



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 86

**An Act to amend the Act respecting Access
to documents held by public bodies and the
Protection of personal information and
other legislative provisions**

Introduction

**Introduced by
Madam Michelle Courchesne
Minister of Relations with the Citizens and Immigration**

**Québec Official Publisher
2004**

EXPLANATORY NOTES

This bill proposes various amendments in matters of access to information and the protection of personal information.

First, the bill makes some additions and clarifications regarding the notion of public body for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information. The bill also amends certain rules regarding access to the documents held by public bodies. Thus, it provides that such bodies will have to set up a classification plan for their documents and that certain public bodies will have to implement the information distribution policy to be established by the Government. Changes and additions are also made as regards certain restrictions to the right of access.

In matters of protection of personal information, the bill clarifies the rules regarding the collection, use, release, keeping and destruction of personal information held by a public body. The bill provides that security measures necessary to ensure the protection of personal information must be taken, and relaxes certain rules relating to the collection, use and release of personal information, while stating clearly that, with some exceptions, information cannot be used within a public body except for the purposes for which it was collected. Various adjustments are also made to the procedure for obtaining access to personal information and to have personal information corrected.

As regards the Commission d'accès à l'information, the bill provides for the adoption by the Office of the National Assembly of a procedure for selecting the members of the Commission, whose number will increase from five to seven. The principle of approval of their appointment by not less than two thirds of the members of the National Assembly is maintained. The bill also provides that the adjudication and oversight functions currently exercised by the Commission will now be carried out by two separate divisions of the Commission. In matters of oversight, the bill allows a member of the Commission to exercise alone the investigative powers given to the Commission, and sets out clearly the Commission's powers to make orders. As regards adjudication, the Commission's duty to exercise its review function diligently and efficiently is reaffirmed and specific

time frames are provided. The bill abolishes the requirement to obtain leave of a judge of the Court of Québec in order to appeal from a final decision of the Commission.

The Act respecting the protection of personal information in the private sector is also amended. Thus, the rules relating to the collection of personal information and their confidentiality will no longer apply to personal information which by law is public. Other proposed amendments to that Act are consequential to those made to the organization of the Commission d'accès à l'information, to the manner in which its powers are to be exercised, and to the rules applicable from now on in matters of appeal.

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 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.

Certain amendments are made to other Acts to allow the victims of offences to obtain, from the Commission québécoise des libérations conditionnelles and the warden of a house of detention, information concerning the decisions and dates relating to the release of the person who committed the offence.

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);
- 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);
- Act respecting the Bureau d'accréditation des pêcheurs et des aides-pêcheurs du Québec (R.S.Q., chapter B-7.1);

- 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 La Financière agricole du Québec (R.S.Q., chapter L-0.1);
- Act to promote the parole of inmates (R.S.Q., chapter L-1.1);
- Act respecting the Ministère de l'Emploi et de la Solidarité sociale 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);
- Animal Health Protection Act (R.S.Q., chapter P-42);
- 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 labour relations, vocational training and manpower management in the construction industry (R.S.Q., chapter R-20);
- Act respecting correctional services (R.S.Q., chapter S-4.01);
- 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 correctional system (2002, chapter 24);
- Act respecting commercial aquaculture (2003, chapter 23).

Bill 86

AN ACT TO AMEND THE ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION 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 a professional order, to the extent provided by the Professional Code (chapter C-26).”

2. Section 3 of the said Act is amended by inserting the following paragraph after the second paragraph:

“Local development centres and regional conferences of elected officers governed by the Act respecting the Ministère du Développement économique et régional et de la Recherche (chapter M-30.01) are also classed as public bodies.”

3. Section 5 of the said Act is amended

(1) by replacing paragraphs 1 and 2 by the following paragraphs:

“(1) a municipality, a metropolitan community, an intermunicipal board, a public transit authority 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 a municipality;

“(2.1) any body whose board of directors includes an elected municipal officer designated in that capacity and for which a municipality or a metropolitan community adopts or approves the budget or contributes more than half the financing;”;

(2) by adding the following paragraph:

“However, the Union des municipalités du Québec and the Fédération québécoise des municipalités locales et régionales are not municipal bodies.”

4. Section 6 of the said Act is amended

(1) by replacing “, the Université du Québec and its branches, research institutes and schools of higher education” at the end of the first paragraph by “and the university institutions mentioned in paragraphs 1 to 11 of section 1 of the Act respecting educational institutions at the university level (chapter E-14.1)”;

(2) by replacing “institutions of higher education more than one-half of whose operating expenses are paid out of the appropriations entered in the budget estimates tabled in the National Assembly” at the end of the second paragraph by “the persons that operate them, as regards the documents held in the performance of their duties relating to the educational services covered by the accreditation and to the management of the resources assigned to those services”.

5. Section 8 of the said Act is amended by replacing “, and given public notice by the delegator.” in the third paragraph by “, and the delegator must send a notice of it to the Commission d’accès à l’information and publish the notice in the *Gazette officielle du Québec*.”

6. Section 11 of the said Act is amended

(1) by inserting “, transfer to an alternative medium” after “reproduction” in the first line of the second paragraph;

(2) by replacing “or transmitting” in the second line of the fourth paragraph by “, transferring or transmitting”.

7. Section 16 of the said Act is amended

(1) by replacing “a list setting forth the order of classification of the documents” in the second and third lines of the first paragraph by “a classification plan indicating the order in which documents are classified”;

(2) by replacing “It” in the third line of the first paragraph by “The classification plan”;

(3) by adding the following sentence at the end of the first paragraph: “The public body must also comply with the standards and conditions for archive management set out in the regulation under section 37 of the Archives Act (chapter A-21.1) that are applicable to the classification plan.”;

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

“A person has a right of access to the classification plan on request, except as regards information confirmation of the existence of which may be refused under this Act.”

8. The said Act is amended by inserting the following section after section 16:

“**16.1.** A government department or body referred to in section 3 or a public body to which a government regulation applies must implement the information distribution policy established by regulation of the Government. That policy includes measures promoting access to information and identifies the types of documents or information accessible by law that must be systematically distributed, including via the Internet over a web site.”

9. Section 17 of the said Act is amended by replacing “must publish and distribute yearly in every region of Québec” in the first and second lines by “shall distribute and update yearly”.

10. Section 22 of the said Act is amended by inserting “or reveal a loan, investment or debt management strategy” at the end of the third paragraph.

11. Section 25 of the said Act is amended by replacing “in carrying out an Act requiring that the information be accessible to the applicant” in the fifth line by “under an Act that provides for the release of information”.

12. Section 26 of the said Act is repealed.

13. Section 28 of the said Act is amended by striking out “held” in the fourth line of the second paragraph and by inserting “, or by the members of the personnel of its agents or mandataries” after “personnel” in the seventh line of that paragraph.

14. Section 30 of the said Act is amended by adding the following paragraph:

“However, the decisions of the Conseil exécutif, except in the case of an order whose publication is deferred, and the decisions of the Conseil du trésor may be released on the day that is 25 years after the date on which they were made.”

15. The said Act is amended by inserting the following section after section 30:

“**30.1.** A public body may refuse to release or to confirm the existence of information if, as a result of its disclosure, a budget policy of the Government would be revealed before it is made public by the Minister of Finance.”

