



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 86
(2006, chapter 22)

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

**Introduced 16 December 2004
Passage in principle 5 April 2005
Passage 13 June 2006
Assented to 14 June 2006**

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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 certain of those bodies will have to set up a classification plan for their documents and that certain public bodies will have to implement the regulation respecting information distribution the Government will be making. 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, who will number at least five. 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);
- Act respecting commercial aquaculture (R.S.Q., chapter A-20.2);
- 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 Municipalité régionale de comté d’Arthabaska (2004, chapter 47);
- Act respecting reserved designations and added-value claims (2006, chapter 4).

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 5 of the 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 at least one elected municipal officer sitting on the board 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 “and a similar body established under a private Act, in particular the legal persons constituted under chapters 56, 61 and 69 of the statutes of 1994, chapter 84 of the statutes of 1995 and chapter 47 of the statutes of 2004” at the end of paragraph 3;

(3) by adding the following paragraphs after paragraph 3:

“For the purposes of this Act, a local development centre and a regional conference of elected officers governed by the Act respecting the Ministère du Développement économique, de l’Innovation et de l’Exportation (chapter M-30.01) and the Act respecting the Ministère des Affaires municipales et des Régions (chapter M-22.1), respectively, are classed as municipal bodies.

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

3. Section 6 of the 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”.

4. Section 8 of the 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.”

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

“If the applicant is a handicapped person, reasonable accommodation must be provided on request to enable the applicant to exercise the right of access provided for in this division. For that purpose, the public body must take into account the policy established under section 26.5 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration (chapter E-20.1).”

6. Section 11 of the Act is amended

(1) by replacing “and conditions of payment of the fee are prescribed by government regulation, which may prescribe cases where persons are exempt from payment” in the third paragraph by “of payment of the fee are prescribed by government regulation. The regulation may prescribe the cases where a person is exempt from payment and must be consistent with the policy established under section 26.5 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration”;

(2) by adding the following sentence at the end of the fourth paragraph: “In a case of access to more than one document, the transcription or reproduction fee for each document identified must be clearly set out.”

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

“This section does not limit the right of access to a document distributed in accordance with section 16.1.”

8. Section 16 of the Act is replaced by the following section:

“16. A public body must classify its documents in such a manner as to allow their retrieval. It must set up and keep up to date a list setting forth the order of classification of the documents. The list must be sufficiently precise to facilitate the exercise of the right of access.

For a public body referred to in paragraph 1 of the schedule to the Archives Act (chapter A-21.1), a classification plan takes the place of the list setting forth the order of classification of its documents.

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

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

“16.1. A public body, except the Lieutenant-Governor, the National Assembly or a person designated by the National Assembly to an office under its jurisdiction, must distribute through a web site the documents or information made accessible by law that are identified by regulation of the Government, and implement the measures promoting access to information enacted by the regulation.”

10. Section 17 of the 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”.

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

12. Section 25 of the 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”.

13. Section 26 of the Act is repealed.

14. Section 28 of the Act is amended

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

“28. A public body must refuse to release or to confirm the existence of information contained in a document that it keeps in the exercise of a duty provided for by law involving the prevention, detection or repression of crime or statutory offences, or that it keeps for the purpose of cooperating with a person or body responsible for such a duty, if its disclosure would likely”;

(2) by replacing “judicial or quasi judicial” in the second line of subparagraph 1 of the first paragraph by “adjudicative”;

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

“(2) hamper a future or current investigation or an investigation that may be reopened;”;

(4) by striking out “held” in the fourth line of the second paragraph and by replacing “the members of its personnel” in the sixth and seventh lines of that paragraph by “of its personnel or the members of its agents or mandataries”.

15. The Act is amended by inserting the following section after section 28:

“28.1. A public body must refuse to release or confirm the existence of information if disclosure would jeopardize state security.”

16. Section 29 of the Act is amended

(1) by replacing “disclose” in the first paragraph by “release or to confirm the existence of”;

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

“A public body must also refuse to release or to confirm the existence of information if disclosure would impair the efficiency of a program, plan of action or security system designed for the protection of persons or property.”

17. Section 29.1 of the Act is amended

(1) by replacing “quasi-judicial” in the second line of the first paragraph by “adjudicative”;

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

“A public body must also refuse to release information that would likely reveal the substance of deliberations related to the performance of adjudicative functions.”

18. Section 30 of the Act is replaced by the following section:

“30. The Conseil exécutif may refuse to release or to confirm the existence of an order whose publication is deferred under the Executive Power Act (chapter E-18). It may do the same with regard to a decision resulting from its deliberations or a decision of one of its cabinet committees, until the day that is 25 years after the date on which it was made.

Subject to the Public Administration Act (chapter A-6.01), the Conseil du trésor may refuse to release or to confirm the existence of its decisions until the day that is 25 years after the date on which they were made.”

19. The 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.”

20. Section 33 of the Act is amended by replacing “of the Conseil du trésor or of” in subparagraph 8 of the first paragraph by “of the Conseil exécutif, the Conseil du trésor or”.

