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Summary

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PROVINCE OF QUÉBEC

2nd SESSION

37th LEGISLATURE

QUÉBEC, 14 JUNE 2006

OFFICE OF THE LIEUTENANT-GOVERNOR

Québec, 14 June 2006

This day, at forty-five minutes past eight o'clock in the afternoon, Her Excellency the Lieutenant-Governor was pleased to sanction the following bills:

4	An Act to amend the Act respecting the Office Québec-Amériques pour la jeunesse and the Act respecting the Office franco-québécois pour la jeunesse
7	An Act to amend the Chartered Accountants Act
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To these bills the Royal assent was affixed by Her Excellency the Lieutenant-Governor.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 4
(2006, chapter 18)

An Act to amend the Act respecting the Office Québec-Amériques pour la jeunesse and the Act respecting the Office franco-québécois pour la jeunesse

Introduced 4 April 2006
Passage in principle 18 May 2006
Passage 14 June 2006
Assented to 14 June 2006

Québec Official Publisher
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EXPLANATORY NOTES

This bill amends the Act respecting the Office Québec-Amériques pour la jeunesse to separate the office of chair of the board from that of president and chief executive officer. It also raises the age limit for appointment of young persons to the board of directors from 30 to 35.

As well, the bill modifies the scope of the Act respecting the Office franco-québécois pour la jeunesse to include provisions relating to the Agence Québec/Wallonie-Bruxelles pour la jeunesse.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting the Office franco-québécois pour la jeunesse (R.S.Q., chapter O-5);

– Act respecting the Office Québec-Amériques pour la jeunesse (R.S.Q., chapter O-5.1).

Bill 4

AN ACT TO AMEND THE ACT RESPECTING THE OFFICE QUÉBEC-AMÉRIQUES POUR LA JEUNESSE AND THE ACT RESPECTING THE OFFICE FRANCO-QUÉBÉCOIS POUR LA JEUNESSE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 7 of the Act respecting the Office Québec-Amériques pour la jeunesse (R.S.Q., chapter O-5.1) is amended

(1) by replacing "a chief executive officer" in the second line of the first paragraph by "the chair of the board and the president and chief executive officer of the agency";

(2) by replacing "Not less than three and not more than five" in the first line of the second paragraph by "Two" and by replacing "30" in the third line of that paragraph by "35".

2. Section 8 of the Act is amended by replacing "chief executive officer of the agency shall be" in the first line of the first paragraph by "chair of the board of directors and the president and chief executive officer shall be".

3. Section 9 of the Act is replaced by the following sections:

"9. The chair of the board of directors shall preside at meetings of the board and see to its smooth operation.

The chair shall also assume any other responsibility assigned by the board.

"9.1. The board of directors shall designate a vice-chair from among its members.

If the chair of the board is absent or unable to act, the vice-chair shall act as chair.

"9.2. The president and chief executive officer is responsible for the direction and management of the Office within the framework of its by-laws and policies. The president and chief executive officer shall propose strategic directions to the board of directors, as well as general development policies. The office of president and chief executive officer is a full-time position.

The president and chief executive officer shall also assume any other responsibility assigned by the board or the Minister.

"9.3. If the president and chief executive officer is absent or unable to act, the Minister may appoint a person to exercise the functions of that office.

"9.4. The offices of chair of the board of directors and president and chief executive officer may not be held concurrently."

4. Section 10 of the Act is amended by inserting "president and" after "employment of the".

5. Section 12 of the Act is amended by inserting "the chair of the board and the president and" after "including" in the second line of the first paragraph.

6. Section 13 of the Act is amended by replacing "chief executive officer" in the second line by "chair".

7. Section 15 of the Act is amended by inserting "chair of the board of directors, by the president and" after "by the" in the second line.

8. Section 22 of the Act is amended by inserting "president and" after "in writing to the".

9. The title of the Act respecting the Office franco-québécois pour la jeunesse (R.S.Q., chapter O-5) is replaced by the following title:

"An Act to recognize bodies promoting international exchanges for young people".

10. The Act is amended by inserting the following after the title:

"**CHAPTER I**

"OFFICE FRANCO-QUÉBÉCOIS POUR LA JEUNESSE".

11. Section 1 of the Act is replaced by the following section:

"1. The Office franco-québécois pour la jeunesse, established under the Protocol, signed on 9 February 1968, concerning exchanges between Québec and France in matters of physical education, sports and popular education made pursuant to the Franco-Québec agreement of 27 February 1965 on a program of exchange and cooperation in the field of education is a legal person.

The protocol governing the Office and any subsequent amendment made to it shall be published in the *Gazette officielle du Québec*."

12. Section 5 of the Act is repealed.

13. Section 6 of the Act is amended by replacing "the Secretaries General" in the first line by "the Secretary General of the Québec section".

14. The Act is amended by inserting the following after section 7:

"**CHAPTER II**

"AGENCE QUÉBEC/WALLONIE-BRUXELLES POUR LA JEUNESSE

"8. The Agence Québec/Wallonie-Bruxelles pour la jeunesse, established under the Agreement signed on 31 May 1984 between the Gouvernement du Québec and the Executive of the Communauté française de Belgique concerning the Agence Québec/Wallonie-Bruxelles pour la jeunesse made pursuant to the cooperation agreement of 3 November 1982 is a legal person.

The agreement governing the Agence and any subsequent amendment made to it shall be published in the *Gazette officielle du Québec*.

"9. The provisions of Title V of Book I of the Civil Code shall apply to the Agence.

"10. The Agence shall have the rights and privileges of a mandatary of the State.

"11. The members of the board of directors of the Agence who are designated by the Gouvernement du Québec shall remain in office, notwithstanding the expiry of their term, until reappointed or replaced.

"12. After having been approved by the board of directors of the Agence, the annual report of the Associate Executive Secretaries of the Agence shall be transmitted to the Minister responsible for the administration of this Act; the Minister shall table the report in the National Assembly within 30 days of receiving it or, if the Assembly is not sitting, within 30 days of resumption.

"**CHAPTER III**

"MISCELLANEOUS PROVISIONS

"13. The Agence established as a legal person under section 8 succeeds the Secrétariat québécois de l'Agence Québec/Wallonie-Bruxelles pour la jeunesse established on 5 June 1991 under Part III of the Companies Act (chapter C-38), and acquires the rights and assumes the obligations of that legal person, which is dissolved.

"14. The Minister of International Relations is responsible for the administration of this Act."

15. The schedule to the Act is repealed.

16. The provisions of this Act come into force on the date or dates set by the Government.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 7
(2006, chapter 19)

An Act to amend the Chartered Accountants Act

Introduced 13 April 2006
Passage in principle 16 May 2006
Passage 13 June 2006
Assented to 14 June 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

This bill amends the Chartered Accountants Act to make it possible for the Ordre des comptables agréés du Québec to enter into an agreement with certain bodies exercising complementary functions with respect to the protection of the public. The agreement must specify the nature and scope of the information that may be exchanged, as well as the purpose of the communication.

The bill authorizes members of the Order to provide information relating to their professional activities or their clients, to the extent specified in the agreement.

The bill grants immunity to a body having entered into such an agreement with the Order.

Bill 7

AN ACT TO AMEND THE CHARTERED ACCOUNTANTS ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Chartered Accountants Act (R.S.Q., chapter C-48) is amended by inserting the following sections after section 22:

"22.1. The Bureau may enter into an agreement with the following bodies exercising complementary functions with respect to the protection of the public: the Autorité des marchés financiers and the Canadian Public Accountability Board incorporated under the Canada Business Corporations Act (R.S.C. 1970, chapter C-32). The term of the agreement may not exceed five years.

The agreement may, to the extent required for its implementation, derogate from the Acts and regulations governing the Order that pertain to the confidentiality of the information it holds. The agreement must define the nature and scope of the information the Order and the body may exchange concerning inspection, discipline or any inquiry conducted by the body or the Order regarding a professional or a professional partnership or company within which members of the Order practise, specify the purpose of the exchange of information and the conditions of confidentiality to be observed, including those pertaining to professional secrecy, and determine how information so obtained may be used.

The information that may be communicated under the agreement must be necessary for the exercise of the functions of the party receiving it.

The information communicated by the Order under the agreement must be treated by the body receiving it with as much confidentiality as if it had been obtained or was held by the Order in the exercise of the powers granted by the Professional Code. That obligation does not, however, restrict the powers granted by an Act of Québec to the Autorité des marchés financiers as regards the communication of information.

The agreement is published in the *Gazette officielle du Québec*. On the expiry of at least 45 days after the publication, it is submitted to the Government for approval, with or without amendments. The agreement comes into force after approval, on the date it is published again in the *Gazette officielle du Québec* or on any later date stated in the agreement.

The Order shall report on the implementation of the agreements entered into in the report it must produce under section 104 of the Professional Code.

"22.2. As long as an agreement under section 22.1 is in force, members of the Order are authorized, despite being bound by professional secrecy, to provide, to the extent specified in the agreement, information relating to their professional activities or clients to a representative of the body acting within the scope of its activities in Québec.

The information communicated under the agreement by a member of the Order must be treated by the body receiving it with as much confidentiality as if it had been obtained or was held by the Order in the exercise of the powers granted by the Professional Code. That obligation does not, however, restrict the powers granted by an Act of Québec to the Autorité des marchés financiers as regards the communication of information.

"22.3. No proceedings may be instituted against a body having entered into an agreement under section 22.1, or any of its directors or representatives, by reason of any act performed in good faith in the exercise of their functions in Québec on the basis of information obtained in accordance with the agreement, unless an Act of Québec concerning the body provides otherwise."

2. This Act comes into force on 14 June 2006.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 14
(2006, chapter 20)

An Act to amend the Professional Code as regards the issue of permits

Introduced 10 May 2006
Passage in principle 1 June 2006
Passage 13 June 2006
Assented to 14 June 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

This bill amends the Professional Code to allow for the issue of a permit or a specialist's certificate to a person who holds a legal authorization to practise a profession outside Québec and who meets the conditions determined by regulation of the professional order that supervises the practice of that profession in Québec.

The bill also provides for the issue of a temporary restrictive permit, on the conditions the order determines, to a person seeking admission to a profession or applying for a specialist's certificate, and for the issue of a special permit for certain professional activities to a person who holds a legal authorization to practise the profession outside Québec, if that person meets the conditions determined by regulation of the order.

Lastly, the bill provides that an order must determine by regulation a procedure for recognizing an equivalence, standards for which are established by regulation. It also determines that the procedure must stipulate that a decision must be reviewed by persons other than those who made it.

Bill 14

AN ACT TO AMEND THE PROFESSIONAL CODE AS REGARDS THE ISSUE OF PERMITS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 41 of the Professional Code (R.S.Q., chapter C-26) is amended by striking out "Subject to sections 35, 37 and 38 of the Charter of the French language (chapter C-11)," at the beginning.

