-matching of computerized files."

26. Section 73 of the said Act is amended

- (1) by replacing "nominative" by "personal";
- (2) by adding "or the Professional Code (chapter C-26)" at the end.

27. Sections 76 and 77 of the said Act are replaced by the following sections:

"76. Every public body shall keep a running inventory of its personal information files.

The inventory shall contain

- (1) the name of each file, the type of information it contains, the use to which the information is to be put and the file management method;
- (2) the source of the information entered in each file;
- (3) the categories of persons to which the information entered in each file relates;
- (4) the categories of persons having access to each file in the exercise of their functions;
- (5) the security measures taken to ensure the confidentiality of personal information and to ensure that the information is used for the purposes for which it was collected; and
- (6) any other indication prescribed by government regulation.

The inventory shall be kept in accordance with such rules as may be established by the Commission.

Every person has a right of access to the inventory on filing a request with the person in charge of access to documents or the protection of personal information within the public body.

“77. Whenever so required by government order, a public body shall transmit the updated inventory of its personal information files to the Commission.

A public body shall also include a summary of the inventory in its annual report.”

28. Section 79 of the said Act is amended by replacing “67.3 and 67.4 and 71 to 77 do not apply to documents filed with” in the second paragraph by “67.3 to 68, 70 to 72.1 and 74 to 77 do not apply to information communicated to”.

29. Section 84 of the said Act is amended

(1) by replacing “nominative” in the first and second paragraphs by “personal”;

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

“If the applicant for the release of information is a handicapped person, reasonable measures shall on request be taken to enable the person to exercise the rights provided by this division.”

30. Section 84.1 of the said Act is amended

(1) by replacing “or the Régie des rentes du Québec” in the third and fourth lines by “, the Régie des rentes du Québec or a professional order”;

(2) by replacing “nominative” in the fourth line by “personal”.

31. Section 85 of the said Act is amended

(1) by replacing “nominative” in the first paragraph by “personal”;

(2) by inserting “or, where required, the cost of adapted access measures” after “information” in the second line of the second paragraph;

(3) by inserting “or taking adapted access measures” after “document” in the second line of the fourth paragraph.

32. Section 87.1 of the said Act is amended

(1) by replacing “or the Régie des rentes du Québec” in the third and fourth lines of the first paragraph by “, the Régie des rentes du Québec or a professional order”;

(2) by replacing “nominative” in the fifth line of the first paragraph by “personal”.

33. Section 88.1 of the said Act is replaced by the following section :

“88.1. A public body must refuse to release personal information concerning a deceased person to the liquidator of the succession, the beneficiary of life insurance or of a death benefit under an Act applicable in Québec or the heir or successor, unless the release has a direct bearing on the applicant’s interests or rights as liquidator, beneficiary, heir or successor.”

34. Section 89.1 of the said Act is replaced by the following section :

“89.1. A public body must refuse to grant a request for correction of personal information concerning a deceased person filed by the liquidator of the succession, the beneficiary of life insurance or of a death benefit under an Act applicable in Québec or the heir or successor, unless the correction has a direct bearing on the applicant’s interests or rights as liquidator, beneficiary, heir or successor.”

35. Section 93 of the said Act is amended by inserting “or an authorization” after “agreement” in the fifth line.

36. Section 94 of the said Act is amended

(1) by replacing “the administrator” in the third line of the first paragraph by “the liquidator”;

(2) by inserting “or of a death benefit under an Act applicable in Québec,” after “insurance” in the fourth line of the first paragraph.

37. Section 98 of the said Act is amended

(1) by replacing “twenty” in the first paragraph by “30”;

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

“Where an adapted access measure is to be applied to release information to a handicapped person, the person in charge of access to documents may, before the expiry of the time limit, inform the applicant of the measure to be applied and of the reasonable time within which the information will be released; the person in charge must then release the information within that time.”

38. Section 105 of the said Act is amended



- (1) by inserting “a fixed period of” after “is” in the first paragraph;
- (2) by adding the following paragraph at the end:

“Members who have been replaced may, with the authorization of and for the period determined by the chairman, continue to exercise their functions in respect of applications for review or for examination of disputes which they have begun to hear but have yet to decide. This paragraph does not apply to members who have been dismissed.”

39. Section 108 of the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended by replacing “either of the other two members” in the fourth line by “another member”.

40. Section 114 of the said Act is amended by replacing “No extraordinary recourse provided for in articles 834 to 850” at the beginning of the first paragraph by “Except on a question of jurisdiction, no proceedings under articles 33 and 834 to 846”.

41. Section 118 of the said Act is amended

- (1) by striking out “designated” in the first paragraph;
- (2) by adding “and of Division V.1 of Chapter IV of the Professional Code” at the end of the last paragraph.

42. Section 120 of the said Act is amended by striking out “designated”.

43. Section 123 of the said Act is amended

- (1) by striking out “, and inquire into its effectiveness and degree of observance” in paragraph 1;
- (2) by adding the following paragraph after paragraph 6:

“(7) supervise the carrying out of Division V.1 of Chapter IV of the Professional Code.”