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

22. The 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, 28.1, 29, 30, 33, 34 and 41, 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 and, in the case of a document filed by or for the Auditor General, the restriction set out in section 41, 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.

In the case of information supplied by a third person and referred to in the first paragraph, the person in charge must give that third person notice of a decision granting access to the information. The decision is executory despite section 49.

“41.2. A public body may release information to which a restriction of the right of access under section 23, 24, 28, 28.1 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 Director of Criminal and Penal Prosecutions 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 body 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 person or 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;

(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; and

(6) to a person or body if the release of 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.

In the case referred to in subparagraph 6 of the first paragraph, the public body must

(1) see that the mandate or contract is in writing; and

(2) specify in the mandate or contract which provisions of this Act apply to the information released to the mandatary or the person performing the contract, and the measures to be taken by the mandatary or person to ensure that the information is not used except for carrying out the mandate or performing the contract and that it is not kept by the person or body after the expiry of the mandate or contract.

The second paragraph does not apply if the mandatary or person performing the contract is a member of a professional order. Subparagraph 2 of the second paragraph does not apply if the mandatary or person performing the contract is another public body.

In addition, a police force may release to another police force information to which a restriction to the right of access set out in section 23, 24, 28, 28.1 or 29 applies.

However, the application of this section must not reveal a confidential source of information or the industrial secrets of a third person.

“41.3. If information referred to in section 23 or 24 is released under the first paragraph of section 41.2, the person in charge of access to documents within the public body must record the release in a register the person keeps for that purpose.”

23. Section 42 of the 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.”

24. Section 44 of the Act is repealed.

25. Section 46 of the 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”.

26. Section 47 of the Act is amended

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

“(1.1) grant access to the document by providing reasonable accommodation, if the applicant is a handicapped person;”;

(2) by striking out “or,” at the end of subparagraph 5 of the first paragraph;

(3) by adding the following subparagraphs after subparagraph 6 of the first paragraph:

“(7) inform the applicant that a third person concerned by the request cannot be notified by mail but will be informed by a public notice; or

“(8) inform the applicant that the body is requesting the Commission to disregard the applicant’s request in accordance with section 137.1.”

27. Section 49 of the 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, all third persons are deemed to have been notified only once all the notices have been published.”;

(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.”

28. Section 51 of the Act is amended by replacing the second paragraph by the following paragraph:

“The decision must be accompanied by the text of the provision on which the refusal is based, where applicable, and a notice of the proceeding for review provided for in Division III of Chapter IV, indicating in particular the time limit within which it may be exercised.”

29. Section 53 of the 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;”;

(3) by replacing “in the performance of an adjudicative function by a public body performing quasi-judicial functions” in the first and second lines of paragraph 2 by “by a public body in the performance of an adjudicative function”.

30. Section 55 of the 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 all or part of it or allow it to be examined only on the premises if the person in charge has reasonable cause to believe that the information will be used for unlawful ends.”

31. Section 57 of the Act is amended

(1) by inserting “personal information” after “following” in the first line of the first paragraph;

(2) by inserting “personal” before “information” in the first line of the second paragraph;

(3) by replacing “person” in the third line of the second paragraph by “body”;

(4) by adding the following sentence at the end of the second paragraph: “Similarly, the personal information contemplated in subparagraphs 3 and 4 of the first paragraph is not public information to the extent that its release would reveal other information whose release must or may be refused under Division II of Chapter II.”;

(5) by inserting “personal” before “information” in the first line of the third paragraph.

32. Section 59 of the 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 subparagraph 3 of the second paragraph by the following subparagraph:

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

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

(6) 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.

33. Section 60 of the 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”.

34. The heading of Division II of Chapter III of the 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 public body, except the Lieutenant-Governor, the National Assembly or a person designated by the National Assembly to an office under its jurisdiction, must protect personal information by implementing the measures enacted for that purpose by regulation of the Government.”

35. Section 64 of the 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 or for the implementation of a program of a public body with which it cooperates to provide services or to pursue a common mission.”;

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

“The information referred to in the second paragraph is collected under a written agreement that is sent to the Commission. The agreement comes into force 30 days after it is received by the Commission.”

36. Section 65 of the Act is amended

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

“65. A person who collects personal information verbally from the person to whom it relates on behalf of a public body must introduce himself and, when information is first collected and subsequently on request, inform that 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 to 6 of the first paragraph must appear on any written document used to obtain personal information.

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;

(5) by replacing “person” in the fourth paragraph by “body”.

37. The 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, but only

(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; or

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

In order for a purpose to be consistent within the meaning of subparagraph 1 of the second paragraph, it must have a direct and relevant connection with the purposes for which the information was collected.

If information is used in one of the cases referred to in subparagraphs 1 to 3 of the second paragraph, the person in charge of the protection of personal information within the body must record the use in the register provided for in section 67.3.”