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

17. The said Act is amended by inserting the following subdivision after section 41:

“§7. — *Inapplicable restrictions*

“**41.1.** The restrictions set out in this division, except those described in sections 28, 29, 30 and 33, do not apply to information that reveals or confirms the existence of an immediate hazard to the life, health or safety of a person or a serious or irreparable violation of the right to environmental quality, unless its disclosure would likely seriously interfere with measures taken to deal with such a hazard or violation.

Those restrictions, except the restriction set out in section 28, do not apply to information concerning the quantity, quality or concentration of contaminants emitted, released, discharged or deposited by a source of contamination, or concerning the presence of a contaminant in the environment.

“**41.2.** A public body may release information to which a restriction of the right of access under section 23, 24, 28 or 29 applies in the following cases:

(1) to its attorney if the information is necessary to prosecute an offence under an Act administered by the body, or to the Attorney General if the information is necessary to prosecute an offence under an Act applicable in Québec;

(2) to its attorney, or to the Attorney General if the latter is acting as the body’s attorney, if the information is necessary for the purposes of judicial proceedings other than those referred to in paragraph 1;

(3) to a person responsible by law for the prevention, detection or repression of crime or statutory offences, if the information is necessary to prosecute an offence under an Act applicable in Québec;

(4) to a public body if the release of information is necessary for the application of an Act in Québec, whether or not the law explicitly provides for the release of the information; and

(5) to a public body, in the case of information referred to in section 23 or 24, if the release of information is necessary for the purposes of a service to be provided to a third person.”

18. Section 42 of the said Act is amended by adding the following paragraph:

“If the request is not sufficiently precise or if a person requires it, the person in charge must assist in identifying the document likely to contain the information sought.”

19. Section 44 of the said Act is repealed.

20. Section 46 of the said Act is amended by replacing “the recourses provided by Chapter V” at the end of the second paragraph by “the proceeding for review provided for by Division III of Chapter IV”.

21. Section 47 of the said Act is amended

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

“(1.1) grant access to the document in an alternative medium for persons with a visual or hearing impairment, unless the transfer would raise serious practical difficulties, in particular because of the cost;”;

(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 a third person concerned by the request cannot be notified by mail and will be informed by a public notice.”

22. Section 49 of the said Act is amended

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

“If the person in charge does not succeed in notifying a third person by mail after taking reasonable steps to do so, the third person may be notified in another manner, such as by public notice in a newspaper in the place where the last known address of the third person is located. If there is more than one third person and more than one notice is required, notification is deemed to have been completed only once all the notices have been made.”;

(2) by inserting the following sentence after the first sentence of the third paragraph: “If the person in charge has given public notice, a notice of the decision need only be sent to the third person who submitted written observations.”

23. Section 51 of the said Act is amended

(1) by replacing “with a notice” in the first line of the second paragraph by “by the text of the provision on which the refusal is based, where applicable, and by a notice”;

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

“The decision must be accompanied by a notice indicating the recourse provided for in Division III of Chapter IV and indicating in particular the time limit within which it may be exercised.”

24. 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) the person to whom the information relates consents to its disclosure; in the case of a minor, consent may also be given by the person having parental authority;”.

25. Section 55 of the said Act is amended

(1) by replacing “nominative information” by “subject to the rules for the protection of personal information set out in this chapter”;

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

“However, a public body that holds a file containing such information may refuse access to it or allow access only for consultation if the person in charge has reasonable cause to believe that the information will be used for commercial purposes, for solicitation, or for unlawful ends.”

26. Section 59 of the said Act is amended

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

(2) by replacing “required for the purposes of a prosecution for” in the first and second and in the third and fourth lines of subparagraph 1 of the second paragraph by “necessary to prosecute”;

(3) by replacing “required” in the second line of subparagraph 2 of the second paragraph by “necessary”;

(4) by replacing “required for the purposes of a prosecution for” in the second and third lines of subparagraph 3 of the second paragraph by “necessary to prosecute”;

(5) by inserting “66,” after “61,” in subparagraph 8 of the second paragraph;

(6) by replacing “67.2, 68 and 68.1” in subparagraph 8 of the second paragraph by “67.2 and 68”;

(7) by inserting “or by a person or body acting in conformity with an Act that requires a report of the same nature” after “by a police force” in the second line of subparagraph 9 of the second paragraph.

27. Section 60 of the said Act is amended

(1) by replacing “agreeing to the release of” in the first line of the first paragraph by “releasing”;

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

(3) by replacing “required” in the third line of the first paragraph by “necessary”;

(4) by replacing “required” in the first line of the third paragraph by “necessary”;

(5) by replacing “agrees to release” in the first line of the fourth paragraph by “releases”;

(6) by replacing “nominative” in the first line of the fourth paragraph by “personal”;

(7) by replacing “the protection of the personal information within the public body must record the request” at the end of the fourth paragraph by “the protection of personal information within the public body must record the fact”.

28. The heading of Division II of Chapter III of the said Act is replaced by the following:

“COLLECTION, USE, RELEASE AND KEEPING OF PERSONAL INFORMATION

“63.1. A public body must take the security measures necessary to ensure the protection of the personal information collected, used, released, kept or destroyed and that are reasonable given the sensitivity of the information, the purposes for which it is to be used, the quantity and distribution of the information and the medium on which it is stored.

“63.2. A government department or body referred to in section 3 or a public body to which a government regulation applies must adopt and implement a personal information protection policy established by regulation of the Government that determines, in particular, guidelines and measures to ensure compliance with the obligation to protect personal information.”

29. Section 64 of the said Act is amended

(1) by replacing “nominative information if it is not necessary for the carrying out of the attributions” by “personal information if it is not necessary for the exercise of the rights and powers”;

(2) by adding the following paragraph:

“A public body may, however, collect personal information if it is necessary for the exercise of the rights and powers of the public body or for the implementation of a program of the public body that comes under the authority of a Minister to whom it is responsible or of the public body with which it cooperates to provide services.”

30. Section 65 of the said Act is amended

(1) by replacing the first three lines of the first paragraph by the following:

“65. A person who collects personal information from the person to whom it relates or from a third person on behalf of a public body must introduce himself and, when information is first collected and subsequently on request, inform the person concerned or the third person”;

(2) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) of the purposes for which the information is collected;”;

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

“The information that must be given under subparagraphs 1 and 2 of the first paragraph must appear on any written document used to obtain personal information after the first time such information is collected.

If personal information is collected from a third person, the person collecting it must introduce himself and give the third person the information referred to in subparagraphs 1, 5 and 6 of the first paragraph.”;

(4) by striking out the third paragraph.

31. The said Act is amended by inserting the following section after section 65:

“65.1. Personal information may not be used within a public body except for the purposes for which it was collected.

A public body may, however, use such information for another purpose with the consent of the person to whom it relates, or without that consent

(1) if the information is used for purposes consistent with the purposes for which it was collected;

(2) if the information is clearly used for the benefit of the person to whom it relates;

(3) if the information is necessary for the application of an Act in Québec, whether or not the law explicitly provides for its use; and

(4) if the information is necessary for the purposes of a service to be provided to the person.

A public body that uses information exclusively in the case referred to in subparagraph 4 of the second paragraph must first inform the Commission.”