44. Section 126 of the said Act is amended

- (1) by adding “or requests the processing of which could seriously impede the operations of the body” at the end of the first paragraph;
- (2) by striking out the third paragraph.

45. The said Act is amended by inserting the following sections after section 126:

“126.1. The Commission may, of its own initiative or following a complaint from an interested person, investigate or direct a person to investigate any matter relating to access to a document or the protection of personal information held by a public body.

“126.2. On completion of an investigation, the Commission may, after giving the public body an opportunity to submit written observations, recommend or order such corrective measures as it considers appropriate to ensure access to the documents or the protection of the personal information held by the public body.

“126.3. If the Commission is of the opinion, on completion of an investigation, that personal information or files are being released by a public body without the consent of the person concerned when it is not necessary for the carrying out of an Act in Québec, otherwise than in compliance with an agreement for the exchange of information or files or with an authorization to compare, pair or cross-match files, or otherwise than in conjunction with measures which effectively ensure confidentiality, the Commission may, after giving the public body an opportunity to submit written observations,

(1) order that the public body cease the release of information or files or that the person or body having collected the information delete the information from the file or destroy the information ;

(2) order that the public body take such measures as the Commission considers appropriate to ensure compliance with the law, an agreement or an authorization ;

(3) order that the public body destroy any personal information or personal information file used or established contrary to this Act ;

(4) order that any agreement or authorization not approved or granted by the Government be terminated or suspended.”

46. Section 128 of the said Act is replaced by the following section :

“128. The Commission, on completion of an investigation pertaining to a confidential file under subparagraph 1 of the first paragraph of section 127 and after giving the public body an opportunity to submit written observations, may, in addition to its power to issue orders, recommend to the Government that the order in council authorizing the establishment of a confidential file be amended or revoked.”

47. The said Act is amended by inserting the following section after section 128.1 :

“128.2. A member of the Commission acting alone may, on behalf of the Commission, exercise the powers conferred on the Commission by sections 126 to 128.1.”

48. Section 130.1 of the said Act is amended by replacing “may refuse or cease to examine a matter if it has reasonable cause to believe that the request is frivolous or made in bad faith or that its intervention” in the first, second and third lines by “or any of its members may refuse or cease to examine a matter if there is reasonable cause to believe that the request is frivolous or made in bad faith or that the intervention of the Commission”.

49. Section 132 of the said Act is repealed.

50. Section 137 of the said Act is amended by adding the following paragraph at the end:

“Where the Commission, after taking reasonable means to notify a third person by mail, is unable to do so, it may notify the person by other means, such as a public notice in a newspaper or on radio or television. If more than one notice is required, the notification is validly made only once all notices have been given.”

51. The said Act is amended by inserting the following section after section 138:

“138.1. On receiving an application for review, the Commission may appoint a person it designates to attempt to bring the parties to an agreement.”

52. Section 141 of the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended

(1) by replacing “nominative” wherever it appears in the third line of the second paragraph by “personal”;

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

“A member of the Commission acting alone may, on behalf of the Commission, exercise the powers conferred on the Commission by this section.”

53. Section 143 of the said Act is amended by striking out “by registered or certified mail or by any other means providing evidence of the date of receipt”.

54. Section 147 of the said Act is replaced by the following sections:

“147. Any person directly interested may, on any question of law or jurisdiction, appeal to a judge of the Court of Québec from a final decision of the Commission, including an order made on completion of an investigation or, with leave of a judge of that Court, from an interlocutory decision that cannot be remedied by the final decision.

“147.1. The motion for leave to appeal from an interlocutory decision must specify the reasons why it cannot be remedied by the final decision and, after notice is given to the parties and to the Commission, shall be filed at the office of the Court of Québec, at Montréal or Québec, within 10 days after the date the decision of the Commission is received by the parties.”

55. Sections 149 to 151 of the said Act are replaced by the following sections :

“149. The appeal is brought by filing a notice of appeal at the Court of Québec, specifying the questions of law or jurisdiction which ought to be examined in appeal.

The notice of appeal shall be filed at the office of the Court, at Montréal or Québec, within 30 days after the date the final decision is received by the parties or within 10 days after the date the decision authorizing an appeal from the contested interlocutory decision is received.

“150. The filing of the notice of appeal or the motion for leave to appeal from an interlocutory decision suspends the execution of the decision of the Commission until the decision of the Court is rendered. In the case of an appeal from a decision ordering a public body to cease or refrain from doing something, the filing of the notice or motion does not suspend the execution of the decision.

“151. The notice of appeal shall be served on the parties and on the Commission within 10 days of being filed at the office of the Court of Québec.

The secretary of the Commission shall send a copy of the decision appealed from and of the documents relating to the contestation to the office of the Court, to constitute a joint record.”

56. Section 155 of the said Act is amended

(1) by inserting “, after obtaining the opinion of the Commission,” after “may” in the first line of the first paragraph ;

(2) by inserting “and for adapted access measures” after “information” in subparagraph 1 of the first paragraph ;

(3) by replacing “nominative” in subparagraph 1 of the first paragraph by “personal” ;

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

“(1.1) prescribing fees for any act performed by the Commission ;” ;

(5) by replacing “nominative” in subparagraph 4 of the first paragraph by “personal”;

(6) by replacing subparagraph 6 of the first paragraph by the following subparagraph:

“(6) prescribing the contents of the inventory of personal information files of a public body;”;

(7) by adding the following subparagraph after subparagraph 7 of the first paragraph:

“(8) determining, among the provisions of a regulation, those the violation of which constitutes an offence.”