38. Section 66 of the 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.”

39. Section 67 of the 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”.

40. Section 67.2 of the Act is replaced by the following section:

“67.2. A public body may, without the consent of the person concerned, release personal information to any person or body 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.

In that case, the public body must

- (1) see that the mandate or contract is in writing; and
- (2) specify in the mandate or contract which provisions of this Act apply to the information released to the mandatary or the person performing the contract, as well as the measures to be taken by the mandatary or person to ensure the confidentiality of the information and to ensure that the information is used only for carrying out the mandate or performing the contract and that it is not kept after the expiry of the mandate or contract. Moreover, before releasing the information, the public body must obtain a confidentiality agreement from every person to whom the information may be released unless the person in charge of the protection of personal information does not consider it necessary. A person or body carrying out a mandate or performing a contract for services referred to in the first paragraph must notify the person in charge without delay of any violation or attempted violation of an obligation concerning the confidentiality of the information released, and must also allow the person in charge to verify compliance with confidentiality requirements.

The second paragraph does not apply if the mandatary or person performing the contract is a member of a professional order. Subparagraph 2 of the second paragraph does not apply if the mandatary or person performing the contract is another public body.”

41. Section 67.3 of the Act is replaced by the following section:

“67.3. A public body must record in a register every release of personal information referred to in sections 66, 67, 67.1, 67.2, 68 and 68.1, except that required by a person or body for posting to the account of a member of a public body, its board of directors or its personnel an amount required by law to be withheld or paid.

A public body must also record in the register an agreement on the collection of personal information referred to in the third paragraph of section 64, as well as the use of personal information for purposes other than those for which it was collected, referred to in subparagraphs 1 to 3 of the second paragraph of section 65.1.

In the case of a release of personal information referred to in the first paragraph, the register must include

- (1) the nature or type of the information released;
- (2) the person or body to which the information is released;
- (3) the purpose for which the information is released and, if applicable, a statement to the effect that it is a release of personal information referred to in section 70.1; and
- (4) the reason justifying the release.

In the case of an agreement on the collection of personal information, the register must include

- (1) the name of the body for which the information is collected;
- (2) the identification of the program, right or power for which the information is necessary;
- (3) the nature or type of service to be provided or mission;
- (4) the nature or type of information collected;
- (5) the purpose for which the information is collected; and
- (6) the category of person within the body collecting the information and within the receiving body that has access to the information.

In the case of personal information used for a purpose other than that for which it was collected, the register must include

(1) the subparagraph of the second paragraph of section 65.1 that allows the use;

(2) in the case referred to in subparagraph 3 of the second paragraph of section 65.1, the provision of the Act that makes the information necessary; and

(3) the category of person that has access to the information for the purpose stated.”

42. Section 67.4 of the Act is amended by inserting “, except as regards information confirmation of the existence of which may be refused under sections 21, 28, 28.1, 29, 30, 30.1 and 41” at the end of the first paragraph.

43. Section 68 of the 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.”

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

“68.1. A public body may, without the consent of the person concerned, release a personal information file for the purpose of comparing it with a file held by a person or body if the information is necessary for the application of an Act in Québec, whether or not the law explicitly provides for its release.

If the law does not explicitly provide for the release, the information is released under a written agreement.

If the law explicitly provides for the release, the information is released under a written agreement that is sent to the Commission. The agreement comes into force 30 days after it is received by the Commission.”

45. Section 69 of the Act is repealed.

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

“70. An agreement referred to in section 68 or in the second paragraph of section 68.1 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 or 68.1; and
- (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 60 days of receiving the request for an opinion accompanied by the agreement. If the request is amended during that period, the time limit runs from the most recent request. If it is the chair’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 chair may, before the expiry of the time limit, extend it by up to 20 days. The chair must give notice to that effect to the parties to the agreement within the 60-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."

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

"70.1. Before releasing personal information outside Québec or entrusting a person or a body outside Québec with the task of holding, using or releasing such information on its behalf, a public body must ensure that the information receives protection equivalent to that afforded under this Act.

If the public body considers that the information referred to in the first paragraph will not receive protection equivalent to that afforded under this Act, it must refuse to release the information or refuse to entrust a person or a body outside Québec with the task of holding, using or releasing it on its behalf."

48. Section 72 of the Act is amended

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

49. Section 73 of the 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."

50. Section 76 of the 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; and
- (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.”

51. Section 77 of the Act is repealed.

52. Section 79 of the 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”.

53. Section 80 of the Act is amended

- (1) by replacing “nominative” in the second paragraph by “personal”;
- (2) by replacing “who, under the law, is responsible” in the second paragraph by “or body responsible under the law”.

54. Section 84 of the 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 is a handicapped person, reasonable accommodation must be provided on request to enable the applicant to exercise the right of access

provided for in this division. For that purpose, the public body must take into account the policy established under section 26.5 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration.”