32. Section 66 of the said Act is replaced by the following section:

“66. A public body may release information on the identity of a person without the person’s consent in order to collect personal information already assembled by a person or a private body. The public body shall first inform the Commission of its intention.”

33. Section 67 of the said Act is amended

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

(2) by replacing “for the carrying out of an Act in Québec” in the last line by “for the application of an Act in Québec, whether or not the law explicitly provides for the release of the information”.

34. 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 release personal information to a person or body without the consent of the person to whom it relates if the information is necessary for carrying out a mandate or performing a contract for work or services entrusted 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 contract”;

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

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

(5) by replacing the last paragraph by the following paragraph:

“The second paragraph does not apply if the mandatary or the person performing the contract is another public body or a member of a professional order.”

35. 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 “contemplated in sections 67, 67.1, 67.2, 68 and 68.1” in the third line of the first paragraph by “referred to in sections 66, 67, 67.1, 67.2 and 68”;

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

“(3) the purposes for which the information is released;”.

36. Section 67.4 of the said Act is amended by inserting “, except as regards information confirmation of the existence of which may be refused under this Act” at the end of the first paragraph.

37. Section 68 of the said Act is amended

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

(2) by replacing “public body where the release is necessary for the carrying out of the attributions” in subparagraph 1 of the first paragraph by “public body or an agency of another government if it is necessary for the exercise of the rights and powers”;

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

“(1.1) to a public body or an agency of another government if it is clearly for the benefit of the person to whom it relates;”;

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

“(3) to a person or body if it is necessary for the purposes of a service to be provided to the person concerned by a public body, in particular for identifying the person.”;

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

“The information is released under a written agreement that indicates

(1) the identity of the public body releasing the information and of the person or body collecting it;

(2) the purposes for which the information is released;

(3) the nature of the information released;

(4) the method of transmitting the information;

(5) the security measures necessary to ensure the protection of the information;

(6) the intervals at which the information is released; and

(7) the duration of the agreement.”

38. Section 68.1 of the said Act is replaced by the following section:

“68.1. A public body that releases a personal information file under section 67 for the purpose of comparing it with a file held by a person or body must first inform the Commission.”

39. Section 69 of the said Act is repealed.

40. Section 70 of the said Act is replaced by the following section:

“70. An agreement referred to in section 68 must be submitted to the Commission for an opinion.

The Commission must consider

(1) whether the agreement conforms to the conditions set out in section 68;

(2) the impact of the release of the information on the privacy of the person concerned compared with the need for the information of the body or person given access to it.

The Commission must give an opinion with reasons within 45 days of receiving the agreement. If it is the chairman’s belief that the request for an opinion cannot be processed within that time without impeding the normal course of operations of the Commission, the chairman may, before the expiry of the time limit, extend it by up to 20 days. The chairman must give notice to that effect to the parties to the agreement within the 45-day time limit.

The agreement comes into force on the Commission’s giving a favourable opinion or on any later date provided in the agreement. The Commission must make the agreement and its opinion public. Failing an opinion within the time provided, the parties to the agreement are authorized to carry out the agreement.

If the Commission gives an unfavourable opinion, the Government may, on request, approve the agreement and set the applicable conditions. Before approving the agreement, the Government shall publish it in the *Gazette officielle du Québec* together with any conditions it intends to set and a notice that it may approve the agreement on the expiry of 30 days after the publication, and that, meanwhile, any interested person may send comments to the person designated in the notice. The agreement comes into force on the day of its approval or any later date set by the Government or specified in the agreement.

The agreement referred to in the fifth paragraph, together with the opinion of the Commission and the approval of the Government, are tabled in the National Assembly within 30 days of the approval if the Assembly is sitting or, if it is not sitting, within 30 days of resumption. The Government may revoke an agreement referred to in the fifth paragraph at any time.”

41. The said Act is amended by adding the following section after section 70:

“**70.1.** A public body that releases personal information outside Québec or that entrusts to a person or a body outside Québec the task of holding, using or releasing such information on its behalf must take the necessary measures to ensure that the information receives protection equivalent to that afforded under this Act.”

42. Section 72 of the said Act is amended

- (1) by replacing “nominative” in the first line by “personal”;
- (2) by adding “or used” after “collected” at the end.

43. Section 73 of the said Act is replaced by the following section:

“**73.** When the purposes for which personal information was collected or used have been achieved, the public body must destroy the information, subject to the Archives Act or the Professional Code.”

44. Section 76 of the said Act is replaced by the following section:

“**76.** A public body must establish and keep up to date an inventory of its personal information files.

The inventory must contain the following information:

- (1) the title of each file, the classes of information it contains, the purposes for which the information is kept and the method used to manage each file;
- (2) the source of the information entered in each file;
- (3) the categories of persons to whom the information entered in each file relates;
- (4) the categories of persons who have access to each file in carrying out their duties;
- (5) the security measures taken to ensure the protection of personal information.

A person has a right of access to the inventory on request, except as regards information confirmation of the existence of which may be refused under this Act.”

45. Section 77 of the said Act is repealed.

46. Section 79 of the said Act is amended

(1) by replacing “64” and “77” in the first line of the first paragraph by “63.1” and “76”;

(2) by replacing “64” and “77” in the first line of the second paragraph by “63.1” and “76”;

(3) by replacing “documents filed with” in the first and second lines of the second paragraph by “information released to”.

47. Section 84 of the said Act is amended

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

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

“A public body may also release information in an alternative medium for persons with a visual or hearing impairment, unless the transfer would raise serious practical difficulties, in particular because of the cost.”

48. 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”.

49. Section 85 of the said Act is amended

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

(2) by inserting “, transferring to an alternative medium” after “reproducing” in the second line of the second paragraph;

(3) by inserting “, transferring” after “reproducing” in the second line of the fourth paragraph.

50. 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 fourth line of the first paragraph by “personal”;

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

“In the case of medical information, no other restriction may be put forward.”;

(4) by replacing “In such a case, the public body” in the first line of the second paragraph by “The public body”;

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

“A public body not referred to in the first paragraph that holds medical information may refuse to release it to the person to whom it relates only if serious harm to that person’s health would likely result and on the condition that the body offers to release the information to a health care professional chosen by that person.”

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

“**88.1.** A public body must refuse to release personal information to the liquidator of the succession, to a beneficiary of life insurance or of a death benefit or to the heir or successor of the person to whom the information relates unless the information affects their interests or rights as liquidator, beneficiary, heir or successor.”

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

“**89.1.** A public body must refuse to accept a request for correction of personal information filed by the liquidator of the succession, the beneficiary of life insurance or of a death benefit, or by the heir or successor of the person to whom the information relates, unless the correction affects their interests or rights as liquidator, beneficiary, heir or successor.”

53. Section 94 of the said Act is amended by replacing “successor of that person, or the administrator of the succession, a beneficiary of life insurance or the person having parental authority” at the end of the first paragraph by “successor of that person, the liquidator of the succession, a beneficiary of life insurance or of a death benefit, or the person having parental authority even if the minor child is deceased”.

54. Section 95 of the said Act is amended

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

(2) by adding the following paragraph:

“If the request is not sufficiently specific or if a person requires it, the person in charge must assist in identifying the document likely to contain the information sought.”