2. Section 42 of the Code is replaced by the following section:

"42. To obtain a permit or a specialist's certificate, a person must

(1) hold a diploma recognized as valid for that purpose by regulation of the Government under the first paragraph of section 184;

(2) obtain equivalence of his diploma or training in accordance with a regulation under paragraph *c* of section 93; or

(3) hold a legal authorization to practise his profession outside Québec under paragraph *q* of section 94 and meet the conditions for the issue of a permit or certificate determined in that paragraph."

3. The Code is amended by inserting the following sections after section 42:

"42.1. The Bureau of an order may issue a temporary restrictive permit to a person seeking admission to a profession who is in either of the following situations:

(1) after examining an application for equivalence submitted under a regulation made under paragraph *c* of section 93 or paragraph *i* of section 94, the order informed the person of the training needed to obtain the equivalence; or

(2) the person must meet one of the conditions set out in a regulation under paragraph *q* or *r* of section 94 to obtain a permit issued under paragraph 3 of section 42 or section 42.2.

The Bureau must determine, from among the professional activities the members of the order may engage in, those that may be engaged in by the holder of the permit, and the conditions the holder must meet to engage in those activities.

The permit is valid for one year and may be renewed.

"42.2. The Bureau of an order may issue a special permit for certain professional activities to a person who holds a legal authorization to practise the profession outside Québec, in accordance with a regulation under paragraph *r* of section 94.

"42.3. Sections 40 to 42.2 apply subject to sections 35, 37 and 38 of the Charter of the French language (chapter C-11)."

4. Section 93 of the Code is amended by inserting the following paragraph after paragraph *c*:

"(*c*.1) determine a procedure for recognizing an equivalence, standards for which are established in a regulation under paragraph *c* of this section or paragraph *i* of section 94, stipulating that a decision must be reviewed by persons other than those who made it and, for that purpose, provide that the Bureau's power to decide an application or review a decision may be delegated to a committee established under paragraph 2 of section 86.0.1;".

5. Section 94 of the Code is amended by adding the following paragraphs at the end:

"(*q*) determine which legal authorizations to practise a profession outside Québec give access to a permit or a specialist's certificate, and the conditions for the issue of the permit or the specialist's certificate that are applicable to the holders of the legal authorizations;

"(*r*) establish special permits; the regulation must contain the reasons justifying the issue of a special permit, the conditions for the issue of the permit, the title, abbreviation and initials its holder may use, the activities the holder may engage in and the conditions the holder must meet to engage in those activities."

6. The Code is amended by inserting the following section after section 198.1:

"198.2. At the expiry of a period of two years after the date of coming into force of paragraphs *q* and *r* of section 94, the Bureau of each professional order must report to the Office des professions on the implementation of those provisions within the order. The Bureau of an order that did not adopt a regulation under one of those paragraphs must set out the reasons it decided not to do so.

The Minister must, at the expiry of a period of not more than six months after the date of expiry set out in the first paragraph, present a report to the Government on the implementation by the orders of the provisions referred to in the first paragraph, together with the reports presented under that paragraph.

The Minister must table the report in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption."

7. This Act comes into force on 14 June 2006.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 19
(2006, chapter 21)

An Act to establish the Sports and Physical Activity Development Fund

Introduced 10 May 2006
Passage in principle 26 May 2006
Passage 13 June 2006
Assented to 14 June 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

This bill establishes the Sports and Physical Activity Development Fund, dedicated to providing financial support for the construction, renovation, equipping and bringing up to standards of sports and recreational facilities, for the organization of international and Canada-wide sports events and for bids to host such events. The bill also includes measures governing the makeup and management of the Fund.

Bill 19

AN ACT TO ESTABLISH THE SPORTS AND PHYSICAL ACTIVITY DEVELOPMENT FUND

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. A Sports and Physical Activity Development Fund is established at the Ministère de l'Éducation, du Loisir et du Sport.

The Fund is dedicated to providing financial support for the construction, renovation, equipping and bringing up to standards of sports and recreational facilities, for the organization of international and Canada-wide sports events and for bids to host such events.

The Fund is intended, among other purposes, to contribute to the development of a sports culture among the population.

2. The Government sets the date on which the Fund is to begin to operate and determines its assets and liabilities. It also determines the nature of the activities to be financed by the Fund, the nature of the costs that may be charged to it and the proportion of financial support to be granted to sports and recreational facilities and sports events, respectively.

3. The Fund is made up of

(1) the sums paid into the Fund by the Minister of Revenue under section 5;

(2) the sums paid into the Fund by the Minister of Education, Recreation and Sports out of the appropriations granted for that purpose by Parliament;

(3) the gifts, legacies and other contributions paid into the Fund to further the achievement of the objects of the Fund;

(4) the sums paid into the Fund by the Minister of Finance under sections 6 and 7; and

(5) the income generated by the investment of the sums making up the Fund.

4. The management of the sums making up the Fund is entrusted to the Minister of Finance. The sums are paid to the order of that Minister and deposited with the financial institutions designated by that Minister.

The Minister of Education, Recreation and Sports keeps the books of account of the Fund and records the financial commitments chargeable to it. The Minister also ensures that such commitments and the payments arising from them do not exceed and are consistent with the available balances.

The particulars of the management of the Fund are determined by the Conseil du trésor.

5. On the dates and in the manner determined by the Government, the Minister of Revenue pays into the Fund part of the proceeds of the tobacco tax collected under the Tobacco Tax Act (R.S.Q., chapter I-2) for a total amount of $30,000,000 per year.

6. The Minister of Finance may, with the authorization of the Government and subject to the conditions it determines, advance to the Fund sums taken out of the consolidated revenue fund.

Conversely, the Minister of Finance may, subject to the conditions determined by that Minister, advance to the consolidated revenue fund on a short-term basis any part of the sums making up the Fund that is not required for its operation.

Any sum advanced to a fund is repayable out of that fund.

7. The Minister of Education, Recreation and Sports, as manager of the Fund, may borrow sums from the Minister of Finance out of the financing fund established under the Act respecting the Ministère des Finances (R.S.Q., chapter M-24.01).

8. The sums required for the remuneration and the expenses pertaining to employee benefits and other conditions of employment of the persons assigned, in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1), to Fund-related activities are paid out of the Fund.

9. Sections 20, 21 and 26 to 28, Chapters IV and VI and sections 89 and 90 of the Financial Administration Act (R.S.Q., chapter A-6.001) apply to the Fund, with the necessary modifications.

10. Despite any provision to the contrary, the Minister of Finance must, in the event of a deficiency in the consolidated revenue fund, pay out of the Sports and Physical Activity Development Fund the sums required for the execution of a judgment against the State that has become *res judicata*.

11. The fiscal year of the Fund ends on 31 March.

12. For every fiscal year, the Minister tables a report on the activities of the Fund in the National Assembly.

13. For the fiscal year 2006-2007, the amount of $30,000,000 in section 5 is replaced by that of $15,000,000.

14. The Minister of Education, Recreation and Sports is responsible for the administration of this Act.

15. The provisions of this Act cease to have effect on the date or dates to be set by the Government, which may not precede 1 April 2020.

Any sum remaining in the Fund on the date section 1 ceases to have effect is paid into the consolidated revenue fund and is appropriated to the financing of such complementary measures consistent with the objects of the Fund as are determined by the Government, in the manner determined by the Government.

16. This Act comes into force on 14 June 2006.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 22
(2006, chapter 17)

An Act to amend the Election Act to encourage and facilitate voting

Introduced 11 May 2006
Passage in principle 6 June 2006
Passage 14 June 2006
Assented to 14 June 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

The purpose of this bill is to encourage the greatest possible number of electors to vote. To that end, the bill proposes the following measures:

— setting up mobile boards of revisors and allowing revision requests to be filed by mail, fax or electronic means;

— allowing electors to vote in any of the offices set up by the returning officer in their electoral division from the eleventh to the ninth day and from the sixth to the fourth day before polling day;

— allowing electors who are unable to vote in the electoral division of their domicile to vote at the returning officer's office in the electoral division in which they are residing temporarily, but for the candidates running in the electoral division of their domicile;

— allowing inmates to vote by mail in the same manner as electors outside Québec;

— extending advance polling hours and allowing advance polling in private residences for the elderly; and

— organizing mobile polling for electors who cannot leave home for health reasons.

The bill also makes the Government and Public Employees Retirement Plan applicable to certain temporary employees of the Chief Electoral Officer.

Bill 22

AN ACT TO AMEND THE ELECTION ACT TO ENCOURAGE AND FACILITATE VOTING

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Election Act (R.S.Q., chapter E-3.3) is amended

(1) by striking out "or, in the case of an elector outside Québec, for 12 months" in subparagraph 3 of the first paragraph;

(2) by striking out the third paragraph.

2. Section 2 of the Act is amended by replacing "Tuesday of the second week preceding that of the poll" in the third and fourth lines by "the fourteenth day before polling day".

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

"3. A candidate having filed a nomination paper in accordance with section 237 who is running in an electoral division other than that in which the candidate is domiciled may choose to be considered as domiciled in the polling subdivision in which the candidate's main office for the purposes of the election is located. The candidate must file a request to that effect on revision of the list of electors during the election period."

4. Section 40.12.13 of the Act is amended by replacing "Sections 211 and 213 to 216.1" in the first line by "Sections 209 and 212 to 216".

5. Section 40.31 of the Act is amended by replacing the first paragraph by the following paragraph:

"40.31. The returning officer may establish a procedure for enumerating persons domiciled or lodged in a place described in section 135.1 with the executive director, owner, manager, operator or person in charge of that place in order to ensure that they are registered on the list of electors."

6. Section 40.32 of the Act is replaced by the following section:

"40.32. The executive director, owner, manager, operator, superintendent, caretaker or person in charge of a place described in section 135.1 must allow and facilitate access to the premises by the enumerators."

7. Section 40.38 of the Act is amended by replacing "227 to 231.3" in the fourth line by "220 to 228".

8. Section 40.38.1 of the Act is replaced by the following section:

"40.38.1. In January, April and September each year, the Chief Electoral Officer shall transmit the list of the electors registered on the permanent list of electors for the purposes of a provincial poll to the authorized parties represented in the National Assembly, to any other authorized party that so requests and to every Member. However, Members shall only receive the list for the electoral division they represent.

No list is to be transmitted during an election or referendum period or within the three months that follow a general election or a referendum."

9. Section 132 of the Act is replaced by the following section:

"132. The returning officer shall establish a main office in an easily accessible place in the electoral division, and, after being authorized by the Chief Electoral Officer, branch offices as needed. The addresses of these offices are communicated to the Chief Electoral Officer, to each party authority at the electoral division level and to the public.