55. Section 84.1 of the 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”.

56. Section 85 of the Act is amended

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

(2) by replacing “modalities of payment of the fee are prescribed by government regulation, which may prescribe the cases where a person may be exempt from payment of a fee” in the third paragraph by “terms of payment of the fee are prescribed by government regulation. The regulation may prescribe the cases where a person is exempt from payment and must be consistent with the policy established under section 26.5 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration”.

57. Section 87 of the Act is amended

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

(2) by adding “or pursuant to sections 108.3 and 108.4 of the Professional Code” at the end.

58. Section 87.1 of the 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.”

59. Section 88 of the Act is amended

(1) by replacing “nominative” wherever it appears by “personal”;

(2) by replacing “, unless the latter person gives” in the fourth and fifth lines by “and could seriously harm that other person, unless that other person gives”.

60. Section 88.1 of the 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.”

61. Section 89.1 of the 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.”

62. Section 94 of the Act is amended

(1) 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”;

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

“This section does not limit the release of personal information to the person concerned or its correction by a person other than the person in charge of the protection of personal information when that correction results from a service to be provided to the person concerned.”

63. Section 95 of the 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.”

64. Section 96 of the Act is repealed.

65. Section 97 of the 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”.

66. Section 101 of the 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.”

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

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

68. Section 104 of the Act is amended

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

“**104.** The Commission is composed of at least five members, including a chair and a vice-chair.”;

(2) by adding the following sentences at the end of the second paragraph: “The resolution states the division to which the members, other than the chair and the vice-chair, are assigned for the duration of their term of office. However, at least two members must be assigned to the adjudication division.”

69. The 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.”

70. Section 105 of the Act is amended

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

(2) by striking out the second paragraph;

(3) 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 chair and for a period the chair determines, a member who has been replaced may continue to exercise the functions of office as a supernumerary member in order to conclude any applications for review or for examination of disagreements that the member has received and has not yet decided.”

71. The Act is amended by inserting the following section after section 107:

“**107.1.** The vice-chair shall replace the chair if the latter is absent or unable to act or if the office of chair is vacant.

In addition, the chair may delegate all or some of the chair’s powers and duties to the vice-chair.”

72. Section 108 of the Act is replaced by the following section:

“**108.** If the chair and the vice-chair of the Commission are absent or unable to act or if the offices of chair and vice-chair are vacant, the President of the National Assembly may, with the consent of the Prime Minister and the Leader of the Official Opposition in the Assembly, designate another member of the Commission to act in the place of the chair.”

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

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

The functions of the chair include

(1) fostering the participation of the members in the formulation of guiding principles for the Commission so as to maintain a high level of quality and coherence in its decisions;

(2) coordinating and assigning the work of the members who, in that respect, must comply with the chair’s orders and directives;

(3) seeing that standards of ethical conduct are observed; and

(4) promoting the professional development of the members as regards the exercise of their functions.

In order to expedite the business of the Commission, the chair may temporarily assign a member to another division.”

74. The 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.*”

75. Section 114 of the 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”.

76. Section 118 of the Act is amended by adding “and of Division V.1 of Chapter IV of the Professional Code” at the end of the last paragraph.

77. Section 120 of the Act is amended by adding the following paragraph:

“In addition, the Commission shall send the Minister, on request, a copy of the final 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.”

78. Section 121 of the Act is repealed.

79. The heading of Division II of Chapter V and section 122 of the 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 chair 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.”

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

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

81. The Act is amended by inserting the following sections after section 123:

“**123.1.** In the exercise of its oversight functions, the Commission may authorize members of its personnel or any other persons to act as inspectors.

“**123.2.** Persons acting as inspectors may

(1) enter the establishment of a body or person subject to the oversight of the Commission at any reasonable time;

(2) request a person on the site to present any information or document required to exercise the Commission’s oversight function; and

(3) examine and make copies of such documents.

“**123.3.** Persons acting as inspectors must, on request, identify themselves and produce a certificate of authority.

Persons acting as inspectors may not be prosecuted for an act performed in good faith in the exercise of their duties.”

82. Section 124 of the 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”.

83. Section 126 of the Act is repealed.

84. Section 129 of the 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.”

85. Section 130.1 of the Act is repealed.

86. The 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 paragraph 3 of section 123 as regards draft agreements on the transfer of information, sections 124, 127 to 128.1, the third paragraph of section 129 and section 164, as well as those referred to in the second paragraph.

The chair 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, 5 and 6 of section 123 and by sections 123.1 and 125.”

87. Section 131 of the Act is repealed.

88. Section 132 of the Act is repealed.

89. The 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 chair 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.”

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

91. Section 137 of the 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, all third persons are deemed to have been notified only once all the notices have been published.”

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

“137.1. 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 must make rules of procedure and proof by regulation.

The regulation must include provisions to ensure the accessibility of the Commission and the quality and promptness of its decision-making process. To that end, the regulation must specify the time allotted to proceedings, from the time the application for review is filed until the hearing, if applicable.