55. Section 96 of the said Act is repealed.

56. Section 97 of the said Act is amended by replacing “the recourses provided by Chapter V” at the end of the second paragraph by “the proceeding for review provided for in Division III of Chapter IV”.

57. Section 101 of the said Act is amended by replacing the second sentence by the following sentence: “It must be accompanied by the text of the provision on which the refusal is based, if applicable, and by a notice informing the applicant of the proceeding for review provided for in Division III of Chapter IV and indicating in particular the time limit within which it may be exercised.”

58. Section 103 of the said Act is amended by adding the following paragraph:

“The Commission consists of two divisions: the oversight division and the adjudication division.”

59. Section 104 of the said Act is amended

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

“**104.** The Commission is composed of seven members, including a chairman and two vice-chairmen.”;

(2) by adding the following sentences at the end of the second paragraph: “The resolution indicates the division to which the members are assigned for the duration of their terms. However, in addition to a vice-chairman, at least three members must be assigned to the adjudicative division. The other vice-chairman is assigned to the oversight division.”

60. The said Act is amended by inserting the following section after section 104:

“**104.1.** The members of the Commission are chosen beforehand according to the procedure for selecting persons qualified for appointment as members of the Commission established by regulation of the Office of the National Assembly. The regulation may, in particular,

(1) determine the manner in which a person may seek office as a member;

(2) establish a selection committee to assess the qualifications of candidates for the office of member and give an opinion on the candidates to the Office;

(3) determine the composition of the committee and the method of appointing the committee members;

(4) determine the selection criteria to be taken into account by the committee; and

(5) determine the information that the committee may require of a candidate and the consultations it may carry out.

The members of the committee are not remunerated, except in the cases, on the conditions and to the extent determined by the Office of the National Assembly. They are, however, entitled to the reimbursement of expenses incurred in the exercise of the functions of office, on the conditions and to the extent determined by regulation of the Office of the National Assembly.”

61. Section 105 of the said Act is amended

(1) by replacing “not over” in the first paragraph by “of fixed duration not exceeding”;

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

“The selection procedure referred to in section 104.1 does not apply to a member whose term is renewed.

With the authorization of the chairman and for a period the chairman determines, a member who has been replaced may continue to exercise the functions of office in order to conclude any applications for review or for examination of disagreements that the member has received and has not yet decided.”

62. Section 108 of the said Act is amended

(1) by inserting “or if the position of chairman is vacant” after “unable to act” in the first line;

(2) by replacing “either of the other two members” in the fourth line by “another member”;

(3) by replacing “to act as chairman for as long as the chairman is absent or unable to act” at the end by “to act in the place of the chairman”.

63. Section 110 of the said Act is replaced by the following section:

“110. The chairman of the Commission is responsible for the management and administration of the affairs of the Commission. The chairman may exercise the powers of the Commission under sections 118 and 120 by delegation.

Each vice-chairman exercises the powers of the chairman in the division for which that vice-chairman is responsible, under the authority of the chairman.”

64. The said Act is amended by inserting the following section after section 110:

“**110.1.** The Commission shall adopt internal management rules and rules of ethics by regulation.

The rules of ethics must be published in the *Gazette officielle du Québec*.”

65. 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 extraordinary recourse under articles 33 and 834 to 846”.

66. Section 118 of the said Act is amended

(1) by striking out “designated” in the first line of 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.

67. Section 120 of the said Act is amended

(1) by striking out “designated” in the first line;

(2) by adding the following paragraph:

“In addition, the Commission shall send the Minister a copy of all the notices it sends to a department or a government body referred to in the first paragraph of section 3, and a copy of the rules, reports prescriptions and orders arising from its oversight functions.”

68. The heading of Division II of Chapter V and section 122 of the said Act are replaced by the following:

“OVERSIGHT DIVISION

“**122.** The functions and powers of the Commission provided for in this division are exercised by the chairman and the members assigned to the oversight division.

“**122.1.** The function of the Commission is to oversee the carrying out of this Act and the Act respecting the protection of personal information in the private sector (chapter P-39.1).

The Commission must also ensure compliance with and promotion of the principles of access to documents and the protection of personal information.”

69. Section 123 of the said Act is amended by replacing paragraph 1 by the following paragraph:

“(1) inquire into the operation of this Act and the degree to which it is observed;”.

70. Section 124 of the said Act is amended

(1) by replacing “the confidentiality of nominative information” in paragraph 3 by “the protection of personal information”;

(2) by replacing “nominative” in paragraph 4 by “personal”.

71. Section 126 of the said Act is repealed.

72. Section 129 of the said Act is amended

(1) by replacing “Act” in the second line by “division”;

(2) by adding the following paragraphs:

“The inquiries of the Commission are non-adversary investigations.

On completion of an inquiry and after giving the public body an opportunity to submit written observations, the Commission may order it to take the measures the Commission considers appropriate.”

73. Section 130.1 of the said Act is repealed.

74. The said Act is amended by inserting the following section after section 130.1:

“**130.2.** A member of the Commission may act alone on behalf of the Commission to exercise the functions and powers conferred on it by sections 127 to 128.1, 164 and 172, as well as those referred to in the second paragraph.

The chairman of the Commission may delegate to a member of its personnel all or some of the functions and powers conferred on the Commission by paragraphs 1, 2, 5 and 6 of section 123 and by sections 124, 125, 129 and 130, as well as the duty of giving its opinion on draft agreements respecting the transfer of information referred to in paragraph 3 of section 123.”

75. Section 131 of the said Act is repealed.

76. Section 132 of the said Act is repealed.

77. The said Act is amended by replacing

“CHAPTER V
“REVIEW AND APPEAL

“DIVISION I
“REVIEW”

after section 134 by the following:

“DIVISION III
“ADJUDICATIVE DIVISION

“134.1. The functions and powers of the Commission provided for in this division are exercised by the chairman and the members assigned to the adjudicative division.

“134.2. The function of the Commission is to decide applications for review made under this Act and applications for examination of disagreements made under the Act respecting the protection of personal information in the private sector (chapter P-39.1), to the exclusion of any other court.”

78. Section 136 of the said Act is amended by replacing “section 26” in the first line of the second paragraph by “the first paragraph of section 41.1”.

79. Section 137 of the said Act is amended by adding the following paragraph:

“If the Commission does not succeed in notifying a third person by mail after taking reasonable steps to do so, the third person may be notified in another manner, such as by public notice in a newspaper in the place where the last known address of the third person is located. If there is more than one third person and more than one notice is required, notification is deemed to have been completed only once all the notices have been made.”

80. The said Act is amended by inserting the following sections after section 137:

“137.1. On request, the Commission may authorize a public body to disregard applications that are obviously improper because of their number or their repetitious or systematic nature or an application whose processing could seriously interfere with the body’s activities.

The same applies if, in the opinion of the Commission, the applications are not consistent with the object of this Act concerning the protection of personal information.

“137.2. The Commission may refuse or cease to examine a matter if it has reasonable cause to believe that the application is frivolous or made in bad faith or that its intervention would clearly serve no purpose.

“137.3. The Commission may make rules of procedure and proof by regulation.

The regulation must be submitted to the Government for approval.”