As soon as the order instituting the election is issued, these offices must be open every day, from 9:00 a.m. to 9:00 p.m. Monday to Friday and from 9:00 a.m. to 5:00 p.m. Saturday and Sunday. They must be handicapped-accessible and laid out in accordance with the standards prescribed by the Chief Electoral Officer."

10. Section 135.1 of the Act is replaced by the following section:

"135.1. The owner, manager, operator, superintendent, caretaker or person in charge of a residential building, a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) or a lodging facility operated by an organization for the purpose of ensuring the safety of individuals and their children must allow and facilitate access to the building, residence or facility by persons in charge of distributing notices or documents from the Chief Electoral Officer or the returning officer.

The same rule applies to the executive director of an institution that operates a hospital centre, a residential and long-term care centre or a rehabilitation centre governed by the Act respecting health services and social services or a hospital centre or a reception centre within the meaning of the Act respecting health services and social services for Cree Native persons (chapter S-5), with regard to any facility maintained by the institution."

11. Section 146 of the Act is amended by replacing the second paragraph by the following paragraph:

"The lists are sent in electronic form; candidates may obtain a paper copy on request."

12. The Act is amended by replacing subdivision 1 of Division IV of Chapter III of Title IV, comprising sections 179 to 196, by the following:

"**DIVISION IV**

"REVISION

"§1. — *Establishment of boards of revisors*

"**179.** The returning officer for an electoral division establishes one or more boards of revisors, mobile boards of revisors and special boards of revisors, as needed.

The Chief Electoral Officer establishes a board of revisors for electors having the right to vote outside Québec.

"§2. — *Boards of revisors and mobile boards of revisors*

"**180.** A board of revisors must sit at the returning officer's main office and the additional boards of revisors sit at the returning officer's branch offices or at any other place determined by the returning officer after being authorized by the Chief Electoral Officer. If the Chief Electoral Officer considers it expedient depending on the time of the year, a board of revisors may sit at any place where a university or general and vocational college maintains a student residence.

Not later than the twenty-eighth day before polling day, the returning officer determines the places where boards of revisors will sit.

A mobile board of revisors sits in a residential facility maintained by an institution that operates a residential and long-term care centre governed by the Act respecting health services and social services (chapter S-4.2) or a residence for the elderly listed in the register established under that Act.

A residential facility must meet the criteria set by the Chief Electoral Officer and the institution or the operator of the residence must allow a mobile board of revisors to be set up free of charge in the residential facility.

The returning officer informs the Chief Electoral Officer, the authorized parties represented in the National Assembly, any other party having so requested, any independent Member and each candidate of the places where a board of revisors will sit.

"**181.** Each board of revisors is composed of three revisors, including a chair.

"182. Not later than the twenty-sixth day before polling day, the Chief Electoral Officer appoints revisors to each board of revisors.

The chair is appointed in accordance with section 185.

The second revisor is appointed on the recommendation of the authorized party that ranked first in the last election or the independent Member elected as such if the Member's nomination paper has been filed.

The third revisor is appointed on the recommendation of the authorized party that ranked second in the last election.

"183. In a new electoral division, an electoral division whose boundaries have changed since the last election, an electoral division in which no authorized party ranked second in the last election or an electoral division represented by an independent Member whose nomination paper has not been received, the Chief Electoral Officer decides which parties or candidates are entitled to recommend the appointment of the second and third revisors, according to criteria prescribed by regulation.

"184. The recommendations are made by the person designated in writing for that purpose by the leader or chief executive officer of the party.

Recommendations must be received by the returning officer not later than the twenty-seventh day before polling day.

The returning officer may refuse a recommendation on reasonable grounds. In that case, the returning officer requests a new recommendation.

If no recommendation has been received or if the person recommended is not a qualified elector, the returning officer makes the appointment without further formality.

"185. Not later than the twenty-eighth day before polling day, the returning officer sends the name of the revisor the returning officer intends to appoint as chair of each board of revisors for approval to the person designated under section 184.

The designated person must send a notice of approval or disapproval to the returning officer not later than the twenty-seventh day before polling day. In the case of disapproval, the Chief Electoral Officer appoints the revisor who is to act as chair of the board of revisors.

If no notice has been received, the returning officer makes the appointment without further formality.

"186. The revisor recommended by the authorized party that ranked first in the last election or by the independent Member elected as such acts as vice-chair of the board of revisors.

"187. The returning officer posts the list of revisors appointed to a board of revisors at the returning officer's office and sends it to the Chief Electoral Officer, the authorized parties represented in the National Assembly, any other authorized party having so requested, any independent Member and each candidate.

"188. The returning officer appoints a secretary to each board of revisors.

The returning officer appoints a sufficient number of teams of two revising officers. Sections 182 to 184 apply to the appointment of revising officers, with the necessary modifications.

The returning officer appoints the necessary additional personnel needed by the boards of revisors to perform their functions.

"189. The function of the secretary of a board of revisors is to assist the board in the performance of its work.

"190. The functions of the revising officers include serving hearing notices and summonses and, at the request of a board of revisors, gathering information relevant to a decision to be made.

"191. The revising officers work together; in no case may they act individually. If they disagree, the matter is submitted to the board of revisors, which makes a decision immediately; the revising officers are bound by the decision.

"192. Not later than the day before the day the work of a board of revisors is to begin, the returning officer sends the revisors

(1) the directives of the Chief Electoral Officer concerning the revision;

(2) the list of electors containing the information they need to perform their functions; and

(3) the requests for verification received under the third paragraph of section 145.

The returning officer also submits to a mobile board of revisors the cases of electors who are registered on the list of electors of a place described in section 180 or a facility maintained by an institution that operates a hospital centre or a rehabilitation centre governed by the Act respecting health services and social services (chapter S-4.2) and who, according to the information provided by the executive director, owner, manager, operator or person in charge of that place, have moved or died. The board of revisors has, in respect of such cases, the same powers and duties as for the processing of any request submitted by an elector.

If the revision follows an enumeration, the returning officer also sends the revisors the reports made by the enumerators under section 40.29, the list prepared under section 40.30, the requests for verification received from the Chief Electoral Officer under section 40.36 and a copy of the enumeration slips for which the enumerators were unable to obtain a date of birth.

"193. A board of revisors referred to in the first paragraph of section 180 sits from 9:00 a.m. to 9:00 p.m. Monday to Friday, and from 9:00 a.m. to 5:00 p.m. Saturday and Sunday, from the twenty-first to the twelfth day before polling day.

Requests must be filed with or received by a board of revisors not later than the fourteenth day before polling day.

"194. A mobile board of revisors sits on the days and during the hours determined by the returning officer for the period referred to in section 193.

A mobile board of revisors may visit the room or apartment of an elector who is unable to move about and who is domiciled in a residential facility where the board sits, provided a request to that effect was addressed to the returning officer not later than the fourteenth day before polling day.

A mobile board of revisors may also, under the same conditions as those set out in the second paragraph, visit an elector who is domiciled or lodged in a place referred to in section 135.1 where a mobile board of revisors has not been set up to allow the elector to submit a request for revision of the list of electors.

Despite the second paragraph, a mobile board of revisors present in a facility referred to in the second or third paragraph may, on request, visit the room or apartment of an elector who is unable to move about.

"195. After consulting with the returning officer, the chair of a board of revisors may extend the hours of the board if the number of requests warrants it.

"196. Two revisors constitute a quorum.

Questions submitted to the board of revisors are decided by a majority vote.

In the case of a tie vote, the chair, or in the absence of the chair, the vice-chair has a casting vote."

13. The Act is amended by replacing subdivision 2 of Division IV of Chapter III of Title IV, comprising sections 197 to 219, by the following:

"§3. — *Revision process*

"197. Not later than the twenty-second day before polling day, the Chief Electoral Officer sends to each address a notice containing the information relating to the electors registered on the list of electors for that address, except their date of birth and sex, or a notice indicating that no elector is registered for that address.

The notice must inform electors that any request regarding the revision of the list of electors must be submitted to a board of revisors in the electoral division of their domicile, set out when and where the boards of revisors will sit and explain the revision process.

Information regarding mobile boards of revisors is provided to the electors concerned by the returning officer.

"198. The Chief Electoral Officer sends each elector having requested a change to the permanent list of electors after the order instituting the election was issued a notice informing the elector that a request must be submitted to a board of revisors in the electoral division of his or her domicile for the change to be made to the list of electors to be used for the upcoming poll.

"199. An elector who finds that he or she is not registered on the list of electors for the polling subdivision in which the elector is domiciled on the fourteenth day before polling day must submit a request for registration to a board of revisors in order to vote.

The elector may request that the registration be effective for the purposes of the upcoming poll only.

"200. An elector who is aware that he or she is registered on the list of electors for a polling subdivision other than the one in which the elector is domiciled on the fourteenth day before polling day must submit a request for registration to a board of revisors in order to vote.

If the request is granted, the elector is registered on the list of electors for the polling subdivision in which the elector is domiciled after being removed from the other list.

"201. An elector who finds an error in the information relating to him or her must submit a request for a correction to a board of revisors.

"202. A person who finds that he or she is registered on the list of electors for a polling subdivision although the person is not entitled to be so registered must submit a request for removal to a board of revisors.

"203. An elector who does not wish to be registered on the list of electors may submit a request for removal to a board of revisors. The elector may at the same time request removal from the permanent list of electors.

"204. An elector who is the spouse or a relative of or lives with an elector may submit a request concerning the elector on the latter's behalf.

In this section, "relative" means the elector's father, mother, grandfather, grandmother, stepfather, stepmother, father-in-law, mother-in-law, brother, sister, brother-in-law, sister-in-law, son, daughter, stepson, stepdaughter, son-in-law, daughter-in-law, grandson or granddaughter.

"205. A person who finds that another person not entitled to be registered on the list of electors for a polling subdivision in his or her electoral division is so registered may submit a request for removal of that other person to a board of revisors.

The person declares that, to his or her knowledge, the other person is not entitled to be registered on the list of electors for that polling subdivision, for the reasons put forward to the board.

"206. All requests submitted to a board of revisors must be made on the form prescribed by the Chief Electoral Officer and supported by a declaration attesting to the accuracy of the facts put forward. The form may be obtained in person or by phone, mail or fax from a returning officer's office or on the Chief Electoral Officer's website.

A board of revisors may accept a request sent by mail or fax, or by electronic means provided the person's signature is reproduced.

A board of revisors may require from a person submitting a request any evidence needed to make a decision.

Requests for registration must be submitted with the document or documents determined by regulation of the Chief Electoral Officer in support of the information contained in the request.

"207. A board of revisors examines requests that are submitted in person immediately and, whenever it can make an immediate decision, it informs the elector of the decision. Whenever the board of revisors makes a decision in the absence of the elector concerned or of the person having made the request, it must immediately notify the elector of the decision. The decision is notified in the manner determined by the Chief Electoral Officer.