57. Sections 156 and 157 of the said Act are repealed.

58. Section 158 of the said Act is amended by inserting “, other than personal information,” after “information” in the second line.

59. Section 159 of the said Act is amended by inserting “, other than personal information,” after “information” in the second line.

60. Section 162 of the said Act is replaced by the following sections:

“162. Every person who knowingly

(1) releases, without the consent of the person concerned, personal information that cannot be released without the person’s consent under section 53, 59, 67, 67.1, 67.2 or 68,

(2) releases, otherwise than in compliance with section 60, personal information referred to therein,

(3) obtains or attempts to obtain personal information within a public body without being qualified to receive such information or without the information being necessary for the discharge of the person’s duties, as required under section 62,

(4) collects, holds, uses or releases personal information without having developed or without applying such security measures as are appropriate to preserve the confidentiality of the information,

(5) collects personal information on behalf of a public body otherwise than in compliance with the provisions of sections 64 to 66,

(6) uses, otherwise than in compliance with section 66.1, personal information for a purpose not relevant to the purpose for which the information was collected,

(7) fails to enter a release of personal information in a register in accordance with section 67.3,

(8) releases or receives a personal information file for the purpose of comparing, pairing or cross-matching it with another file otherwise than in compliance with section 70.1,

(9) fails to enter personal information in a personal information file or to destroy personal information as provided in sections 71 and 73,

(10) fails to inform a person, in accordance with section 72.1, that the decision concerning that person is based solely on a comparison, pairing or cross-matching of computerized files ;

(11) fails to keep a running inventory of personal information files in accordance with section 76, or

(12) refuses, without a valid reason, to confirm the existence of personal information or to release personal information to the person concerned or to a person who has an interest therein or a right thereto,

(13) refuses, without a valid reason, to correct personal information at the request of the person concerned or of a person who has an interest therein or a right thereto, or

(14) contravenes an order of the Commission,

is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 and, in the case of a second or subsequent conviction, to a fine of \$10,000 to \$20,000.

“162.1. Every person who contravenes any of the provisions of a regulation of the Government the violation of which constitutes an offence is guilty of an offence and is liable to the fine prescribed in section 159.”

61. Section 164 of the said Act is amended by striking out “, in accordance with article 10 of the Code of Penal Procedure (chapter C-25.1),” in the first and second lines.

62. Section 179 of the said Act is amended by inserting the following paragraph after the first paragraph :

“The Commission must also report on Division V.1 of Chapter IV of the Professional Code and on the legislative provisions that expressly state that they apply notwithstanding this Act.”

63. Schedule B to the said Act, amended by section 3 of chapter 40 of the statutes of 1999, is again amended by inserting “and impartiality” after “honesty”.

64. The said Act is amended by replacing “nominative” by “personal” in the headings of Divisions I, II and IV of Chapter III, and in sections 54, 56, 58, 60, 61, 62, 64, 66, 67, 67.1, 71, 72, 78, 80, 81, 83, 86, 86.1, 87, 88, 89, 92, 95, 124, 125, 127, 166, 171 and 177.

#### ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

65. Section 1 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended by inserting the following paragraph after the second paragraph:

“This Act also applies to information held by professional orders to the extent provided in the Professional Code (chapter C-26).”

66. Section 10 of the said Act is amended by adding the following paragraph at the end:

“The person must, particularly in the use of technology, see to it that the confidentiality of personal information is preserved.”

67. Section 12 of the said Act is repealed.

68. Section 13 of the French text of the said Act is amended by inserting “ne” after “loi” in the last line.

69. Section 14 of the said Act is amended by inserting “collection,” after “Consent to the” in the first paragraph.

70. Section 17 of the said Act is amended by replacing “, outside Québec, information relating to persons residing in Québec” in the first and second lines by “personal information outside Québec”.

71. Section 18 of the said Act, amended by section 233 of chapter 40 of the statutes of 1999, is again amended

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

“(4) to a person to whom it is necessary to communicate the information for the carrying out of an Act in Québec or the implementation of a collective agreement;”;

(2) by inserting the following subparagraph after subparagraph 9 of the first paragraph:

“(9.1) to a person if the information is necessary for the purpose of recovering a debt owed to the enterprise;”;

(3) by replacing “and 9” in the first line of the third paragraph by “, 9 and 9.1”.

72. The said Act is amended by inserting the following sections after section 18:

“18.1. A person carrying on an enterprise may, without the consent of the person concerned, communicate personal information contained in a file concerning another person to an archival agency if the archival agency is a person carrying on an enterprise whose object is the acquisition, preservation and distribution of documents for their general informational value and if the information is communicated as part of the transfer or deposit of the archives of the enterprise.