81. The said Act is amended by adding the following section after section 138:

“138.1. On receiving an application, the Commission may direct a person it designates to attempt to bring the parties to an agreement, if it considers it useful and the circumstances of the case allow it.”

82. Section 139 of the said Act is replaced by the following section:

“139. A member of the Commission may act alone on behalf of the Commission to decide an application for review. A member of the Commission may also act alone on behalf of the Commission to exercise the functions and powers referred to in the second paragraph.

The chairman of the Commission may delegate to a member of its personnel all or some of the functions and powers conferred on the Commission by sections 137, 138.1 and 143 and by the third paragraph of section 144.”

83. Section 140 of the said Act is amended by adding the following paragraphs:

“The observations must be sent to the Commission by the public body and by the applicant not later than 60 and 120 days, respectively, after the date on which the application for review is received, unless a hearing is held for the parties before the expiry of those time limits.

The Commission may extend those time limits by a maximum of 60 days if it directs a person to attempt to bring the parties to an agreement or in view of the quantity or nature of the documents involved or of exceptional circumstances. In that case, it shall notify the parties concerned, indicating the extension period it determines.”

84. The said Act is amended by inserting the following section after section 141:

“141.1. The Commission must exercise its functions and powers in matters of review diligently and efficiently.

The Commission must make its decision within three months after the matter is taken under advisement, unless the chairman extends that time limit for valid reasons.

If a member of the Commission to whom a case is referred does not make a decision within the specified time limit, the chairman may, by virtue of office or at the request of a party, remove the member from the case.

Before extending the time limit or removing from a case a member who has not made a decision within the applicable time, the chairman must take the circumstances and the interest of the parties into account.”

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

86. The said Act is amended by replacing “**DIVISION II**” after section 146.1 by “**CHAPTER V**”.

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

“**147.** A person directly interested may bring an appeal from the final decision of the Commission before a judge of the Court of Québec on a question of law or jurisdiction, including an order of the Commission issued following an investigation, or, with leave of a judge of that Court, from an interlocutory decision that will not be remedied by the final decision.

“**147.1.** The motion for leave to appeal from an interlocutory decision must specify the questions of law or jurisdiction that ought to be examined in appeal and the reason the interlocutory decision will not be remedied by the final decision and, after notice to the parties and to the Commission, be filed in the office of the Court of Québec, at Montréal or at Québec, within 10 days after the date on which the parties receive the Commission’s decision.

If the motion is granted, the judgment authorizing the appeal serves as a notice of appeal.”

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

“**149.** The appeal is brought by filing with the Court of Québec a notice to that effect specifying the questions of law or jurisdiction that ought to be examined in appeal.

The notice of appeal must be filed at the office of the Court of Québec, at Montréal or at Québec, within 30 days after the date the parties receive the final decision.

“150. The filing of the notice of appeal or of 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. If it is 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 execution of the decision.

“151. The notice of appeal must be served on the parties and on the Commission within 10 days after its filing at the office of the Court of Québec.

The secretary of the Commission shall send a copy of the contested decision and the documents related to the contestation to the office of the Court, to serve as a joint record.”

89. Section 155 of the said Act is amended

(1) by inserting “, transfer” after “reproduction” in the first line of subparagraph 1 of the first paragraph;

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

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

“(3.1) establishing an information distribution policy for the purposes of section 16.1 and extending its application to public bodies other than those referred to in that section;

“(3.2) establishing a personal information protection policy for the purposes of section 63.2 and extending its application to public bodies other than those referred to in that section;”;

(4) by striking out subparagraphs 4, 5 and 6 of the first paragraph.

90. Section 156 of the said Act is amended by striking out “designated” in the first line.

91. Section 157 of the said Act is repealed.

92. Section 166 of the said Act is amended

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

(2) by inserting “used,” after “collected,” in the fourth line of the first paragraph.

93. Section 171 of the said Act is amended

(1) by striking out “or the exercise of the right of access of a person to nominal information concerning him,” in paragraph 2;

(2) by inserting the following paragraph after paragraph 2.1:

“(2.2) the exercise of a person’s right of access to personal information relating to that person or of the right to have that information corrected resulting from the application of another Act or a practice established before 1 October 1982, or from the provision of a service to be provided to that person, subject to any serious harm to the person’s health;”.

94. Section 174 of the said Act is amended by adding the following paragraph:

“The Minister shall advise the Government by providing opinions on access to information and the protection of personal information, in particular as regards proposed legislation and plans to develop information systems. The Minister may consult the Commission to that end.”

95. Section 179 of the said Act is replaced by the following section:

“179. Not later than (*insert the date that occurs five years after the coming into force of section 95 of this bill*), and, subsequently, every five years, the Minister must ensure that an independent report is prepared on this Act and on Division V.1 of Chapter IV of the Professional Code and on their implementation. To that end, the Commission and any other public body shall provide the person responsible for preparing the report with any information the person requires.

The Minister shall table the report in the National Assembly within 30 days of receiving it or, if the Assembly is not sitting, within 30 days of resumption.”

96. Section 179.1 of the said Act is amended by striking out “of maintaining in force or, as the case may be,” in the second and third lines of the second paragraph.

97. Schedule B to the said Act is amended by inserting “and impartiality” after “with honesty”.

98. The said Act is amended by replacing “nominative” by “personal” in the heading of Divisions I and IV of Chapter III and in sections 54, 56, 58, 59.1, 61, 62, 67.1, 71, 78, 80, 81, 83, 86, 86.1, 87, 88, 89, 92, 125, 127, 128, 141 and 177.

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

99. Section 1 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended

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

“This Act also applies to personal information held by a professional order to the extent provided for by the Professional Code (chapter C-26).”;

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

“Divisions II and III of this Act do not apply to personal information which by law is public.”

100. Section 3 of the said Act is replaced by the following section:

“3. This Act does not apply

(1) to a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);

(2) to information held on behalf of a public body by a person other than a public body.”

101. Section 10 of the said Act is replaced by the following section:

“10. A person carrying on an enterprise must take the security measures necessary to ensure the protection of the personal information collected, used, communicated, kept or destroyed and that are reasonable given the sensitivity of the information, the purposes for which it is to be used, the quantity and distribution of the information and the medium on which it is stored.”

102. Section 12 of the said Act is amended by striking out “, subject to the time limit prescribed by law or by a retention schedule established by government regulation” at the end.

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

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

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

106. Section 18 of the said Act is amended

(1) by replacing “under the law or” in the second line of subparagraph 4 of the first paragraph by “under an Act applicable in Québec or under”;

(2) by striking out “, who requires it in the performance of his duties” in the second and third lines of subparagraph 4 of the first paragraph;

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

“(9.1) to a person if the information is needed for the recovery of a claim of the enterprise;”;

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

107. Section 20 of the said Act is amended

(1) by inserting “or any party to a contract for work or services” after “agents” in the second line;

(2) by replacing “execution of their mandates” in the last line by “the carrying out of their mandates or contracts”.

108. Section 22 of the said Act is amended by replacing the second paragraph by the following paragraph:

“A nominative list is a list of names, telephone numbers, geographical addresses of natural persons or technological addresses where a natural person may receive communication of technological documents or information.”