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

93. The 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.”

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

“139. A member of the Commission may act alone on behalf of the Commission to exercise the powers provided for in sections 135, 137.1, 137.2, 142.1 and 146.1.”

95. The 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 chair 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 chair 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 chair must take the circumstances and the interest of the parties into account.”

96. The Act is amended by inserting the following section after section 142:

“142.1. A decision containing an error in writing or in calculation or any other clerical error may be corrected by the Commission or the member who made the decision; the same applies to a decision which, through obvious inadvertence, grants more than was requested or fails to rule on part of the application.

A correction may be made on the Commission’s or the concerned member’s own initiative as long as execution of the decision has not commenced. A correction may be effected at any time on the motion of one of the parties, unless an appeal has been lodged.

The motion is addressed to the Commission and submitted to the member who made the decision. If the latter is no longer in office, is absent or is unable to act, the motion is submitted to the Commission.

If the correction affects the conclusions, the time limit for appealing or executing the decision runs from the date of the correction.”

97. Section 143 of the 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”.

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

99. Section 147 of the 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 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.”

100. Sections 149 to 151 of the 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 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.”

101. Section 155 of the Act is amended

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

(2) by adding “, taking into account the policy established under section 26.5 of the Act to secure handicapped persons in the exercise of their rights with a view to achieving social, school and workplace integration” at the end of subparagraph 1 of the first paragraph;

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

“(3.1) for the purposes of sections 16.1 and 63.2, prescribing information distribution rules and rules for the protection of personal information including, among other things, measures to promote access to information and the protection of personal information; those rules may identify the types of documents or information made accessible by law that a public body must distribute, having regard, in particular, to their interest for the purposes of public information; the rules may provide for the establishment of a committee to be responsible for supporting the public body in carrying out its responsibilities, and entrust functions to persons other than the person in charge of access to documents or the protection of personal information; the rules may vary with the body referred to in sections 3 to 7 to which they apply;”;

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

(5) by adding the following subparagraph at the end of the first paragraph:

“(8) setting the fees payable for the acts performed by the Commission.”

102. Section 157 of the Act is repealed.

103. The Act is amended by inserting the following section after section 159.1:

“**159.2.** Every person who knowingly contravenes section 67.2 or the second paragraph of section 70.1 is liable to a fine of \$5,000 to \$50,000 and, in the case of a second or subsequent conviction, to a fine of \$10,000 to \$100,000.”

104. Section 160 of the Act is amended by inserting “inspection or the” after “inquiry or” in the first line.

105. Section 166 of the 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.

106. Section 174 of the Act, replaced by section 19 of chapter 24 of the statutes of 2005, is amended by adding the following paragraphs:

“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.

The Minister shall provide public bodies with the support necessary for the purposes of this Act.

For the purpose of exercising ministerial functions, the Minister may, in particular,

(1) enter into agreements with any person, association, partnership or body;

(2) conduct or commission research, inventories, studies or analyses and publish them; and

(3) obtain from departments and public bodies the information necessary to exercise those functions.”

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

“**179.** Not later than 14 June 2011, and, subsequently, every five years, the Commission must report to the Government on the application of this Act and of Division V.1 of Chapter IV of the Professional Code, as well as on any other subject the Minister may submit to it.

The report must also include any audit findings and recommendations that the Auditor General considers it appropriate to forward to the Commission under the Auditor General Act and that the Auditor General states are to be reproduced in the report.

The Minister shall table the report in the National Assembly within 15 days of receiving it or, if the Assembly is not sitting, within 15 days of resumption.”

108. Section 179.1 of the 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.

109. Schedule B to the Act is amended by inserting “, objectivity and impartiality” after “with honesty” in the second line.

110. The 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, 81, 83, 86, 86.1, 89, 92, 125, 127, 128, 141, 171 and 177.

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

111. 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.”

112. Section 3 of the 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.”

113. Section 10 of the 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.”

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

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

116. Section 17 of the Act is amended

(1) by replacing “, outside Québec, information relating to persons residing in Québec” in the first and second lines by “personal information outside Québec”;

(2) by inserting “first” after “must” in the fourth line;

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

“If the person carrying on an enterprise considers that the information referred to in the first paragraph will not receive the protection afforded under subparagraphs 1 and 2, the person must refuse to communicate the information or refuse to entrust a person or a body outside Québec with the task of holding, using or communicating it on behalf of the person carrying on the enterprise.”

117. Section 18 of the Act is amended

(1) by replacing “person” in the first line of subparagraph 3 of the first paragraph by “body”;

(2) 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”;

(3) 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;

(4) by inserting “for that purpose” after “requires it” in subparagraph 9 of the first paragraph;

(5) 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;”;

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

118. Section 20 of the 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”.

119. Section 22 of the 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.”

120. Section 24 of the 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.”

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

“If the person concerned is handicapped, reasonable accommodation must be provided on request to enable the person to exercise the right of access provided for in this division.”