A board of revisors also examines all requests submitted to it under this Act.

"208. If electors were not registered on the right list of electors because their domiciliary address was not matched with the right polling subdivision, the Chief Electoral Officer or, on the Chief Electoral Officer's request, a board of revisors makes the necessary corrections.

The Chief Electoral Officer informs the electors concerned and the authorized parties of any corrections made under the first paragraph.

"209. In examining the cases submitted to it, a board of revisors or any revisor duly authorized by a board of revisors may make inquiries and summon witnesses.

A summons is served on a witness by the revising officers or, if it cannot be served on the witness, is left at the person's address.

A certificate of service is drawn up by the revising officers on the prescribed form and returned to the board of revisors.

"210. Before removing or refusing to register a person, a board of revisors must inform the person by means of a written notice stating the grounds for the removal or refusal and must give the person the opportunity to submit observations in person or in writing within the time it specifies, unless the person is present or the board is satisfied, on the basis of the evidence presented, that the person whose removal is requested is under curatorship or is dead.

The notice must be of at least one clear day and be notified in the manner determined by the Chief Electoral Officer at the address appearing on the list of electors or at any other place the board of revisors has reason to believe the person may be reached.

"211. Despite section 210, a board of revisors is not required to inform a person by means of a written notice before removing or refusing to register the person if the revising officers met the person and the person confirmed that he or she was not a qualified elector or if the request for removal is made under section 233.4.

"212. The person who is the subject of a request and the witnesses summoned by a board of revisors have the right to be assisted by an advocate.

"213. Before registering an elector on the list of electors, a board of revisors must make sure that the elector is not already registered.

If the elector is already registered, the board of revisors first removes the elector, in which case it is not necessary to send the notice referred to in section 210.

"214. If, on examining a request for removal, a board of revisors concludes that the person concerned is entitled to be registered on the list of electors for another polling subdivision, it must register the person on that list after removing the person from the other list.

"215. When a board of revisors must decide whether a person is a Canadian citizen, the burden of proof is on that person.

"216. A board of revisors, on its own initiative or on request, may review or revoke a decision to remove or refuse to register a person

(1) when a new fact is discovered which, had it been known in time, could have warranted a different decision; or

(2) when the person concerned was unable to submit observations for reasons considered sufficient.

After a board of revisors has completed its work, its powers under this section may be exercised by a special board of revisors.

"217. The changes made as a result of the revision process are incorporated into the list of electors by the person designated by the returning officer.

"218. Not later than the ninth day before polling day, the returning officer sends each candidate the revised list of electors. The list must clearly show the changes made as a result of the revision process and include particulars about voting at the returning officer's office.

At the latest before the opening of the advance poll, the returning officer sends each candidate an abstract of the changes made to the revised list of electors that pertain to voting at the returning officer's office.

The returning officer also sends each candidate a list of electors who have acquired the right to vote outside Québec since the order instituting the election was issued.

The lists are sent in electronic form; candidates may obtain a paper copy on request.

The Chief Electoral Officer sends the lists in electronic form to the authorized parties represented in the National Assembly and to any other authorized party having so requested.

"219. Despite paragraph 2 of section 53 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), personal information relating to a person who is the subject of a request for revision of the list of electors made in accordance with this division is not public information."

14. The Act is amended by replacing subdivision 3 of Division IV and Divisions V to VI of Chapter III of Title IV, comprising sections 220 to 231.14, by the following:

"§4. — *Special boards of revisors*

"220. A special board of revisors must sit at the returning officer's main office, and any other special boards of revisors, at one of the returning officer's branch offices or at any other place determined by the returning officer.

"221. The returning officer may appoint a team of two revising officers to assist a special board of revisors.

"222. A special board of revisors sits from 9:00 a.m. to 9:00 p.m. Monday to Friday, and from 9:00 a.m. to 5:00 p.m. Saturday and Sunday, from the thirteenth to the fourth day before polling day.

Requests must be filed with or received by a special board of revisors not later than 2:00 p.m. on the fourth day before polling day.

"223. Only the elector concerned may file a request with a special board of revisors. However, a special board of revisors may receive a request for removal concerning a deceased elector.

"224. Subject to section 216, a person who was refused registration or was removed from the list by a board of revisors or a mobile board of revisors may not request registration during the special revision process.

"225. An elector who is registered by a special board of revisors may not vote in the advance poll.

"226. The changes made by a special board of revisors are incorporated into the list of electors by the person designated by the returning officer.

"227. Not later than the third day before polling day, the returning officer sends each candidate the revised list of electors showing the changes made by a special board of revisors and including particulars about voting in the advance poll, and at the returning officer's office.

The list is sent in electronic form; candidates may obtain a paper copy on request.

The Chief Electoral Officer sends the list in electronic form to the authorized parties represented in the National Assembly and to any other authorized party having so requested.

"228. Unless otherwise provided, subdivisions 2 and 3 apply to special boards of revisors, with the necessary modifications.

"§5. — *Board of revisors for electors outside Québec*

"229. The Chief Electoral Officer establishes a board of revisors at the Chief Electoral Officer's office to receive requests for revision concerning electors who have the right to vote outside Québec.

"230. Sections 181, 182, 184 to 186, 188, 189 and 196 apply to the establishment and operation of the board of revisors, with the necessary modifications.

However, no team of revising officers is assigned to the board of revisors.

"231. The board of revisors sits from the twenty-first to the fourth day before polling day, on the days and during the hours determined by the Chief Electoral Officer.

However, requests for removal must be submitted by electors not later than the fourteenth day before polling day.

"232. An elector who finds that a person not entitled to be registered on the list of electors having the right to vote outside Québec for the elector's electoral division is so registered may submit a request for removal of that person to a board of revisors in the electoral division.

The elector declares that, to his or her knowledge, the person is not entitled to be registered on the list of electors having the right to vote outside Québec, for the reasons put forward to the board.

"233. The board of revisors sends the request for removal to the board of revisors for electors outside Québec, which makes the relevant inquiries with the assistance, if necessary, of the revising officers assigned to the boards of revisors in the different electoral divisions concerned.

"233.1. Before removing a person from the list, the board of revisors must try to contact the person so that he or she may submit observations.

"233.2. If, on examining a request for removal, the board of revisors concludes that the person is entitled to be registered on the list of electors for the polling subdivision in which the person is domiciled, the board of revisors registers the person on that list after removing the person from the list of electors having the right to vote outside Québec.

"233.3. If the board of revisors concludes that a person must be removed from the list, it notifies the person of its decision in writing.

The board of revisors sends the decision to the Chief Electoral Officer, who forwards it to the personnel assigned to the handling of ballot papers for electors voting outside Québec.

"233.4. If the Chief Electoral Officer finds that an elector has acquired the right to vote outside Québec since the order instituting the election was issued and that the elector is registered on the list of electors for the polling subdivision in which the elector is domiciled, the Chief Electoral Officer directs the returning officer concerned to remove the elector from that list.

"233.5. An elector having the right to vote outside Québec who wishes to vote in the polling subdivision in which the elector is domiciled on the fourteenth day before polling day must submit a request for registration to the

board of revisors for the electoral division. If the request is granted, the elector is registered on the list of electors for the polling subdivision in which the elector is domiciled after being removed from the list of electors having the right to vote outside Québec.

The board of revisors sends the decision to remove the elector from the list to the Chief Electoral Officer, who forwards the decision to the personnel assigned to the handling of ballot papers for electors voting outside Québec.

"233.6. On completing its work, the board of revisors sends the returning officer of each electoral division concerned an abstract of the changes it has made to the list of electors having the right to vote outside Québec for the electoral division.

The returning officers send this abstract to each candidate.

"§6. — *Sending of the revised list of electors*

"233.7. For the purpose of updating the permanent list of electors, the returning officer sends the Chief Electoral Officer the revised list of electors, which must specify, if that is the case, that the registration or removal of an elector is effective for the upcoming election only."

15. The Act is amended by replacing Division II of Chapter V of Title IV, comprising sections 262 to 301, by the following:

"**DIVISION I.1**

"ALTERNATIVE VOTING PROCEDURES

"262. Electors vote on polling day in accordance with Division III. Alternatively, they may vote, in accordance with Divisions II to II.2, in one of the following manners:

(1) at the returning officer's main office or branch offices;

(2) in the case of electors outside Québec and inmates, by mail; or

(3) in an advance poll.

An elector who chooses to vote outside his or her electoral division at one of the returning officer's offices may not vote in any other manner.

Electors vote for a candidate in the electoral division of their domicile.

"**DIVISION II**

"VOTING AT THE RETURNING OFFICER'S MAIN OFFICE
OR AT ONE OF THE RETURNING OFFICER'S BRANCH OFFICES

"§1. — *Voting by electors in the electoral division of their domicile*

"263. Electors may vote at the returning officer's main office or at one of the returning officer's branch offices in the electoral division of their domicile, from the eleventh day to the ninth day before polling day and from the sixth day to the fourth day before polling day. On the last day, voting ends at 2:00 p.m.

"264. An elector who wishes to vote at the returning officer's office must produce as identification one of the documents required under section 337.

"265. Before an elector is admitted to vote, the person assigned to voting at the returning officer's office must make sure that one of the required documents was produced as identification and that the elector is registered on the list of electors at the elector's domiciliary address.

"266. When the elector is admitted to vote, the person assigned to voting at the returning officer's office gives the elector a ballot paper, after initialling it in the space reserved for that purpose and removing it from the counterfoil. After voting, the elector places the ballot paper in a ballot box provided for that purpose.

Sections 342 to 351 apply, with the necessary modifications.

"267. At the end of each voting day at the returning officer's office, the person assigned to voting seals the ballot box and the various envelopes used and puts the polling materials away in a safe place. When the voting resumes, the person takes out the polling materials and removes the seals.

After each day, the returning officer sends the candidates the list of the electors who have voted.

At the end of the period referred to in section 263, the person assigned to voting at the returning officer's office follows the procedures set out in sections 301.3 and 301.4, with the necessary modifications.

"268. The votes are counted in the electoral district.

"§2. — *Voting by electors outside their electoral division*

"269. Electors who have reason to believe that they will be temporarily residing in an electoral division other than the electoral division of their domicile from the eleventh day before polling day until polling day may vote

at the returning officer's main office or at one of the returning officer's branch offices in the electoral division of their temporary place of residence.

However, electors registered to vote outside their electoral division who cannot vote in the electoral division of their temporary place of residence may vote at any other returning officer's office.

"270. Electors may register to vote outside their electoral division by applying in person to a board of revisors in the electoral division of their domicile or in the electoral division of their temporary place of residence during the period referred to in the first paragraph of section 193.

"271. To register to vote outside his or her electoral division, an elector must fill out and sign the request form and provide the supporting documents prescribed by regulation of the Chief Electoral Officer.