109. Section 24 of the said Act is amended

(1) by striking out “through postal or telecommunications channels;”;

(2) by adding the following at the end:

“For that purpose, the person engaging in commercial or philanthropic prospection must provide the person addressed with a geographical or technological address, depending on the means of communication used, where a request to have personal information deleted from the nominative list may be sent.”

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

“Personal information may also be communicated in an alternative medium for persons with a visual or hearing impairment, unless the transfer raises serious practical difficulties, in particular because of the costs.”

111. Section 30 of the said Act is amended by replacing “successor of that person, the administrator of the succession, the beneficiary of life insurance or the person having parental authority” in the third, fourth and fifth lines by

“successor of that person, the liquidator of the succession, a beneficiary of life insurance or of a death benefit or the person having parental authority even if the minor child is dead”.

112. Section 32 of the said Act is amended by inserting “of receipt” after “date” in the third line of the first paragraph.

113. Section 33 of the said Act is amended

(1) by inserting “, transfer to an alternative medium” after “reproduction” in the second paragraph;

(2) by replacing “reproduction or transmission” in the third line of the third paragraph by “reproduction, transfer or transmission”.

114. Section 37 of the said Act is amended

(1) by replacing “if” in the third line of the first paragraph by “only if”;

(2) by inserting “only if consultation would result in serious harm to the person’s health” after “relating to him” in the second line of the second paragraph.

115. 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.

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

“**41.** A person carrying on an enterprise who holds a file on another person must refuse to communicate personal information to the liquidator of the succession, to a beneficiary of life insurance or of a death benefit, or to the heir or successor of the person to whom the information relates, unless the information affects their interests or rights as liquidator, beneficiary, heir or successor.”

117. The said Act is amended by inserting the following section after the heading of Division V:

“**41.1.** The functions and powers of the Commission that are provided for in this division are exercised by the chairman and the members assigned to the adjudicative division.”

118. Section 48 of the said Act is amended by striking out “and to report to it on the result of the attempt within the time it determines” at the end.

119. Section 49 of the said Act is amended by adding the following paragraphs:

“The observations must be sent to the Commission by the person carrying on the enterprise and by the applicant not later than 60 and 120 days, respectively, after the date on which the application for the examination of a disagreement is received, unless a hearing is held for the parties before the expiry of those time limits.

The Commission may extend those time limits by a maximum of 60 days if it directs a person to attempt to bring the parties to an agreement or in view of the quantity or nature of the documents involved or of exceptional circumstances. In that case, it shall notify the parties concerned, indicating the extension period it determines.”

120. Section 50 of the said Act is amended by adding the following sentence and paragraph: “The member may also act alone on behalf of the Commission to exercise the functions and powers referred to in the second paragraph.

“The chairman of the Commission may delegate to a member of the personnel of the Commission all or part of the functions and powers that are conferred on the Commission by the third paragraph of section 44, the second paragraph of section 54 and the second paragraph of section 58.”

121. The said Act is amended by inserting the following section after section 50:

“**50.1.** The Commission may, by regulation, prescribe rules of evidence and procedure for the examination of applications which may be brought before it. The regulation shall be submitted to the Government for approval.”

122. Section 54 of the said Act is replaced by the following section:

“**54.** The Commission shall render, in respect of every disagreement submitted to it, a decision in writing giving the reasons on which it is based.

The Commission shall send a copy of the decision to the parties by any means providing proof of the date of receipt.”

123. The said Act is amended by inserting the following section after section 55:

“**55.1.** The Commission must exercise its functions and powers in the matter of the examination of a disagreement diligently and efficiently.

The Commission must make its decision within three months after the matter is taken under advisement, unless the chairman extends that time limit for valid reasons.

If a member of the Commission to whom a case is referred does not make a decision within the specified time limit, the chairman may, by virtue of office or at the request of a party, remove the member from the case.

Before extending the time limit or removing from a case a member who has not made a decision within the applicable time limit, the chairman must take the circumstances and the interest of the parties into account.”

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

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

“**61.1.** The motion for leave to appeal from an interlocutory decision must specify the questions of law or jurisdiction that ought to be examined in appeal and the reason it cannot be remedied by the final decision and, after notice to the parties and to the Commission, be filed in the office of the Court of Québec, at Montréal or at Québec, within 10 days after the date on which the parties receive the decision of the Commission.

If the motion is granted, the judgment authorizing the appeal serves as a notice of appeal.”

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

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

The notice of appeal is filed at the office of the Court of Québec, at Montréal or at Québec, within 30 days after the date the parties receive the final decision.

“**64.** The filing of the notice of appeal or of 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. If it is an appeal from a decision ordering a person to cease or refrain from doing something, the filing of the notice or of the motion does not suspend execution of the decision.

“**65.** The notice of appeal must be served on the parties and the Commission within 10 days after its filing at the office of the Court of Québec.

The secretary of the Commission shall send a copy of the contested decision and the documents related to the contestation to the office of the Court to serve as a joint record.”

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

“**70.1.** A personal information agent may not invoke registration with the Commission to claim that the agent’s competence, solvency, conduct or operations are recognized or approved.”

127. Section 77 of the said Act is repealed.

128. Section 78 of the said Act is amended by replacing “in the region of the domicile of the person concerned” in the sixth line by “in Québec”.

129. The said Act is amended by replacing subdivision 1 of Division VII by the following subdivision:

“§1. — *General provisions*

“**80.** The functions and powers provided for in sections 21 and 21.1, Division VI and this division are exercised by the chairman and the members assigned to the oversight division.

“**80.1.** A member of the Commission may act alone on behalf of the Commission to exercise the powers conferred on it by sections 21, 21.1, 72 to 76, 81, 83, 84 and 95.

The chairman of the Commission may delegate to a member of the personnel of the Commission all or part of the functions and powers conferred on the Commission by sections 21, 21.1, 73 to 76 and 95.”

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

131. Section 88 of the said Act is replaced by the following section:

“**88.** Not later than (*insert the date occurring five years after the date of coming into force of section 131 of this bill*), and, subsequently, every five years, the Minister must ensure that an independent report is prepared on this Act and its implementation. To that end, the Commission or any person carrying on an enterprise shall provide the person responsible for preparing the report with any information the person requires.

The Minister shall table the report in the National Assembly within 30 days of receiving it or, if the Assembly is not sitting, within 30 days of resumption.”

132. Section 89 of the said Act is amended by striking out “maintaining this Act in force as it stands, or, if the need arises, of” in the third line of the second paragraph.

133. Section 90 of the said Act is amended by striking out subparagraph 3 of the first paragraph.

134. Section 92 of the said Act is amended by inserting “, 70.1” after “70” in the second line.

PROFESSIONAL CODE

135. Section 12 of the Professional Code (R.S.Q., chapter C-26) is amended

(1) by replacing subparagraph *a* of subparagraph 6 of the third paragraph by the following subparagraph:

“(a) the information other than the information provided for in section 46.1 that must be included in the roll of an order, as well as the standards governing the preparation, updating and publication of the roll;”;

(2) by inserting the following subparagraph after subparagraph *b* of subparagraph 6 of the third paragraph:

“(c) the rules governing the holding and keeping of documents held by a professional order for the purpose of supervising the practice of the profession;”.