122. Section 30 of the Act is amended

(1) 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”;

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

“This section does not limit the communication of personal information to the person concerned or the rectification of that information as a result of a service to be provided to the person.”

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

124. Section 37 of the 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.

125. Section 41 of the 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.”

126. The 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 chair and the members assigned to the adjudicative division.”

127. Section 48 of the 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.

128. Section 50 of the Act is amended by adding the following sentence at the end: “A member of the Commission may also act alone on behalf of the Commission to exercise the powers provided for in sections 46, 52, 57.1 and 60.”

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

“**50.1.** The Commission must, by regulation, prescribe rules of evidence and procedure for the examination of applications which may be brought before it. The regulation must include provisions to ensure the accessibility of the Commission and the quality and promptness of its decision-making process. To that end, the regulation must specify the time allotted to proceedings, from the time the application for examination is filed until the hearing, if applicable. The regulation shall be submitted to the Government for approval.”

130. Section 54 of the 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.”

131. The 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 chair 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 chair 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 chair must take the circumstances and the interest of the parties into account.”

132. The Act is amended by inserting the following section after section 57:

“57.1. A decision containing an error in writing or in calculation or any other clerical error may be corrected by the Commission or the member who made the decision; the same applies to a decision which, through obvious inadvertence, grants more than was requested or fails to rule on part of the application.

A correction may be made on the Commission’s or the concerned member’s own initiative as long as execution of the decision has not commenced. A correction may be effected at any time on the motion of one of the parties, unless an appeal has been lodged.

The motion is addressed to the Commission and submitted to the member who made the decision. If the latter is no longer in office, is absent or is unable to act, the motion is submitted to the Commission.

If the correction affects the conclusions, the time limit for appealing or executing the decision runs from the date of the correction.”

133. Section 61 of the 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 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.”

134. Sections 63 to 66 of the 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 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.”

135. The 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.”

136. Section 77 of the Act is repealed.

137. The 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 chair 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, 81, 83, 84 and 95.

The chair 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 and 95.”

138. The Act is amended by inserting the following before subdivision 2 of Division VII:

“§1.1. — *Inspection*

“**80.2.** In the exercise of its oversight functions, the Commission may authorize members of its personnel or any other persons to act as inspectors.

“**80.3.** Persons acting as inspectors may

(1) enter the establishment of a body or person subject to the oversight of the Commission at any reasonable time;

(2) request a person on the site to present any information or document required to exercise the Commission’s oversight function; and

(3) examine and make copies of such documents.

“**80.4.** Persons acting as inspectors must, on request, identify themselves and produce a certificate of authority.

Persons acting as inspectors may not be prosecuted for an act performed in good faith in the exercise of their duties.”

139. Section 81 of the Act is amended by striking out the second paragraph.

140. Section 82 of the Act is repealed.

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

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

“**88.** Not later than 14 June 2011, and, subsequently, every five years, the Commission must report to the Government on the application of this Act and of Division V.1 of Chapter IV of the Professional Code, as well as on any other subject the Minister may submit to it.

The report must also include any audit findings and recommendations that the Auditor General considers it appropriate to forward to the Commission under the Auditor General Act and that the Auditor General states are to be reproduced in the report.

The Minister shall table the report in the National Assembly within 15 days of receiving it or, if the Assembly is not sitting, within 15 days of resumption.”

143. Section 89 of the 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.

144. Section 91 of the Act is amended by adding the following paragraph:

“However, for a contravention of section 17, the fine is \$5,000 to \$50,000 and, for a subsequent offence, \$10,000 to \$100,000.”

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

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

“92.1. Any person who hampers an inquiry or inspection by communicating false or inaccurate information or otherwise is guilty of an offence and is liable to a fine of \$1,000 to \$10,000 and, for a subsequent offence, to a fine of \$2,000 to \$20,000.”

147. Section 97 of the Act is amended

(1) by replacing “in respect of each other as regards the communication, among themselves, and the use of personal information necessary for the management of risk” in the first paragraph by “in relation to each other for the purposes of the communication among themselves and the use of personal information relevant to financial risk management”;

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

“Credit unions, the federation of which they are members and the other members of the group are not considered to be third persons in relation to each other for the purposes of the communication among themselves and the use of personal information relevant to financial risk management.”;

(3) by replacing “paragraph” in the last paragraph by “and second paragraphs”.

PROFESSIONAL CODE

148. 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;”;

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

“The standards set out in a regulation of the Office referred to in subparagraphs *a* and *c* of subparagraph 6 of the third paragraph may vary with the professional order or the category of information or document.”

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

150. The Code is amended by inserting the following sections 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;

(5) the year the person was first entered on the roll and the year of every subsequent entry on the roll;

(6) every certificate, permit, accreditation or authorization that the order has issued to the person, with the date of issue;

(7) a note to the effect that the person has been struck off the roll in the past or that the person’s right to engage in professional activities is or has been restricted or suspended by the application of section 45.1, 51, 55 or 55.1;

(8) a note to the effect that the person has been struck off the roll or declared disqualified in the past, that the person’s specialist’s certificate is or has been revoked or that the person’s right to engage in professional activities is or has been restricted or suspended by a decision of the Bureau, in cases other than those referred to in sections 45.1, 51, 55 and 55.1, or by a decision of a committee on discipline or of a court; and

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

The secretary of the order shall note on the roll the period during which a decision referred to in subparagraph 7 or 8 of the first paragraph of this section applies.