The request must be submitted with a declaration that the elector has reason to believe that he or she will be temporarily residing in an electoral division other than the electoral division of his or her domicile from the eleventh day before polling day until polling day.

"272. If the elector is not registered on the list of electors or is registered on the list of electors for a polling subdivision other than that in which the elector is domiciled, the board of revisors registers the elector on the list of electors for the polling subdivision in which the elector is domiciled after removing the elector from the other list of electors, if applicable.

"273. If the elector's request is accepted, it is entered in a registry of electors registered to vote outside their electoral division, and this is recorded opposite the elector's name on the list of electors for the electoral division of his or her domicile.

"274. The elector may vote from the eleventh day to the ninth day before polling day and from the sixth day to the fourth day before polling day. On the last day before polling day, voting ends at 2:00 p.m.

"275. Electors registered to vote outside their electoral division receive a ballot paper printed according to the model provided in Schedule IV, a list of the candidates for the electoral division of their domicile and the parties the candidates represent, if applicable, and an envelope bearing the name of their electoral division.

"276. Electors cast their vote by writing the given name and family name of the candidate of their choice on the ballot paper. They may add the name of the political party or the word "Independent", if applicable.

Sections 346, 347 and 349 to 351 apply, with the necessary modifications.

"277. Electors place the ballot paper in the unidentified envelope provided, seal the envelope and place it in the ballot box provided for that purpose.

"278. Once an elector has voted, the fact is recorded in the registry of electors registered to vote outside their electoral division.

"279. At the end of each voting day at the returning officer's office, the person assigned to voting seals the ballot box and the various envelopes used and puts the polling materials away in a safe place. When voting resumes, the person takes out the polling materials and removes the seals.

Each voting day, the returning officer sends the candidates the list of the electors who have voted outside their electoral division.

At the end of the period referred to in section 274, the person assigned to voting at the returning officer's office follows the procedures set out in sections 301.3 and 301.4, with the necessary modifications.

"280. At the end of the period prescribed for voting by electors outside their electoral division, the returning officer sends the Chief Electoral Officer, in the manner determined by the Chief Electoral Officer, the ballot box or boxes containing the ballot papers of electors who voted outside their electoral division.

As soon as the ballot boxes are received, the Chief Electoral Officer divides the envelopes containing the ballot papers according to electoral divisions.

"**DIVISION II.1**

"VOTING BY MAIL

"§1. — *Voting by electors outside Québec*

"281. Electors registered to vote outside Québec are deemed to be domiciled at the address of their domicile in Québec.

"282. Electors who leave Québec temporarily after being domiciled in Québec for 12 months may vote outside Québec for two years after the date of departure.

The two-year limit does not apply to

(1) an elector posted outside Québec to a position with the government of Québec or Canada;

(2) an elector posted outside Québec to a position with an international organization of which Québec or Canada is a member and to which it pays a contribution; or

(3) an elector who is the spouse or a dependent of an elector referred to in subparagraph 1 or 2.

"283. An elector who wishes to vote outside Québec must file a signed request stating his or her

(1) name, sex and date of birth;

(2) domiciliary address in Québec or last domiciliary address in Québec;

(3) date of departure from Québec;

(4) projected date of return to Québec; and

(5) postal address outside Québec.

A declaration that the elector intends to return to Québec and a photocopy of the document or documents determined by regulation of the Chief Electoral Officer must be filed with the request in support of the information it contains.

In the case of an elector described in the second paragraph of section 282, proof of the posting outside Québec must also be filed with the request.

"284. The Chief Electoral Officer incorporates into the permanent list of electors the information that will allow electors registered to vote outside Québec to do so.

"285. Electors who return to Québec must notify the Chief Electoral Officer.

"286. The Chief Electoral Officer removes from the permanent list of electors the information allowing an elector to vote outside Québec if the elector notifies the Chief Electoral Officer that he or she has returned to Québec or if the elector has been outside Québec for more than two years, unless, in the latter case, the elector is an elector described in the second paragraph of section 282.

"287. The Chief Electoral Officer sends each elector whose request for registration to vote outside Québec was filed in accordance with section 283 and received by the Chief Electoral Officer no later than the nineteenth day before polling day the required voting materials, a list of the places where the elector may consult the list of candidates and the address of the Chief Electoral Officer's website on which that list is posted.

The ballot paper must be printed according to the model provided in Schedule IV.

"288. Not later than the fourteenth day before polling day, the Chief Electoral Officer sends each elector the list of candidates for the elector's

electoral division, and sends the list of candidates for each electoral division to the places determined by order of the Government.

"289. Electors cast their vote by writing the given name and family name of the candidate of their choice on the ballot paper. They may add the name of the political party or the word "Independent", if applicable.

"290. Electors place the ballot paper in an unidentified envelope, seal the envelope and place it in another envelope, bearing their signature, on which they write their name and last domiciliary address in Québec.

"291. Electors send their ballot papers to the Chief Electoral Officer.

"292. As soon as it is received, the Chief Electoral Officer verifies the signature on the envelope. If it matches the signature on the request provided for in section 283, the envelope is kept without being opened.

If the signatures do not match, the envelope is rejected without being opened.

In addition, the Chief Electoral Officer verifies whether the ballot paper is from an elector removed from the list of electors by the board of revisors. If such is the case, the Chief Electoral Officer rejects the envelope without opening it.

"293. Only ballot papers received at the Chief Electoral Officer's office before the polling stations' closing time on polling day are counted.

"§2. — *Voting by inmates*

"294. Inmates are presumed to be domiciled at the address of their domicile on the date of imprisonment.

"295. To vote, inmates must be registered on the list of electors for their house of detention.

The revision process provided for in Division IV of Chapter III does not apply to inmates.

"296. In a general election, the warden of a house of detention draws up a list of the inmates who are electors. The list must include the name, domiciliary address, sex and date of birth of each elector.

The warden asks each elector whether he or she wishes to be registered on the list of electors, and if so, has the elector confirm and sign the relevant information appearing on the list drawn up under the first paragraph.

The warden sends the list of electors for the house of detention and the original of the electors' signatures to the Chief Electoral Officer not later than the sixteenth day before polling day.

"297. In a by-election, an elector who is an inmate in a house of detention must inform the warden of his or her intention to vote.

The warden must send the Chief Electoral Officer the information mentioned in section 296 regarding the elector not later than the sixteenth day before polling day.

"298. Inmates vote on a ballot paper printed according to the model without counterfoil or stub provided in Schedule III.

Sections 290 to 293 apply, with the necessary modifications.

"299. To encourage and facilitate voting by inmates, the Chief Electoral Officer may make any appropriate agreement with the authorities responsible for houses of detention established under an Act of the Parliament of Canada or the Parliament of Québec.

"**DIVISION II.2**

"ADVANCE POLLING

"§1. — *General provisions*

"300. Not later than the twenty-eighth day before polling day, the returning officer in an electoral division must set up as many advance polling stations as necessary and determine the corresponding polling subdivisions. The returning officer immediately informs each candidate and each authorized party authority at the division level.

Advance polling stations must be handicapped-accessible.

"301. Not later than the twenty-second day before polling day, the Chief Electoral Officer sends to each address a notice informing electors of where and when advance polling will take place.

"301.1. Unless inconsistent with this division, sections 305, 307 to 317, 320 to 329, 331, 332, 334 and 335.1 to 354 apply to advance polling, with the necessary modifications.

However, there is no list officer during advance polling.

"301.2. Advance polling stations are open from 9:30 a.m. to 8:00 p.m. on the eighth and seventh days before polling day.

"301.3. After the advance polling station closes on the first day, the poll clerk records in the poll book the information referred to in section 362.

The deputy returning officer places in separate envelopes the ballot papers that are in the ballot box, the spoiled or cancelled ballot papers, the unused ballot papers, the forms and the list of electors; the deputy returning officer then seals the envelopes. The deputy returning officer places the envelopes, except the one containing the list of electors, and the poll book in the ballot box and seals it with a safety seal bearing a number.

The deputy returning officer, the poll clerk and the representatives who wish to do so initial the seals on the envelopes and on the ballot box.

The deputy returning officer then gives the ballot box, the envelope containing the list of electors and a list of the electors who have voted to the returning officer or the person designated by the returning officer.

"301.4. At the beginning of the second day, in the presence of the poll clerk and the representatives in attendance, the poll book and the envelopes containing the forms, the unused ballot papers and the list of electors are returned to the deputy returning officer.

At the close of the advance polling station, the poll clerk records in the poll book the information referred to in section 362. The deputy returning officer then proceeds as in section 301.3.

"301.5. At the end of each day, the returning officer sends the candidates a list of the electors who voted in the advance poll.

"§2. — *Polling stations set up in residential facilities*

"301.6. The returning officer sets up an advance polling station in every residential facility described in section 180.

"301.7. The poll is held on the eighth and seventh days before polling day during the hours determined by the returning officer for each residential facility.

"301.8. An elector domiciled in a residential facility who wishes to vote in an advance poll must vote in the advance polling station set up in that facility.

An elector described in the first paragraph who is unable to move about may vote in his or her apartment or room provided a request to that effect is addressed to the returning officer not later than the fourteenth day before polling day and provided the elector is registered on the list of electors for the polling subdivision in which the residential facility is located.

"301.9. The returning officer draws up a list of the electors who have made a request under the second paragraph of section 301.8 and sends a copy to the candidates.

"301.10. A polling station set up in a residential facility is staffed by a deputy returning officer and a poll clerk appointed by the returning officer.

"301.11. The deputy returning officer and the poll clerk act as members of the identity verification panel, and sections 335.1 to 335.4 apply with the necessary modifications.

"301.12. At a suitable time, the deputy returning officer must temporarily stop receiving votes at the polling station and take all the necessary materials to the room or apartment of an elector on the list drawn up under section 301.9 who is unable to move about.

The representatives of the candidates are not admitted into the elector's room or apartment.

"301.13. Despite the second paragraph of section 301.8, the officers staffing a polling station set up in a residential facility may, on request, go to the room or apartment of an elector who is unable to move about.

"301.14. The institution or the operator of a residential facility must facilitate access to the polling station in the facility and cooperate with the deputy returning officer and the poll clerk.

"§3. — *Mobile advance polling stations*

"301.15. This subdivision applies to electors domiciled or lodged in a facility maintained by an institution that operates a hospital centre or a rehabilitation centre or in a residential facility within the meaning of section 180 where no polling station has been set up.

"301.16. The returning officer determines which advance polling stations are to serve as mobile advance polling stations.

The mobile advance poll is held on the ninth and sixth days before polling day during the hours determined by the returning officer.

"301.17. An elector described in section 301.15 may vote at a mobile polling station if the elector

(1) addressed a request to that effect to the returning officer not later than the fourteenth day before polling day;

(2) is registered on the list of electors for the polling subdivision in which the facility is located; and

(3) is unable to move about.