136. Section 12.1 of the said Code is amended by striking out the second paragraph.

137. 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 order. The roll shall contain, if applicable, the following information:

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

(2) the sex of that person;

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

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

(5) the year the person was first entered on the roll;

(6) a statement to the effect that, during the last five years and under section 45.1 or 55.1, the person was struck off the roll or the person’s right to engage in professional activities was restricted or suspended;

(7) a statement to the effect that the person’s right to engage in professional activities is restricted or suspended under section 55;

(8) a statement to the effect that the person has been struck off the roll or has been declared 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, other than in the cases referred to in sections 45.1, 55 and 55.1, or by a decision of a committee on discipline or of a court;

(9) any other information determined by regulation of the Office.

The secretary of the order shall also keep the information concerning a person who is no longer entered on the roll of members of the order or who is or was granted a special authorization under section 33, 39 or 39.1.”

138. Section 86 of the said Code is amended by striking out subparagraph *a* of the first paragraph.

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

“DIVISION V.1

“ACCESS TO DOCUMENTS AND PROTECTION OF PERSONAL INFORMATION

“108.1. 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 and 86.1 of that Act, applies to documents held by a professional order for the purpose of supervising the practice of the profession in the same way as it applies to documents held by a public body.

It applies 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 indemnification, as well as to documents concerning the adoption of standards relating to those matters.

“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 purpose of supervising the practice of the profession, in the same way as it applies to personal information held by a person carrying on an enterprise.

“108.3. A professional order may refuse to release the following documents or information held for the purpose of supervising the practice of the profession:

(1) an opinion, recommendation or analysis made as part of an ongoing decision-making process of the order, another order or the Office, until such time as a decision has been made on the opinion, recommendation or analysis, or if no decision is made, until five years have elapsed since the date the opinion, recommendation or analysis was made;

(2) information whose disclosure could hamper an investigation, audit or inspection by a person or committee mentioned in subparagraphs 1 to 4 or 6 to 9 of the first paragraph of section 192 or reveal a confidential source of information or a method of investigation, auditing or inspection; and

(3) an opinion, recommendation or analysis, including information allowing the author to be identified, whose disclosure could affect the outcome of judicial proceedings.

Information that allows a group of professionals to be identified and that is held by a person or committee referred to in subparagraph 1 of the first paragraph of section 192 in connection with an inspection, is confidential unless its disclosure is otherwise authorized.

“108.4. A professional order must refuse to release or confirm the existence of information whose disclosure could endanger the safety of a person, cause prejudice to the person who is the source or the subject of the information or prejudice the fair hearing of a person’s case.

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

The president may designate the secretary of the order, a member of the management staff or, despite section 121, the syndic as the person responsible, and delegate all or part of the president’s duties to them.

The president must send a notice of the delegation to the Commission d’accès à l’information and publish it in the *Gazette officielle du Québec*.

“108.6. The following is public information:

(1) the name, title and duties 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 name, title and duties of the directors of the Bureau and, where applicable, their field of practice and the region they represent;

(3) the name, title and duties of the members of the administrative committee, the committee on discipline, the professional inspection committee and the review committee;

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

(5) the name, title and duties of the members of the council of conciliation and arbitration of accounts;

(6) the name, title and duties of the directors and officers of the regional divisions, if any; and

(7) the name, title and duties of the representative of the order on the Interprofessional Council.

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

(1) a resolution of the Bureau or administrative committee of an order striking a member off the roll or limiting or suspending the member’s right to engage in professional activities, except any medical information it may contain;

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

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

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

(5) the record of a committee on discipline, from the date on which the hearing is held, subject to any order banning disclosure, access to or the publication or release of information or documents issued by the committee on discipline or the Professions Tribunal under section 142 or 173.

“103.8. The information contained in the roll of an order and the information concerning a person who is no longer on the roll or who is or was authorized to practice in accordance with section 33, 39 or 39.1 is also public information.

However, a request for access to such information must concern a specific person, except where a request pertains to information that is necessary for the application of an Act.

“103.9. A person who requests it may have access to the following documents:

(1) the annual report of the professional liability insurance fund, including the audited financial statements, as of the date of their transmission to the Bureau;

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

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

“108.10. A professional order may, without the consent of the person concerned, release personal information it holds on that person

(1) to a person or committee referred to in section 192 or to the Professions Tribunal when it is necessary for the exercise of their functions;

(2) to another professional order to which this Code applies or to a body exercising similar functions outside Québec, when the release is necessary for an investigation, a professional inspection or the issue of a permit;

(3) to the Office for the exercise of its functions; and

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

“108.11. The Commission d'accès à l'information is responsible for overseeing the application of this division.”

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

141. Section 120.3 of the said Code is repealed.

142. 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.

OTHER AMENDING PROVISIONS

143. Section 65 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 62 of chapter 11 of the statutes of 2004, is again amended by adding the following paragraph at the end:

“The Board may also transmit to the chairman of the Commission québécoise des libérations conditionnelles and to the warden of a house of detention, on request, the address, language code and, if applicable, the date of death of a person entered in its register of beneficiaries to allow the information referred to in section 43.4 of the Act to promote the parole of inmates (chapter L-1.1) and section 22.20 of the Act respecting correctional services (chapter S-4.01) to be released.”

144. Section 65 of the said Act is again amended, on the date of coming into force of section 175 of the Act respecting the Québec correctional system (2002, chapter 24), by replacing “in section 43.4 of the Act to promote the parole of inmates (chapter L-1.1) and section 22.20 of the Act respecting correctional services (chapter S-4.01)” in the last paragraph by “in section 175 of the Act respecting the Québec correctional system (2002, chapter 24)”.

145. Section 65.0.1 of the said Act is amended by striking out the second sentence of the second paragraph.

146. The Act to promote the parole of inmates (R.S.Q., chapter L-1.1) is amended by inserting the following divisions after section 43:

“DIVISION III

“ACCESS TO DECISIONS

“**43.1.** A person who applies in writing to the commission may, despite section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), obtain a copy of a decision made under section 21, 28, 37, 38 or 43 relating to a term of imprisonment that an inmate is serving.

However, the chairman of the commission must remove from the decision information that could

- (1) endanger the safety of a person;
- (2) reveal a source of information obtained confidentially; or
- (3) hinder the social rehabilitation of the inmate if it is made public.

“DIVISION IV

“VICTIMS

“**43.2.** Victims are entitled to be treated with courtesy, justice and comprehension and in a manner that is respectful of their dignity and privacy.

“43.3. For the purposes of this Act, a victim is any natural person who suffers physical or psychological injury or incurs property loss as a result of the perpetration of an offence.

If the victim dies, is a minor or is otherwise unable to receive communication of the information to be communicated under section 43.4 or to make representations, the person’s spouse or a parent or child of the person, or any other person in whose custody or care the person is placed, is considered to be a victim if an application to that effect is made to the commission.

“43.4. The chairman of the commission must take all reasonable measures to communicate to a victim within the meaning of a government policy such as a policy on domestic violence or sexual assault, and any other victim who makes a request in writing, the date of the inmate’s eligibility for parole and any decision made under section 21, 28, 37, 38 or 43, unless there is reasonable cause to believe that the disclosure would compromise the safety of the inmate.

“43.5. The communications between the chairman of the commission and a victim under section 43.4 are confidential and the inmate is not to be informed of those communications, despite sections 9 and 83 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

“43.6. A victim may make written representations to the chairman of the commission in the course of the examination of an inmate’s record.