“46.2. The secretary of the order shall keep in a directory the information concerning a person who is no longer entered on the roll as a result of having been struck off, having been declared disqualified, or having otherwise ceased to be a member of the order. The information remains in the directory until the person is again entered on the roll, if applicable, or until the person’s death or 100th birthday.

The secretary shall keep the information concerning a person to whom a special authorization is issued under section 33, 39 or 39.1, without indicating it on the roll or in the directory, even after the authorization ceases to have effect.

The information may not be destroyed unless a regulation of the Office under section 12 allows it.”

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

152. The 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 audit or inspection by a person or committee mentioned in subparagraph 1 of the first paragraph of section 192 or reveal 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.

Similarly, a professional order may refuse to release or confirm the existence of information or a document whose disclosure could reveal details of an investigation or affect a future or current investigation or an investigation that may be reopened.

Information that allows a company or partnership referred to in Chapter VI.3 or another 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 investigation, audit or 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

(1) reveal the substance of the deliberations of a person, committee or disciplinary proceeding of the order that is to settle disputes or disagreements under the Act;

(2) reveal a confidential source of information;

(3) endanger the safety of a person;

(4) cause prejudice to the person who is the source or the subject of the information; or

(5) 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. However, the syndic shall perform the duties mentioned in this paragraph with respect to the documents and information the syndic obtains or holds and those the syndic releases within the order.

The president may designate the secretary of the order or a member of the management staff as the person responsible, and delegate all or part of the president's duties to that person.

The president must send a notice of the delegation to the Commission d'accès à l'information.

“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, as well as of the person responsible for professional inspection;

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

(5) the name, title and duties of a conciliator, of the members of a committee of inquiry or indemnification committee and of the members of the council of 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.

“108.7. 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 or information concerning a third person that 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.

The name of a member against whom a complaint has been made and the subject of the complaint is also public information as of service of the complaint by the secretary of the committee on discipline.

“108.8. The following is also public information:

(1) the information referred to in sections 46.1 and 46.2; and

(2) the information concerning the places, other than his professional domicile, where a member practises his profession.

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.

“108.9. 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 group insurance plan contract entered into by an order in accordance with the requirements determined in a regulation referred to in paragraph *d* or *g* of section 93, including any riders, and, for the other types of contracts provided for in those paragraphs, the declaration or statement of a member of an order, or of a company or partnership referred to in Chapter VI.3, to the effect that they are covered by security consistent with the requirements determined in such a regulation or that they have been excluded or exempted, including any information relating to the nature of the exclusion or exemption; 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, or information it holds on a company or partnership referred to in Chapter VI.3, or on another group of professionals:

(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 or complementary functions for the protection of the public, when the release is necessary for an investigation or 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.”

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

154. Section 120.3 of the Code is repealed.

155. Section 197 of the 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

156. Section 25 of the Act respecting commercial aquaculture (R.S.Q., chapter A-20.2) is amended by striking out the second paragraph.

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

158. Section 65 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 22 of chapter 11 of the statutes of 2005, section 22 of chapter 24 of the statutes of 2005 and section 240 of chapter 32 of the statutes of 2005, is again amended by inserting the following paragraph before the last paragraph:

“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.”

159. Section 65 of the 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 second last paragraph by “in section 175 of the Act respecting the Québec correctional system (2002, chapter 24)”.

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

161. 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 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.

Despite section 88 of the Act respecting Access to documents held by public bodies and the Protection of personal information, the chairman of the commission shall communicate the victim’s representations to an inmate who makes a request for them in writing, unless there is reasonable cause to believe that the disclosure would compromise the safety of the victim or another person. Despite section 53 of that Act, the chairman of the commission shall also communicate the representations to the director of the correctional facility where the inmate they concern is confined.”

162. 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”.

163. Section 22.4 of the 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”.

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

165. The Act respecting correctional services (R.S.Q., chapter S-4.01) is amended by inserting the following section after section 4.1:

“4.2. The correctional services division and a police force may exchange any information, including personal information, relating to a person committed to the custody of the correctional services division, without the consent of the person concerned, if

(1) the information is necessary for the care of a person committed to the custody of correctional services or for the administration of the person's sentence;

(2) the information is necessary for the prevention, detection or repression of crime or statutory offences;

(3) there are reasonable grounds to believe that the safety of persons or places for which correctional services is responsible or the safety of members of its personnel is in danger; or

(4) there are reasonable grounds to believe that the person is likely to reoffend or to cause injury to another person or damage to property.”