"301.18. Sections 301.9 to 301.11, the second paragraph of section 301.12 and sections 301.13 and 301.14 apply to mobile advance polling stations, with the necessary modifications.

In the case of an elector who is not domiciled in the electoral division, sections 269 to 280 apply, with the necessary modifications.

"§4. — *Voting by electors at their domiciles*

"301.19. Electors who are unable to move about for health reasons may vote at a domiciliary polling station at their domicile if they

(1) address a request to that effect to the returning officer not later than the fourteenth day before polling day;

(2) are registered on the list of electors for the polling subdivision at which they are domiciled; and

(3) send the returning officer a declaration that they are unable to move about for health reasons, by mail, by fax or by an electronic means that can reproduce a signature. The declaration must be signed by the elector or, if the elector is unable to sign the declaration, by the elector's spouse or a relative within the meaning of section 204 or by a person living with the elector, and by a witness.

"301.20. The returning officer sets up as many domiciliary polling stations as necessary.

"301.21. Domiciliary polling stations may visit electors' domiciles during the period referred to in section 263.

"301.22. Sections 301.9 to 301.11 and the second paragraph of section 301.12 apply, with the necessary modifications."

16. Section 304 of the Act is repealed.

17. Section 305 of the Act is amended by inserting "and residences for the elderly listed in the register established under the Act respecting health services and social services" after "(chapter S-5)" in the fourth line.

18. Section 313 of the Act is amended by replacing "his office" in the second line of the first paragraph by "the returning officer's offices".

19. Section 327 of the Act is amended by replacing the first paragraph by the following paragraph:

"327. Not later than one hour before the opening of the polling station, the returning officer gives the deputy returning officer a ballot box, the directives concerning the work of the polling officers, a poll book, the required polling materials, the documents needed for the counting of votes and the list of electors for the polling subdivision identifying the changes made by the special board of revisors and including particulars about voting in the advance poll and at the returning officer's office."

20. Section 333 of the Act is amended by replacing "8:30 p.m." by "8:00 p.m.".

21. Section 335.2 of the Act is amended by striking out "the address appearing on the list opposite his name or" in the third and fourth lines of subparagraph *a* of subparagraph 3 of the first paragraph.

22. Section 340 of the Act is amended by replacing subparagraphs 2 and 3 of the first paragraph by the following subparagraphs:

"(2) whose name was not properly entered when a decision of a board of revisors was copied;

"(3) whose registration was mistakenly removed from the list of electors because it was confused with that of another elector;

"(4) whose registration on the list of electors was changed by the Chief Electoral Officer under section 208;

"(5) who has left home for his or her safety or that of his or her children and wishes to vote in the polling subdivision where he or she is residing."

23. Section 347 of the Act is replaced by the following section:

"347. An elector who declares that he or she is unable to mark a ballot paper may be assisted

(1) by the elector's spouse or relative within the meaning of section 204;

(2) by another person, in the presence of the deputy returning officer and the poll clerk assigned to the polling station, provided the person declares under oath not having assisted any other elector during the poll other than the person's spouse or relative within the meaning of section 204; or

(3) by the deputy returning officer, in the presence of the poll clerk.

In all cases, this is recorded in the poll book."

24. Section 350 of the Act is amended by replacing subparagraphs 2 and 3 of the first paragraph by the following subparagraphs:

"(2) he was domiciled in that polling subdivision on the fourteenth day before polling day or, if he filed an application under section 3, that he had his main office in the polling subdivision on the date of the application;

"(3) he has not already voted in the current election or has not registered to vote outside his electoral division at the returning officer's office;".

25. The Act is amended by replacing subdivision 3 of Division III of Chapter V of Title IV, comprising sections 360 to 370, by the following:

"§3. — *Proceedings after the vote*

"**Place where votes are counted**

"360. Votes are counted at the Chief Electoral Officer's office, the returning officer's office or the polling station, depending on where the ballot papers are received.

In the case of the advance poll, the returning officer determines where the votes are counted.

"**Counting of votes on ballot papers placed in a ballot box**

"361. After the close of the poll, the deputy returning officer, assisted by the poll clerk, counts the votes. The candidates and their representatives may be present.

When the votes cast during the advance poll are counted, sections 312 and 312.1 do not apply if the deputy returning officer and the poll clerk are not the same as those appointed to act at the advance polling station.

"362. Before the ballot box is opened, the poll clerk records in the poll book

(1) the number of electors who voted;

(2) the number of spoiled or cancelled ballot papers and the number of unused ballot papers; and

(3) the names of the polling officers and the representatives, specifying which are entitled to remuneration.

"363. The deputy returning officer, the poll clerk and the representatives use the tally sheet provided by the Chief Electoral Officer for the counting of votes.

"364. The deputy returning officer opens the ballot box, counts the votes by taking the ballot papers out of the ballot box one by one and allows each person present to examine them.

"365. The deputy returning officer declares valid every ballot paper marked in a circle opposite the given name and family name of one of the candidates.

The deputy returning officer rejects a ballot paper if it

(1) was not supplied by the deputy returning officer;

(2) does not bear the deputy returning officer's initials;

(3) is not marked;

(4) is marked for more than one candidate;

(5) is marked for a person who is not a candidate;

(6) is marked outside the circles;

(7) bears a fanciful or injurious marking;

(8) bears a mark by which the elector can be identified; or

(9) is marked otherwise than with the pencil given to the elector by the deputy returning officer.

No ballot paper may be rejected for the reason set out in subparagraph 2 of the second paragraph if the number of ballot papers in the ballot box corresponds to the number of ballot papers that were placed in it according to the list of electors or the poll book.

In full view of the persons present, the deputy returning officer initials the back of any ballot paper that is not initialled, and notes under the initials that they have been added as a correction. This is recorded in the poll book.

"366. No ballot paper may be rejected for the sole reason that its stub has not been removed. The deputy returning officer removes the stub and destroys it.

No ballot paper may be rejected for the sole reason that the mark extends beyond the circle or that the circle is not completely filled in.

"367. The deputy returning officer considers any objection raised by a candidate or a candidate's representative as to the validity of a ballot paper and makes a decision immediately. The objection and the deputy returning officer's decision are recorded in the poll book.

"368. The deputy returning officer draws up a statement of votes and signs it. The poll clerk and the representatives who wish to do so initial the statement.

The deputy returning officer records the reasons why ballot papers were rejected in the statistical report of rejected ballot papers.

"369. After counting the ballot papers and drawing up the statement of votes, the deputy returning officer places in separate envelopes the ballot papers marked for each candidate, the rejected ballot papers, the spoiled or cancelled ballot papers, the unused ballot papers and the statement of votes. The deputy returning officer then seals the envelopes.

The deputy returning officer, the poll clerk and the representatives who wish to do so initial the seals.

The envelopes, the poll book and the list of electors are placed in the ballot box.

"370. The deputy returning officer gives a copy of the statement of votes to the representative of each candidate and to the returning officer.

"370.1. The deputy returning officer seals the ballot box, and the deputy returning officer, the poll clerk and the representatives who wish to do so initial the seals.

"370.2. The deputy returning officer gives the ballot box to the returning officer or the person designated by the returning officer.

"Counting of votes on ballot papers received in envelopes

"370.3. The verification of envelopes preceding the counting of votes starts on the days and at the times determined by the Chief Electoral Officer; the verification cannot begin before the end of the special revision process.

"370.4. The Chief Electoral Officer designates one or more persons to verify the envelopes.

"370.5. A person designated to verify the envelopes must make sure that

(1) the information on the outside envelope corresponds to that on the registration form;

(2) the envelope is an envelope from the elector's electoral division;

(3) only one ballot paper was given to the elector;

(4) the envelope does not come from an elector removed from the list of electors by the board of revisors; and

(5) the number of envelopes corresponds with the entries in the poll book.

Once these verifications have been made, if everything is in compliance, the envelope containing the ballot paper is removed from the second envelope and placed in the ballot box.

"370.6. If an irregularity is discovered during the verification, the envelope in question is not placed in the ballot box and the ballot paper is considered cancelled.

Ballot papers for which the inside envelope or the outside envelope is missing are also considered cancelled.

"370.7. Whenever an envelope or a ballot paper is cancelled under section 370.6, reasons must be given.

"370.8. The Chief Electoral Officer sets up as many stations as necessary to count the votes and appoints a deputy returning officer and a poll clerk for each of the stations.

Sections 310 and 311 apply, with the necessary modifications, to the appointment of deputy returning officers and poll clerks.

"370.9. On polling day, the deputy returning officer, assisted by the poll clerk, counts the votes. The votes are counted at the place and time determined by the Chief Electoral Officer in accordance with sections 362 to 370.2, with the necessary modifications.

If the votes are counted at the office of the Chief Electoral Officer, each authorized party may designate a representative to attend.

No ballot paper may be rejected for the sole reason that one of the words it bears is misspelled if the elector's intention is clear.

"370.10. The deputy returning officer, after counting the ballot papers for each electoral division, draws up a statement of votes for each electoral division and signs each of them. The poll clerk and the representatives who wish to do so initial the statements.

The deputy returning officer places in separate envelopes, for each electoral division, the ballot papers marked for each candidate, the rejected ballot papers, the spoiled or cancelled ballot papers and the unused ballot papers. The deputy returning officer then seals the envelopes and places them in another sealed envelope bearing the name of the electoral division concerned.

The deputy returning officer, the poll clerk and the representatives who wish to do so initial the seals.

The envelope, the poll book and the list of electors are placed in a ballot box bearing the name of the electoral division.

"370.11. The deputy returning officer seals the ballot box, and the deputy returning officer, the poll clerk and the representatives who wish to do so initial the seals.

The deputy returning officer then gives the ballot box and the statement of votes to the Chief Electoral Officer or the person designated by the Chief Electoral Officer.

"370.12. The Chief Electoral Officer immediately communicates the poll results to each returning officer concerned and sends the latter a copy of the corresponding statement of votes."

26. Section 372 of the Act is amended by replacing "the abstract of the statement of votes contemplated in section 285" in the first and second lines of the second paragraph by "the copy of the statement of votes referred to in section 370.12".

27. Section 387 of the Act is amended

(1) by replacing "the abstract of the statement of votes contemplated in section 285" in the third and fourth lines of the second paragraph by "the copy of the statement of votes referred to in section 370.12";

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

"If the judicial recount is in an electoral division in which mailed votes were counted, the Chief Electoral Officer brings every envelope referred to in section 370.10 that bears the name of that electoral division."

28. Section 389 of the Act is amended by replacing "364 and 365" in the first line by "365, 366 and the last paragraph of section 370.9".

29. Section 489 of the Act is replaced by the following section:

"489. The Chief Electoral Officer may recommend to the leaders of the authorized parties represented in the National Assembly the use of alternative voting procedures, new polling formalities or new rules concerning the counting and addition of votes in a by-election or a general election, in the latter case for all or only some of the electoral divisions.