The chairman of the commission shall communicate the victim’s representations to an inmate who so makes a request in writing, unless there is reasonable cause to believe that the disclosure would compromise the safety of the victim or another person.

The second paragraph of this section applies despite section 88 of the Act respecting Access to documents held by public bodies and the Protection of personal information.”

147. Section 11.3 of the Animal Health Protection Act (R.S.Q., chapter P-42) is amended by replacing “the pairing or cross-matching” at the end of subparagraphs 1 and 2 of the first paragraph by “a comparison”.

148. Section 22.4 of the said Act is amended

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

(2) by replacing “the pairing or cross-matching” at the end of the first paragraph by “a comparison”.

149. Section 2.0.1 of the Environment Quality Act (R.S.Q., chapter Q-2) is amended by striking out the last paragraph.

150. Section 118.4 of the said Act is repealed.

151. The Act respecting correctional services (R.S.Q., chapter S-4.01) is amended by inserting the following division after section 22.17:

“DIVISION V.2

“VICTIMS

“22.18. Victims are entitled to be treated with courtesy, justice and comprehension and in a manner that is respectful of their dignity and privacy.

“22.19. For the purposes of this Act, a victim is any natural person who suffers physical or psychological injury or incurs property loss as a result of the perpetration of an offence.

If the victim dies, is a minor or is otherwise unable to receive communication of the information to be communicated under section 22.20, the person’s spouse or a parent or child of the person, or any other person in whose custody or care the person is placed, shall be considered to be a victim if an application to that effect is made to the warden of the house of detention.

“22.20. The warden of a house of detention must take all reasonable measures to communicate the following information to a victim within the meaning of a government policy such as a policy on domestic violence or sexual assault, unless there is reasonable cause to believe that the disclosure would compromise the safety of the inmate:

(1) the date of the inmate’s temporary absence for reintegration purposes and the conditions imposed on the inmate;

(2) the date of the inmate’s release at the end of the term of imprisonment; and

(3) the fact that the inmate has escaped or is unlawfully at large.”

152. Section 65 of the Act respecting the Québec correctional system (2002, chapter 24) is amended by striking out “and, if applicable, the victim” in the second line.

153. Section 159 of the said Act is amended by striking out “and, if applicable, the victim” in the second line.

154. The said Act is amended by inserting the following after section 172:

“DIVISION X

“ACCESS TO DECISIONS

“172.1. A person who applies in writing to the chair of the parole board may, despite section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information, obtain a copy of a decision made under section 136, 140, 143, 160, 163, 167 or 171 relating to a term of imprisonment that an offender is serving.

However, the chair of the parole board must remove from the decision information that could

- (1) endanger the safety of a person;
- (2) reveal a source of information obtained confidentially; or
- (3) hinder the reintegration of the offender if it is made public.”

155. Section 174 of the said Act is amended by replacing “person referred to in the first paragraph” in the first line of the second paragraph by “victim”.

156. Section 175 of the said Act is amended

(1) by inserting “, in writing,” after “requests” in the fifth line of the first paragraph;

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

“(4) the fact that the offender has escaped or is unlawfully at large.”

157. The said Act is amended by inserting the following section after section 175:

“175.1. The communications between the facility director or the chair of the parole board and a victim under section 175 are confidential and the offender is not to be informed of those communications, despite sections 9 and 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information.”

158. Section 176 of the said Act is amended by adding the following paragraphs:

“The facility director or the chair of the parole board shall communicate the victim’s representations to the offender who makes a request in writing, unless there is reasonable cause to believe that the disclosure would compromise the safety of the victim or another person.

The second paragraph of this section applies despite section 88 of the Act respecting Access to documents held by public bodies and the Protection of personal information.”

159. Section 25 of the Act respecting commercial aquaculture (2003, chapter 23) is amended by striking out the second paragraph.

160. Section 26 of the said Act is amended by striking out the second paragraph.

161. The words “nominative” and “non-nominative” are replaced by the word “personal” and “non-personal”, respectively, in the following provisions:

- (1) sections 20 and 26 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 20 of the Act respecting the Bureau d’accréditation des pêcheurs et des aides-pêcheurs du Québec (R.S.Q., chapter B-7.1);
- (5) section 610 of the Highway Safety Code (R.S.Q., chapter C-24.2);
- (6) sections 26.3 and 53 of the Public Curator Act (R.S.Q., chapter C-81);
- (7) section 659.1 of the Act respecting elections and referendums in municipalities (R.S.Q., chapter E-2.2);
- (8) section 282.1 of the Act respecting school elections (R.S.Q., chapter E-2.3);
- (9) section 40.42 of the Election Act (R.S.Q., chapter E-3.3);
- (10) section 1 of the Act to establish the permanent list of electors (R.S.Q., chapter E-12.2);
- (11) section 27 of the Act respecting the Institut de la statistique du Québec (R.S.Q., chapter I-13.011);
- (12) sections 27 and 28 of the Act respecting La Financière agricole du Québec (R.S.Q., chapter L-0.1);
- (13) sections 8 and 9 of the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- (14) section 71 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(15) section 37.12 of the Act respecting the Régie de l'assurance maladie du Québec (R.S.Q., chapter R-5);

(16) 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);

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

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

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

(20) article 542 of the Civil Code of Québec (1991, chapter 64).

Unless otherwise indicated by the context, in any other Act or in any regulation or document, the words “nominative” and “non-nominative” are replaced by “personal” and “non-personal”, respectively, where they qualify information.

TRANSITIONAL AND FINAL PROVISIONS

162. A local development centre and a regional conference of elected officers to which the Act respecting the Ministère du Développement économique et régional et de la Recherche (R.S.Q., chapter M-30.01) applies may, for two years following the coming into force of this Act, refuse access, under that Act, to a document dated more than two years prior to the date of coming into force.

163. A draft agreement on the release of personal information submitted to the Commission d'accès à l'information before the coming into force of section 40 of this Act and that must be submitted to the Commission is deemed, for the purpose of computing the 45-day time limit introduced by that section, to have been submitted to the Commission on the date of the coming into force of this section.

164. Section 104.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information does not apply to the members of the Commission d'accès à l'information in office on (*insert the date of the day before the date of coming into force of this section*). The National Assembly may designate the vice-chairmen of the Commission from among the members by a resolution proposed and approved in accordance with section 104 of this Act.

The chairman of the Commission determines which division the members of the Commission referred to in the first paragraph are assigned for the remaining portion of their mandate.

165. A professional order may keep the documents it holds for the purpose of supervising the practice of the profession until the coming into force of a regulation of the Office on the rules governing the keeping of documents, adopted under section 12 of the Professional Code amended by section 135 of this Act.

166. Paragraph 5 of section 108.7 of the Professional Code enacted by section 139 of this Act does not apply to the record of a committee on discipline whose hearings were held before 1 August 1988.

167. This Act comes into force on (*insert the date of assent to this Act*), except section 1, sections 7, 8 and 28, the words “and the Professional Code” in section 43, paragraph 1 of section 48, paragraph 1 of section 50, paragraph 2 of section 66, paragraph 1 of section 99 and sections 135 to 142, which will come into force on the date or dates to be set by the Government.