166. The Act 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.”

167. The Act respecting the Québec correctional system (2002, chapter 24) is amended by inserting the following section after section 18:

“**18.1.** The correctional services and a police force may exchange any information, including personal information, relating to a person committed to the custody of the correctional services, without the consent of the person concerned, if

(1) the information is necessary for the care of a person committed to the custody of the correctional services or for the administration of the person’s sentence;

(2) the information is necessary for the prevention, detection or repression of crime or statutory offences;

(3) there are reasonable grounds to believe that the security of persons or places for which the correctional services are responsible or the security of members of its personnel is in danger; or

(4) there are reasonable grounds to believe that the person is likely to reoffend or to cause injury to another person or damage to property.”

168. Section 65 of the Act is amended by striking out “and, if applicable, the victim” in the second line.

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

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

“DIVISION X

“ACCESS TO DECISIONS

“**172.1.** A person who applies 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.”

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

172. Section 175 of the Act is replaced by the following section:

“**175.** The persons referred to in subparagraphs 1 and 2 must take every possible measure to communicate all or some of the information provided for in those subparagraphs to a victim referred to in a government policy such as the policy on domestic violence or sexual assault, a victim of a pedophilic offence, or any other victim who requests it in writing, unless there is reasonable cause to believe that the disclosure would compromise the safety of the offender:

(1) the facility director:

(a) the date of the offender’s eligibility for a temporary absence for reintegration purposes;

(b) the date of the offender’s temporary absence for reintegration purposes together with the attached conditions and the offender’s destination during the absence;

(c) the date of the offender’s release from prison; and

(d) the fact that the offender has escaped or is unlawfully at large; and

(2) the chair of the parole board:

(a) the date of the offender’s eligibility for a temporary absence in preparation for conditional release or of the offender’s eligibility for conditional release;

(b) the date of the offender’s temporary absence for a family visit or in preparation for conditional release or of the offender’s conditional release, together with the attached conditions and the offender’s destination during the absence; and

(c) the decisions made under sections 136, 140, 143, 160, 163, 167 and 171.

The information may also be communicated to any other person if there is reasonable cause to believe that the offender’s release may compromise the safety of that person.”

173. The 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

83 of the Act respecting Access to documents held by public bodies and the Protection of personal information.”

174. Section 176 of the Act is amended by adding the following paragraph:

“Despite section 88 of the Act respecting Access to documents held by public bodies and the Protection of personal information, the director of a correctional facility or the chair of the parole board shall communicate the victim’s representations to an offender who makes a request for them in writing, unless there is reasonable cause to believe that the disclosure would compromise the safety of the victim or another person. Despite section 53 of that Act, the chair of the parole board shall also communicate the representations to the director of the correctional facility where the offender they concern is confined.”

175. Section 29 of the Act respecting reserved designations and added-value claims (2006, chapter 4) is amended by striking out the second paragraph.

176. Section 10 of the Act respecting Municipalité régionale de comté d’Arthabaska (2004, chapter 47) is repealed.

177. The words “nominative” and “non-nominative” are replaced by the words “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

178. A local development centre and a regional conference of elected officers to which the Act respecting the Ministère du Développement économique, de l'Innovation et de l'Exportation (R.S.Q., chapter M-30.01) and the Act respecting the Ministère des Affaires municipales et des Régions (R.S.Q., chapter M-22.1) apply respectively 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.

179. 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 46 of this Act and that must be submitted to the Commission is deemed, for the purpose of computing the 60-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.

180. 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 13 June 2006. The National Assembly may designate the vice-chair of the Commission from among the members by a resolution proposed and approved in accordance with section 104 of this Act.

The chair 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. The chair notifies the President of the National Assembly, who informs the Assembly.

181. 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 148 of this Act.

182. Paragraph 5 of section 108.7 of the Professional Code enacted by section 152 of this Act does not apply to the record of a committee on discipline whose hearings were held before 1 August 1988.

183. This Act comes into force on 14 June 2006, except

(1) sections 8, 9 and 69; section 63.2 of the Act respecting Access to documents held by public bodies and the Protection of personal information, enacted by section 34; section 137.3 of that Act, enacted by section 92; and section 50.1 of the Act respecting the protection of personal information in the private sector, enacted by section 129, which come into force on the date or dates to be set by the Government but not later than 15 June 2007;

(2) sections 2, 3, 41, 50, 51 and 121, which come into force on 14 July 2006;

(3) section 74, which comes into force on 12 September 2006;

(4) sections 167 to 174, which come into force on 5 February 2007;

(5) section 5, paragraph 1 of section 6, paragraph 1 of section 26, paragraph 2 of section 54, and paragraph 2 of section 56, which come into force on the date or dates to be set by the Government but not later than 17 December 2006; and

(6) section 1, the words "or the Professional Code" in section 49, paragraph 1 of section 55, paragraph 2 of section 57, paragraph 1 of section 58, section 76, paragraph 1 of section 111, and sections 148 to 155, which come into force on 14 September 2007.