A person carrying on an enterprise may also communicate personal information to any person without the consent of the person concerned if the document containing the information is more than 100 years old or if more than 30 years have elapsed since the death of the person concerned. However, no information relating to a person’s health may be communicated without the consent of the person concerned unless 100 years have elapsed since the date of the document.

Personal information may be communicated for research purposes, without the consent of the person concerned, before the time specified in this section has elapsed if the documents containing the information are not structured so as to allow retrieval by reference to a person’s name or identifying code or symbol and the information cannot be retrieved by means of such a reference. The person to whom the information is communicated must preserve the confidentiality of the personal information throughout the period during which it may not be communicated without the consent of the person concerned.

“18.2. A person carrying on an enterprise may, without the consent of the person concerned, communicate any information which by law is public information.”

73. Section 20 of the said Act is amended

(1) by inserting “or parties to a contract for services or a contract of enterprise” after “agents” in the second line;

(2) by replacing “or the execution of their mandates” by “, the execution of their mandates or the performance of their contracts”.

74. Section 27 of the said Act is amended by adding the following paragraph at the end:

“If the person requesting information is a handicapped person, reasonable measures must on request be taken to enable the person to exercise the rights provided by this Act.”



75. Section 30 of the said Act is amended by replacing “the administrator of the succession, the beneficiary of life insurance” in the third and fourth lines by “the liquidator of the succession, the beneficiary of life insurance or of a death benefit under an Act applicable in Québec,”.

76. Section 32 of the said Act is amended

(1) by inserting “of receipt” after “date” in the third line of the first paragraph;

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

“Where an adapted access measure is to be applied to communicate information to a handicapped person, the person holding the file may, before the expiry of the time limit, inform the person who made the request of the measure to be applied and of the reasonable time within which the information will be communicated; the person must then communicate the information within that time.”;

(3) by replacing “within 30 days of the receipt of a request” in the last paragraph by “within the applicable time”.

77. Section 33 of the said Act is amended

(1) by inserting “or for the application of adapted access measures” after “information” in the second line of the second paragraph;

(2) by inserting “or for the application of adapted access measures” after “information” in the fourth line of the third paragraph.

78. Section 40 of the said Act is amended by striking out “and the disclosure may seriously harm that third person” in the fourth and fifth lines.

79. Section 41 of the said Act is replaced by the following section:

“41. Any person carrying on an enterprise who holds a file on a deceased person must refuse to communicate personal information to the liquidator of the succession, to the beneficiary of life insurance or of a death benefit under an Act applicable in Québec or to the heir or successor, unless the information has a direct bearing on the person’s interests or rights as liquidator, beneficiary, heir or successor.”

80. Section 48 of the said Act is amended by striking out “and report to it on the result of the attempt within the time it determines” in the third and fourth lines.

81. Section 54 of the said Act is amended by striking out “by registered or certified mail or by any other means providing evidence of the date of receipt”.

82. Section 61 of the said Act is replaced by the following sections :

“61. Any person directly interested may, on any question of law or jurisdiction, appeal to a judge of the Court of Québec from a final decision of the Commission or, with leave of a judge of that Court, from an interlocutory decision that cannot be remedied by the final decision.

“61.1. The motion for leave to appeal from an interlocutory decision must specify the reasons why it cannot be remedied by the final decision and, after notice is given to the parties and to the Commission, shall be filed at the office of the Court of Québec, at Montréal or Québec, within 10 days after the date the decision of the Commission is received by the parties.”

83. Sections 63 to 66 of the said Act are replaced by the following sections :

“63. The appeal is brought by filing a notice of appeal at the Court of Québec, specifying the questions of law or jurisdiction which ought to be examined in appeal.

The notice of appeal shall be filed at the office of the Court at Montréal or at Québec, within 30 days after the date the final decision is received by the parties or within 10 days after the date the decision authorizing an appeal from the contested interlocutory decision is received.

“64. The filing of the notice of appeal or the motion for leave to appeal from an interlocutory decision suspends the execution of the decision of the Commission until the decision of the Court of Québec is rendered. In the case of an appeal from a decision ordering a person to cease or refrain from doing something, the filing of the notice or motion does not suspend the execution of the decision.

“65. The notice of appeal shall be served on the parties and on the Commission within 10 days of being filed at the office of the Court of Québec.

The secretary of the Commission shall send a copy of the decision appealed from and of the documents relating to the contestation to the office of the Court, to constitute a joint record.”

84. The said Act is amended by inserting the following section after section 70 :

“70.1. No personal information agent may invoke registration with the Commission to claim that the agent’s competence, solvency, conduct or operations are recognized or approved.”

85. Section 78 of the said Act, amended by section 233 of chapter 40 of the statutes of 1999, is again amended by replacing “in the region of the domicile of the person concerned” in the sixth and seventh lines by “in Québec”.

86. The said Act is amended by inserting the following section after section 84:

“84.1. A member of the Commission acting alone may, on behalf of the Commission, exercise the powers conferred on the Commission by sections 81 to 84.”

87. Section 85 of the said Act is amended by inserting “its members” after “Commission,” in the first line.

88. Section 88 of the said Act is amended by inserting the following paragraph after the first paragraph:

“The Commission must also report on the legislative provisions that expressly state that they apply notwithstanding this Act.”