The recommendation must specify the electoral divisions concerned. It must describe all the new measures proposed, stating the advantages and disadvantages of each and mentioning the provisions of this Act that the new measures replace.

If the recommendation is accepted by the leaders of the parties, it must be recorded in an agreement signed by them and the Chief Electoral Officer, which has force of law for the election concerned."

30. Section 498 of the Act is amended by replacing "the voting of inmates and the voting of electors outside Québec" in the second and third lines of the second paragraph by "voting by mail".

31. Section 551 of the Act is amended by replacing paragraphs 1 and 2 by the following paragraphs:

"(1) every owner, manager, operator, superintendent, caretaker or person in charge of a residential building, a residence for the elderly listed in the register established under the Act respecting health services and social services (chapter S-4.2) or a lodging facility operated by an organization for the purpose of ensuring the safety of a person or of the person's children who limits, restricts or fails to facilitate access to the building or residence for an enumerator or a person in charge of distributing a notice or document from the Chief Electoral Officer or the returning officer;

"(2) every executive director of an institution referred to in the second paragraph of section 135.1 who limits, restricts or fails to facilitate access to a facility maintained by that institution for an enumerator or a person in charge of distributing a notice or document from the Chief Electoral Officer or the returning officer;".

32. Section 553 of the Act is amended by replacing paragraph 1 by the following paragraph:

"(1) every executive director, manager, superintendent, caretaker, operator, owner or person in charge of a residential facility referred to in section 301.6 who hinders access to a polling station set up in the facility or to a mobile advance polling station;".

FINAL PROVISIONS

33. The Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) applies to any person hired on a temporary basis under section 497 of the Election Act (R.S.Q., chapter E-3.3), except a returning officer or an assistant returning officer, from the hiring date if it is after 31 December 1987 but before 19 February 2002.

34. Until the regulation determining the documents provided for in sections 206, 271 and 283 is approved in accordance with section 550 of the Election Act (R.S.Q., chapter E-3.3), the documents are determined by the Chief Electoral Officer to allow the carrying out of the provisions enacted by this Act.

35. Until the Voting Regulation (2004, G.O. 2, 1310) is amended in accordance with section 550 of the Election Act (R.S.Q., chapter E-3.3), the forms prescribed by that regulation are adapted by the Chief Electoral Officer to reflect the provisions of this Act.

36. Until the coming into force of section 3 of this Act, section 3 of the Election Act must be read as though the fourth paragraph were replaced by the following paragraph:

"A candidate having filed a nomination paper in accordance with section 237 who is running in an electoral division other than that in which the candidate is domiciled may choose to be considered as domiciled in the polling subdivision in which the candidate's main office for the purposes of the election is located."

37. Until the coming into force of section 13,

(1) section 226 of the Election Act, enacted by section 14, must be read as though "are recorded in abstracts of changes or" were inserted after "revisors" in the first line;

(2) section 227 of the Election Act, enacted by section 14, must be read as though "or the abstracts of changes" were inserted after "list of electors" in the second line of the first paragraph and as though "is sent" in the first line of the second paragraph were replaced by "or the abstracts of changes are sent";

(3) section 347 of the Election Act, enacted by section 23, must be read as though "204" in subparagraphs 1 and 2 of the first paragraph were replaced by "205".

38. Until the coming into force of section 15 insofar as it enacts sections 263 to 280,

(1) section 193 of the Election Act, enacted by section 12, must be read as though "twelfth" in the fourth line of the first paragraph were replaced by "eleventh" and as though "fourteenth" in the second line of the second paragraph were replaced by "thirteenth";

(2) section 194 of the Election Act, enacted by section 12, must be read as though "fourteenth" in the fourth line of the second paragraph were replaced by "thirteenth";

(3) section 199 of the Election Act, enacted by section 13, must be read as though "fourteenth" in the third line of the first paragraph were replaced by "thirteenth";

(4) section 200 of the Election Act, enacted by section 13, must be read as though "fourteenth" in the third line of the first paragraph were replaced by "thirteenth";

(5) section 222 of the Election Act, enacted by section 14, must be read as though "thirteenth" in the third line of the first paragraph were replaced by "twelfth";

(6) section 231 of the Election Act, enacted by section 14, must be read as though "fourteenth" in the second line of the second paragraph were replaced by "thirteenth";

(7) section 233.5 of the Election Act, enacted by section 14, must be read as though "fourteenth" in the third line of the first paragraph were replaced by "thirteenth";

(8) section 301.8 of the Election Act, enacted by section 15, must be read as though "fourteenth" in the third line of the second paragraph were replaced by "thirteenth";

(9) section 301.17 of the Election Act, enacted by section 15, must be read as though "fourteenth" in the second line of paragraph 1 were replaced by "thirteenth".

39. This Act comes into force on 14 June 2006, except the provisions of sections 2, 3, 4 and 13, section 14 insofar as it enacts the words "and including particulars about voting in the advance poll and at the returning officer's office" in the first paragraph of section 227, section 15 insofar as it enacts subparagraph 1 of the first paragraph and the second and third paragraphs of section 262, sections 263 to 280, section 297, the second paragraph of section 301.18 and sections 301.19 to 301.22, section 19 insofar as it enacts the words "and at the returning officer's office" in the first paragraph of section 327 and sections 21 and 24, which come into force on the date or dates to be set by the Government. However, such a date may not be set before a recommendation to that effect is obtained from the Chief Electoral Officer, stating that all preparations needed for the implementation of those provisions have been made and that the provisions may therefore come into force.

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 municipalities 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.

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-SEVENTH LEGISLATURE

Bill 88
(2006, chapter 23)

Private Security Act

Introduced 16 December 2004
Passage in principle 31 May 2006
Passage 14 June 2006
Assented to 14 June 2006

Québec Official Publisher
2006

EXPLANATORY NOTES

The purpose of this bill is to provide a framework for private security activities in the sectors of guarding, watching or protecting persons, property or premises, investigation, locksmith work, electronic security systems, valuables transport and security consulting. Under the bill, a person operating an enterprise that carries on such private security activities is required to hold an agency licence. A natural person carrying on a private security activity and that person's immediate superior must hold agent licences. However, a natural person carrying on a private security activity exclusively for an employer whose business does not consist in carrying on a private security activity must hold an agent licence only if the private security activity is that person's main activity.

The bill furthermore creates a private security bureau called the "Bureau de la sécurité privée". The mission of the Bureau is to protect the public, in the sectors covered by the bill, by issuing and controlling licences and processing complaints against licence holders, among other means. The bill specifies the powers and duties of the Bureau, including the maintenance of a register of licence holders.

The bill defines the Bureau's rules of organization and operation. It provides for the administration of the Bureau by a board of directors made up of eleven members. Of the eleven, four are appointed by the Minister and seven are appointed by associations representative of the industry that are recognized by the Minister.

Moreover, the bill confers inspection and inquiry powers on the Minister of Public Security. In addition, it gives the Minister the power, in certain circumstances, to issue orders to the Bureau and designate a provisional administrator.

The bill grants various regulatory powers to the Bureau, including the power to determine standards of conduct for agent licence holders, and to the Government as well. Finally, it contains penal provisions, consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting administrative justice (R.S.Q., chapter J-3);

– Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3);

– Police Act (R.S.Q., chapter P-13.1);

– Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1).

LEGISLATION REPLACED BY THIS BILL:

– Act respecting detective or security agencies (R.S.Q., chapter A-8).

Bill 88

PRIVATE SECURITY ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

SCOPE AND INTERPRETATION

1. This Act applies to the following private security activities:

(1) security guarding, namely, watching or protecting persons, property or premises mainly to prevent crime and maintain order;

(2) investigation, namely, searching for persons, information or property, particularly searching for information on an offence or collecting information on the character or conduct of individuals;

(3) locksmith work, namely, installing, maintaining and repairing mechanical and electronic locking devices, installing, maintaining and repairing, and changing the combinations of, safes, vaults and safety deposit boxes, designing and managing master key systems, maintaining key code records, cutting keys otherwise than by duplicating existing keys, and unlocking a building door, piece of furniture or safe otherwise than by using a key or following the prescribed procedure;

(4) activities related to electronic security systems, namely, installing, maintaining and repairing, and ensuring the continuous remote monitoring of, burglar or intrusion alarm systems, video surveillance systems and access control systems, except vehicle security systems;

(5) the transport of valuables; and

(6) security consulting, namely, providing consulting services on protection against theft, intrusion or vandalism independently from the other activities referred to in this section and particularly by developing plans or specifications or presenting projects.

2. This Act does not apply to activities referred to in section 1 when carried on by the following persons:

(1) peace officers and persons holding certain powers of peace officers;

(2) persons responsible for conducting inspections and investigations to ensure the enforcement of an Act and persons vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37);

(3) members in good standing of a professional order governed by the Professional Code (R.S.Q., chapter C-26) in the practice of their profession;

(4) holders of certificates or licences issued under the Act respecting the distribution of financial products and services (R.S.Q., chapter D-9.2) and the Act respecting insurance (R.S.Q., chapter A-32);

(5) police force employees who are not peace officers and persons called on by a police force for the purposes of an investigation;

(6) persons who search for information for media or scientific purposes or as part of a hiring process;

(7) personal information agents within the meaning of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) who do not otherwise carry on an activity referred to in section 1;

(8) persons who carry on those activities on a volunteer basis;

(9) persons licensed or otherwise authorized to carry on investigation activities outside Québec who must conduct part of an investigation in Québec; and

(10) any other person or class of persons exempted by regulation.

3. No provision of this Act may be construed as granting the status of peace officer to the holder of an agent licence.

CHAPTER II

LICENCES

DIVISION I

AGENCY LICENCES

§1. — *General provisions*

4. Any person operating an enterprise that carries on a private security activity must hold an agency licence of the appropriate class.

5. Agency licences of one or more of the following classes are issued by the Bureau de la sécurité privée:

(1) security guard agency;

(2) investigation agency;

(3) locksmith and electronic security systems agency;

(4) valuables transport agency; and

(5) security consulting agency.

When issuing an agency licence, the Bureau also issues a copy for each establishment operated by the applicant.

6. An application for an agency licence must be filed by a natural person engaged full-time in the activities of the enterprise who acts as the representative of the enterprise for the purposes of this Act. The form in which the application must be filed and the documents and fee that must be submitted with it are determined by regulation.

7. The representative must meet the following conditions:

(1) be of good moral character;

(2) never have been convicted, in any place, of an offence for an act or omission that is an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence referred to in section 183 of that Code under one of the Acts listed in that section and is related to the activity for which the agency licence application is filed, unless the representative has obtained a pardon; and

(3) meet any other condition determined by regulation.