89. Section 90 of the said Act is amended

(1) by striking out subparagraph 3 of the first paragraph;

(2) by adding the following subparagraph after subparagraph 4 of the first paragraph:

“(5) determine, among the provisions of a regulation, those the violation of which constitutes an offence.”

90. Section 91 of the said Act is replaced by the following section:

“91. Every person who

(1) upon establishing a file on another person, omits, contrary to section 4, to make an entry indicating the object of the file,

(2) collects personal information otherwise than in compliance with the provisions of sections 5 to 8,

(3) contrary to section 9, refuses to respond to a request for goods or services or to a request relating to employment,

(4) collects, holds, uses or communicates personal information concerning another person without having developed or without applying such security measures as are appropriate to preserve the confidentiality of the information,

(5) uses personal information contrary to the provisions of section 13,

(6) communicates, without the consent of the person concerned, personal information that cannot be communicated without the person’s consent under section 17, 18, 18.1 or 20,

(7) contravenes any provision of section 19,

(8) as an employee, mandatary or agent of a person carrying on an enterprise or as a party to a contract for services or a contract of enterprise, obtains or attempts to obtain personal information within the enterprise without being qualified to receive such information or without the information being necessary for the performance of the person's duties, the execution of the person's mandate or the performance of the person's contract as required under section 20,

(9) communicates or uses, otherwise than in compliance with sections 22 to 24, a nominative list or information used to establish such a list,

(10) fails to delete with diligence, from a nominative list, information concerning a person at that person's request made pursuant to section 25,

(11) refuses, without a valid reason, to confirm the existence of personal information or to release personal information to the person concerned or to a person who has an interest therein or a right thereto,

(12) refuses, without a valid reason, to correct a personal information file at the request of the person concerned or of a person who has an interest therein or a right thereto, or

(13) contravenes an order of the Commission,

is liable to a fine of \$1,000 to \$10,000 and, for a subsequent offence, to a fine of \$10,000 to \$20,000."

91. Section 92 of the said Act is amended by inserting "70.1," after "70," in the second line.

92. The said Act is amended by inserting the following sections after section 92:

"92.1. Every person who contravenes a provision of a regulation of the Government the violation of which constitutes an offence is guilty of an offence and is liable to a fine of \$200 to \$1,000 and, for a subsequent offence, to a fine of \$500 to \$2,500.

"92.2. Every person who impedes the progress of an inquiry or the hearing of an application by the Commission by providing it false or inaccurate information, or otherwise, is guilty of an offence and is liable to the fine prescribed in section 92.1.

"92.3. Every person who impedes the progress of an inquiry or the hearing of an application by the Commission by omitting, without a valid excuse, to provide the information required by the Commission is guilty of an

offence and is liable to a fine of \$50 for each day or part of a day during which the offence continues.”

93. The said Act is amended by inserting the following section after section 93:

“93.1. The Commission may institute penal proceedings for an offence under this division.”

#### PROFESSIONAL CODE

94. Section 12 of the Professional Code (R.S.Q., chapter C-26), amended by section 2 of chapter 14 of the statutes of 1998, is again amended by striking out subparagraph *a* of subparagraph 6 of the third paragraph.

95. Section 12.1 of the said Code is amended by replacing the second paragraph by the following paragraph:

“The Office may also, by regulation and after consultation with the Interprofessional Council, determine rules governing the holding of documents by a professional order for the purposes of its supervision of the practice of the profession, as well as rules and schedules for the preservation of those documents.”

96. The said Code is amended by inserting the following section after section 46:

“46.1. The secretary of the order shall prepare the roll of the members of the order. The roll shall contain, if applicable, the following information:

(1) the name of every person who has applied for entry on the roll of the order and satisfies the conditions set out in section 46;

(2) the sex of the person;

(3) the name of the person’s firm or employer;

(4) the address and telephone number of the person’s professional domicile and of the places where the person practises;

(5) the year of the person’s first entry on the roll;

(6) the principal areas of the person’s professional practice, and any specialist’s certificate or permit issued to the person by the order;

(7) the indication that the person has furnished security for professional liability or paid the amount fixed under subparagraph *p* of the first paragraph of section 86, or has been exempted from such an obligation;

(8) any period in the last five years during which the person was struck off the roll or during which the person's right to engage in professional activities was restricted or suspended pursuant to section 45.1 or 55.1 ;

(9) the indication that the person's right to engage in professional activities has been restricted or suspended pursuant to section 55 ; and

(10) the indication that the person has been struck off the roll or has been disqualified, that the person's specialist's certificate has been revoked or that the person's right to engage in professional activities has been restricted or suspended by a decision of the Bureau, otherwise than pursuant to sections 45.1, 55 and 55.1, or by a decision of a committee on discipline or of a court.

The secretary of the order shall also preserve the information concerning a person who is no longer on the roll or who is or was the subject of a special authorization under section 33 or 39.”

97. Section 86 of the said Code, amended by section 58 of chapter 40 of the statutes of 1999, is again amended by striking out subparagraph *a* of the first paragraph.

98. The said Code is amended by inserting the following after section 108 :

#### **“DIVISION V.1**

##### **“ACCESS TO DOCUMENTS AND PROTECTION OF PERSONAL INFORMATION**

“108.1. The provisions of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), except sections 8, 28, 29, 32, 37 to 39, 57, 76, 77 and 86.1, apply to the documents held by a professional order for the purposes of its supervision of the practice of the profession as they apply to documents held by a public body.

They apply, in particular, to documents concerning professional training, admission, the issue of permits, specialist's certificates or special authorizations, discipline, conciliation and arbitration of accounts, the supervision of the practice of the profession and the use of a title, professional inspection and compensation measures as well as documents concerning the adoption of standards relating to those subjects.

“108.2. The Act respecting the protection of personal information in the private sector (chapter P-39.1) applies to personal information held by a professional order, other than information held for the purposes of its supervision of the practice of the profession, as it applies to personal information held by a person who carries on an enterprise.

“108.3. A professional order may refuse to communicate the following documents and information held for the purposes of its supervision of the practice of the profession :

(1) any notice, recommendation or analysis issued or produced in the context of a decision process under way within the order, another order or the Office, until such time as the decision is made or, in the absence of a decision, until the expiry of five years from the date of the notice, recommendation or analysis ;

(2) any information the disclosure of which would likely hinder the progress of an investigation, verification or inspection conducted by a person or committee referred to in any of subparagraphs 1 to 4, 6 and 7 of the first paragraph of section 192 or reveal a confidential source or an investigation, verification or inspection method ;

(3) any notice, recommendation or analysis, including information allowing its author to be identified, the disclosure of which is liable to affect judicial proceedings.

Information allowing a group of professionals to be identified and obtained by a person or committee referred to in subparagraph 1 of the first paragraph of section 192 in the context of an inspection is confidential except if the disclosure of the information is otherwise authorized.

“108.4. A professional order shall refuse to communicate any information the disclosure of which would likely endanger the safety of a person, be injurious to the person who is the source or the subject of the information or compromise a person’s right to a fair hearing.

“108.5. The president of an order shall exercise the functions conferred on the person in charge of access to documents and the protection of personal information by the Act respecting Access to documents held by public bodies and the Protection of personal information. The president is also in charge of requests for access and correction filed under this division and the Act respecting the protection of personal information in the private sector.

The president may designate the secretary of the order or a member of its management personnel as the person responsible and delegate all or part of the president’s functions under the first paragraph to that person.

Such delegation must be in writing and be the subject of a public notice.

“108.6. The following is public information :

(1) the names, titles and functions of the president, vice-president, secretary, assistant secretary, syndic, assistant syndic, corresponding syndics, secretary of the committee on discipline and members of the personnel of an order ;

(2) the names, titles and functions of the directors of the Bureau and, where applicable, the sector of professional activity and the region they represent ;

(3) the names, titles and functions of the members of the administrative committee, the committee on discipline, the professional inspection committee and the review committee ;

(4) the names of the scrutineers designated by the Bureau under section 74 ;

(5) the names, titles and functions of the members of the council of conciliation and arbitration of members' accounts ;

(6) the names, titles and functions of the directors and officers of regional sections, if any ; and

(7) the name, title and function of the representative of the order within the Québec Interprofessional Council.

“108.7. The information contained in the following documents of an order is public information :

(1) any resolution of the Bureau or the administrative committee to strike a member off the roll or to restrict or suspend the member's right to engage in professional activities, except information of a medical nature ;

(2) any resolution of the Bureau or the administrative committee under section 158.1, 159 or 160 on the recommendation of the committee on discipline ;

(3) any resolution designating a provisional custodian under subparagraph *q* of the first paragraph of section 86 and the description of the custodian's mandate ;

(4) the hearing roll of the committee on discipline ; and

(5) the records of the committee on discipline, starting from the hearing, subject to any order banning the disclosure, publication or release of, or access to, information or documents issued by the committee on discipline or by the Professions Tribunal under sections 142 and 173.

“108.8. The information contained in the roll of an order and information concerning a person struck from the roll or authorized or once authorized to practise pursuant to section 33 or 39 is public information.

However, a request for access to such information must specify the person concerned, except where the request concerns information necessary for the carrying out of an Act.



“108.9. Any person may, on request, have access to the following documents :

(1) the annual report of the liability insurance fund of an order, together with audited financial statements, as of their transmission to the Bureau ;

(2) the liability insurance contract or policy issued to the members of an order, including any rider ;

(3) any portion of the minutes of the annual meeting or a special meeting of the members of an order or section concerning the supervision of the practice of a profession.

“108.10. A professional order may communicate personal information without the consent of the person concerned

(1) to a person or committee referred to in section 192 or to the Professions Tribunal, where the information is necessary for the purposes of their functions ;

(2) to another professional order governed by this Code or to a body exercising similar functions outside Québec, where the information is necessary for the purposes of an investigation, a professional inspection or the issue of a permit ;

(3) to the Office for the purposes of its functions ;

(4) to any other person by way of a press release or notice or otherwise, where the information relates to professional activities or other similar activities of the person concerned that may endanger the life, health or safety of others.

“108.11. The Commission d'accès à l'information is responsible for supervising the carrying out of this division.”

99. Section 120.2 of the said Code is amended by striking out the second paragraph.

100. Section 120.3 of the said Code is repealed.

101. Section 197 of the said Code is amended by adding “and the minister responsible for the administration of the Act respecting Access to documents held by public bodies and the Protection of personal information is entrusted with the application of Division V.1 of Chapter IV” at the end of the second paragraph.

## TRANSITIONAL AND FINAL PROVISIONS

102. Section 14.9 of the Financial Administration Act (R.S.Q., chapter A-6) is amended by replacing “68.1 and 70” by “70 and 70.1”.

103. Section 19 of the Archives Act (R.S.Q., chapter A-21.1) is amended

(1) by replacing “not later than 150 years after their date” by “100 years after their date or 30 years after the date of death of the person concerned. However, no information relating to the health of a person may be disclosed without the consent of the person concerned until 100 years have elapsed since the date of the document”;

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

“However, the documents may be disclosed for research purposes before the expiry of those periods provided the personal information is not structured so as to allow retrieval by reference to a person’s name or identifying code or symbol and the information cannot be retrieved by means of such a reference. The person to whom the documents are disclosed must preserve the confidentiality of the personal information throughout the period during which it may not be disclosed without the consent of the person concerned.”

104. Section 26 of the said Act is amended

(1) by replacing “nominative” in the second paragraph by “personal”;

(2) by adding “or, in the case of information relating to the health of the deceased person, 100 years from the date of the document” at the end of the second paragraph.

105. Section 65.0.1 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 42 of chapter 89 of the statutes of 1999, is again amended by striking out the second sentence of the second paragraph.

106. Section 659 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2) is amended by replacing “70” in the third line of the third paragraph by “70.1”.

107. Section 282 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by replacing “70” in the first line of the first paragraph by “70.1”.

108. The Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011) is amended by inserting the following section after section 6 :

“6.1. The Institut shall adopt a policy concerning the communication of personal information files for comparison, pairing or cross-matching purposes.

The policy must be submitted to the Commission d’accès à l’information for an opinion and be approved by the Government.”

109. Section 9 of the said Act is amended by replacing “transmission” in the first paragraph by “communication”.

110. The said Act is amended by adding the following sections after section 9:

“9.1. The communication of personal information held by a public body to the Institut for the pursuit of the latter’s mission, is deemed necessary for the carrying out of this Act within the meaning of section 67 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).

The communication of personal information to a statistical agency of a government other than the Government of Québec by the Institut is also deemed necessary.

“9.2. The Institut shall, every three months, transmit a notice to the Commission d’accès à l’information indicating

(1) the names of the public bodies that have communicated personal information to the Institut and the names of the public bodies and statistical agencies to which the Institut has communicated personal information;

(2) the nature of the information communicated or the type of information communicated;

(3) the object of the statistical research for which the information is communicated; and

(4) the security measures taken to preserve the confidentiality of personal information.

“9.3. The communication of personal information files to the Institut by a public body for the purpose of comparing, pairing or cross-matching the information with personal information held by the Institut must be made within the scope of a written agreement.

The agreement must contain the particulars set out in subparagraphs 1 to 5 and 7 of the second paragraph of section 68 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

The agreement must be submitted to the Commission d’accès à l’information for an opinion as to its conformity with the following requirements:

(1) the agreement contains the particulars referred to in the second paragraph;

(2) the communication is to be made solely for statistical purposes;

(3) the communication is not intended for the establishment of a cumulative personal information file on citizens;

(4) the communication will result in savings, will reduce the need for surveys or constitutes the best use of data for statistical purposes;

(5) the agreement is consistent with the policy of the Institut as regards the communication of personal information files for comparison, pairing or cross-matching purposes;

(6) the communication of personal information files has been authorized in writing by the director general of the Institut.

The agreement comes into force upon the issue of a favourable opinion by the Commission or, in the absence of an opinion, 60 days after receipt of the agreement by the Commission or on any later date provided by the agreement.

The Commission must give reasons for any unfavourable opinion.

If the Commission issues an unfavourable opinion, the Government may, on request, approve the agreement and fix the applicable conditions. The agreement comes into force on the day of its approval or on any later date fixed by the Government or specified in the agreement.

The agreement, together with the opinion of the Commission and, where applicable, the document evidencing the approval of the Government shall be tabled in the National Assembly within 30 days of the coming into force of the agreement if the Assembly is in session or, if it is not sitting, within 30 days of the opening of the next session, or of resumption.

The agreement must, in addition, be published in the *Gazette officielle du Québec* within 30 days of its being tabled in the National Assembly.

The Government may, after obtaining the opinion of the Commission, revoke the agreement at any time.

“9.4. Section 9.3 applies to the communication of personal information held by the Institut to a statistical agency of a government other than the Government of Québec, where the communication is made for comparison, pairing or cross-matching purposes.

“9.5. The addition of personal information obtained from the persons concerned in the course of a survey conducted by the Institut to information concerning those persons communicated by a public body for the purposes of the survey does not constitute a comparison, pairing or cross-matching for the purposes of section 9.3.”

111. Section 10 of the said Act is amended by replacing “transmitted” and “transmission” in subparagraph 2 of the first paragraph by “communicated” and “communication”, respectively.

112. Section 11 of the said Act is amended by replacing “data-sharing agreement” in subparagraph 3 of the first paragraph by “agreement on the exchange of data”.

113. Section 25 of the said Act is amended

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

“25. Any information obtained under this Act that can be connected with a person, enterprise, body or association is confidential.”;

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

“The aforementioned persons must, upon commencing in office and every year thereafter, take the oath of discretion appearing in the schedule. The oath is deemed to be valid for any undertaking otherwise required with respect to the protection of confidentiality.”

114. The said Act is amended by adding the following schedule at the end :

“SCHEDULE  
“(Section 25)

“OATH OF DISCRETION

“I, A.B., solemnly swear that I will neither disclose nor make known by any means anything whatsoever that I have learned in the exercise of my functions, unless I am duly authorized to do so in accordance with the Act respecting the Institut de la statistique du Québec.”

115. Section 71.4 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 43 of chapter 65 of the statutes of 1999, is again amended by replacing “68.1 and 70” in the second paragraph by “70 and 70.1”.

116. Section 118.5 of the Environment Quality Act (R.S.Q., chapter Q-2), amended by section 17 of chapter 56 of the statutes of 1992 and section 34 of chapter 75 of the statutes of 1999, is again amended by adding the following paragraph after the second paragraph :

“Access may be had to the information contained in the documents to which the register refers, other than the information referred to in section 118.4, subject to the restrictions to the right of access provided for in sections 23, 24 and 28 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

117. Section 223 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing “70” at the end of the second paragraph by “70.1”.

118. The Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is amended by inserting the following section after section 162.1 :

“162.2. A supply, by a person who carries on a business, of a service consisting in giving access to personal information pursuant to the Act respecting the protection of personal information in the private sector (chapter P-39.1) is exempt.”

119. The words “nominative” and “nominal”, wherever they appear in the following provisions, are replaced by the word “personal” :

- (1) section 20 of the Archives Act (R.S.Q., chapter A-21.1);
- (2) section 155.4 of the Automobile Insurance Act (R.S.Q., chapter A-25);
- (3) section 129.1.1 of the Building Act (R.S.Q., chapter B-1.1);
- (4) section 610 of the Highway Safety Code (R.S.Q., chapter C-24.2);
- (5) sections 26.3 and 53 of the Public Curator Act (R.S.Q., chapter C-81);
- (6) section 659.1 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- (7) section 282.1 of the Act respecting school elections (R.S.Q., chapter E-2.3);
- (8) section 40.42 of the Election Act (R.S.Q., chapter E-3.3);
- (9) section 1 of the Act to establish the permanent list of electors (R.S.Q., chapter E-12.2);
- (10) section 27 of the Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011);
- (11) sections 8 and 9 of the Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (chapter M-15.001);
- (12) section 71 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- (13) section 37.12 of the Act respecting the Régie de l’assurance maladie du Québec (R.S.Q., chapter R-5);
- (14) section 123.4.1 of the Act respecting labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);

(15) section 433 and paragraph 26 of section 505 of the Act respecting health services and social services (R.S.Q., chapter S-4.2);

(16) sections 7 and 8 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);

(17) sections 98, 99 and 227 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);

(18) article 542 of the Civil Code of Québec (1991, chapter 64); and

(19) section 20 of the Act respecting the Bureau d'accréditation des pêcheurs et des aides-pêcheurs du Québec (1999, chapter 32).

Unless the context indicates otherwise, in any other Act and in any regulation, order in council, order, proclamation, ordinance, contract, agreement, accord or other document, the word “nominative”, where it qualifies information, is replaced by the word “personal”.

120. Any provision of an agreement referred to in section 68.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information in force at the time of the repeal of that section by section 21 of this Act is deemed to have been authorized by the Commission d'accès à l'information or the Government pursuant to section 70.1 enacted by section 24 of this Act.

Any draft agreement for the comparison, pairing or cross-matching of personal information files submitted to the Commission for its opinion before the coming into force of section 24 of this Act is deemed to be an application for authorization submitted to the Commission on the date of coming into force of this Act.

121. Any draft agreement for the release of personal information submitted to the Commission d'accès à l'information before the coming into force of section 23 of this Act is deemed, for the purpose of computing the 60-day period introduced by that section, to have been submitted to the Commission on the date of coming into force of this Act.

122. A professional order may preserve documents held by it for the purpose of supervising the practice of a profession until the coming into force of a regulation concerning preservation schedules made by the Office under section 12.1 of the Professional Code, as amended by section 95 of this Act.

123. This Act comes into force on *(insert here the date of assent to this Act)*, except section 1, section 25, paragraph 2 of section 26, paragraph 1 of section 30, paragraph 1 of section 32, paragraph 2 of section 41, paragraph 2 of section 43 and sections 65 and 94 to 101, which come into force on *(insert here the date occurring six months after the date of assent to this Act)*.