The representative must also take the training provided by the Bureau within six months after the date on which the representative is designated or, if the representative is designated before the agency licence is issued, within six months after the date on which the agency licence is issued.

8. The owner of the enterprise, every partner or shareholder having a major interest in the enterprise and every director of the enterprise must be of good moral character and never have been convicted, in any place, of an offence for an act or omission that is an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence referred to in section 183 of that Code under one of the Acts listed in that section and is related to the activity for which the agency licence application is filed, unless the person has obtained a pardon.

A partner holding more than 10% of the shares or a shareholder directly or indirectly holding more than 10% of the voting shares is considered to have a major interest in the enterprise.

9. The enterprise for which the agency licence application is filed must meet the following conditions:

(1) operate at least one establishment in Québec;

(2) be solvent;

(3) be covered by liability insurance with the coverage and other features determined by regulation; and

(4) furnish security in the amount and form determined by regulation to guarantee the performance of its obligations.

10. The Bureau may refuse to issue an agency licence if, in the five years preceding the application, the owner of the enterprise, the representative, a partner or shareholder having a major interest in the enterprise within the meaning of section 8 or a director of the enterprise was denied an agent licence or agency licence or a renewal of such a licence, or held an agent licence or agency licence that was subsequently suspended or cancelled.

11. An agency licence is issued or renewed for three years if the conditions prescribed by this Act or a regulation under this Act are met.

§2. — *Obligations under licence*

12. The holder of an agency licence must pay the annual fee determined by regulation.

13. The holder of an agency licence must keep the licence or a copy of it on display in a conspicuous place in each establishment operated by the licence holder.

14. The holder of an agency licence must inform the Bureau without delay of any change likely to affect the validity of the licence.

15. The holder of an agency licence planning to cease operations must notify the Bureau in writing. The Bureau cancels the licence on the date specified in the notice.

DIVISION II

AGENT LICENCES

§1. — *General provisions*

16. A natural person carrying on a private security activity and that person's immediate superior must hold an agent licence of the appropriate class.

However, a natural person carrying on a private security activity exclusively for an employer whose business does not consist in carrying on a private security activity must hold an agent licence only if the private security activity is that person's main activity.

17. Agent licences of one or more of the following classes are issued by the Bureau:

(1) security guard agent;

(2) investigation agent;

(3) locksmith and electronic security systems agent;

(4) valuables transport agent; and

(5) security consulting agent.

18. The form in which an application for an agent licence must be filed and the documents and fee that must be submitted with it are determined by regulation.

19. The applicant must meet the following conditions:

(1) have the training required by regulation;

(2) be of good moral character;

(3) never have been convicted, in any place, of an offence for an act or omission that is an offence under the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or an offence referred to in section 183 of that Code under one of the Acts listed in that section and is related to the activity for which the agent licence application is filed, unless the applicant has obtained a pardon;

(4) be at least 18 years of age; and

(5) meet any other condition determined by regulation.

20. The Bureau may refuse to issue an agent licence if, in the five years preceding the application for the licence, the applicant was denied a licence or a licence renewal or held a licence that was subsequently suspended or cancelled.

21. An agent licence is issued or renewed for three years if the conditions prescribed by this Act or a regulation under this Act are met.

22. The Bureau may issue a temporary licence for a term of 120 days in the cases and on the conditions determined by regulation.

§2. — *Obligations under licence*

23. The holder of an agent licence must pay the annual fee determined by regulation.

24. The holder of an agent licence must inform the Bureau without delay of any change likely to affect the validity of the licence.

25. No holder of an agent licence may hold employment that is incompatible with the private security activity for which the licence was issued, including any employment in a police force.

26. The holder of an agent licence planning to cease operations must notify the Bureau in writing. The Bureau cancels the licence on the date stated in the notice.

DIVISION III

VERIFICATION OF CONDITIONS

27. On the filing of a licence application and every year after the issue of a licence, the Bureau sends the Sûreté du Québec the information needed to verify whether the conditions prescribed in paragraphs 1 and 2 of section 7, section 8 and paragraphs 2 and 3 of section 19 are met by the licence holder. The Sûreté du Québec sends the conclusions of the verification to the Bureau.

28. Exceptionally, after obtaining the Minister's approval, the Bureau may ask another police force to do the verification referred to in section 27.

DIVISION IV

UNFAVOURABLE DECISIONS OF THE BUREAU

29. The Bureau may suspend, cancel or refuse to renew the agency licence of a licence holder that

(1) no longer meets the conditions prescribed by this Act or a regulation under this Act for obtaining an agency licence;

(2) fails to pay the annual fee;

(3) was found guilty of an offence under this Act or a regulation under this Act;

(4) fails to follow the directives issued by the Bureau; or

(5) fails to comply with the Bureau's request to replace the representative designated by the licence holder.

30. The Bureau may suspend, cancel or refuse to renew the agent licence of a licence holder who

(1) no longer meets the conditions prescribed by this Act or a regulation under this Act for obtaining an agent licence;

(2) fails to pay the annual fee;

(3) holds employment that is incompatible with the private security activity for which the agent licence was issued;

(4) was found guilty of an offence under this Act or a regulation under this Act; or

(5) has violated the standards of conduct determined by regulation.

Despite the first paragraph, the Bureau cancels the agent licence of a licence holder who is convicted of an offence described in paragraph 3 of section 19 that is related to the activity carried on by the licence holder or who is no longer of good moral character.

31. Before suspending, cancelling or refusing to renew a licence, the Bureau may order the licence holder to take the necessary corrective measures within the time it specifies.

If the licence holder does not comply with the order, the Bureau must suspend, cancel or refuse to renew the licence.

32. The Bureau must notify the applicant or licence holder in writing as prescribed by section 5 of the Act respecting administrative justice (R.S.Q., chapter J-3) and allow the applicant or licence holder at least 10 days to submit observations before

(1) refusing to issue or renew a licence;

(2) suspending or cancelling a licence.

The Bureau may make a decision without being bound by that prior obligation if urgent action is required or so as to prevent irreparable harm. In such a case, the person affected by the decision may, within the time specified in the decision, submit observations to the Bureau for a review of the decision.

33. A decision to refuse to issue or renew a licence or to suspend or cancel a licence must give reasons.

34. The Bureau notifies the employer of an agent licence holder that the licence has been suspended or cancelled or has not been renewed.

35. A licence holder whose licence has been suspended may obtain its reinstatement if the necessary corrective measures are taken within the time specified by the Bureau.

If the licence holder fails to take the necessary corrective measures within the time specified, the Bureau must cancel or refuse to renew the licence.

36. A licence holder whose licence has been cancelled or has not been renewed must surrender it to the Bureau within 15 days after the decision is made.

As well, the Bureau may require that a licence holder whose licence has been suspended surrender it.

DIVISION V

PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

37. An applicant who has been denied a licence or a licence holder whose licence has been suspended or cancelled or has not been renewed may contest the Bureau's decision before the Administrative Tribunal of Québec.

38. When a decision of the Bureau is contested before the Administrative Tribunal of Québec under section 37, the Bureau is party to the proceeding within the meaning of section 101 of the Act respecting administrative justice, and must send the secretary of the Tribunal the documents and information required under the first paragraph of section 114 of that Act within 30 days after receiving a copy of the motion.

CHAPTER III

BUREAU DE LA SÉCURITÉ PRIVÉE

DIVISION I

ESTABLISHMENT AND MISSION

39. A private security bureau called the "Bureau de la sécurité privée" is hereby established.

The Bureau is a legal person.

40. The Bureau has its head office in Québec, at the place it determines. Notice of the location and of any change in location of the head office is published in the *Gazette officielle du Québec*.

The Bureau may hold its meetings at any place in Québec.

41. The mission of the Bureau is to protect the public and, to that end, it

(1) ensures the enforcement of this Act and the regulations under this Act;

(2) issues agency licences and agent licences;

(3) processes complaints lodged against licence holders;

(4) provides training for the representatives of agency licence holders;

(5) fosters cohesive action by the private security and public security sectors; and

(6) advises the Minister on any matter the Minister submits to it in connection with private security.

42. To protect the public, the Bureau may at any time

(1) issue directives to an agency licence holder regarding the agency licence holder's activities; or

(2) require that an agency licence holder replace its representative if the representative no longer meets the conditions prescribed in section 7.

43. For the sole purpose of making the Bureau subject to the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the Bureau is deemed a public body within the meaning of that Act.

DIVISION II

ORGANIZATION

44. The Bureau is administered by a board of directors composed of 11 members, as follows:

(1) four members appointed by the Minister, one of whom must be from the police community; and

(2) seven members appointed by associations representative of the private security industry that are recognized by the Minister.

45. An association may apply for recognition as an association representative of the private security industry by sending a written notice to the Minister.

The application must be authorized by a resolution of the association and signed by representatives specially mandated for that purpose.

46. The Minister recognizes the seven associations that, in the Minister's opinion, are most representative of the private security industry from among all the associations that have applied for recognition.

The Minister may establish a committee to advise and make recommendations to the Minister on assessing the associations' representativeness.

47. Within 30 days after obtaining recognition, an association must appoint a board member in the manner it determines.

The Minister may, in the public interest, require at any time that an association replace a board member it has appointed.

48. Board members are appointed for a term of three years from the date on which all board members have been appointed.

49. Any vacancy occurring on the board of directors during the course of a board member's term is filled in the manner prescribed in section 44 for the remainder of the term. The Minister or the association concerned must fill a vacancy on the board of directors within 30 days after receiving notice of the vacancy from the board of directors.

Unexplained absence from the number of board meetings stipulated in the internal management by-laws, in the cases and circumstances provided in those by-laws, constitutes a vacancy.

50. A board member may resign by sending a notice in writing to that effect to the board of directors. A vacancy occurs on acceptance of the resignation by the board of directors.

51. Six months before the board members' term expires, the Bureau must take measures to ensure that the Minister and the associations recognized by the Minister appoint, replace or reappoint board members, as appropriate.

The Minister may reassess the representativeness of those associations, particularly if new associations have applied for recognition in accordance with section 45 in the six months before the board members' term expires, and withdraw the recognition of an association if the Minister considers it has lost its status as most representative association.

52. The Bureau may make internal management by-laws.

53. The board members elect a chair and a vice-chair from among their number. The chair and vice-chair exercise their respective functions for the course of their term.

54. The chair of the board of directors calls board meetings, presides over them and sees that they proceed smoothly.

The vice-chair replaces the chair if the chair is absent or unable to act.

55. The Bureau appoints an executive director in charge of the Bureau's administration and general management within the framework of the Bureau's regulations and policies. The position of executive director is a full-time position.

The conditions prescribed in paragraphs 2 and 3 of section 19 apply to the executive director, with the necessary modifications.

56. The Bureau may delegate to the executive director, in writing and to the extent specified, the functions and powers assigned to it by this Act, except those assigned by sections 107 and 108.

57. The quorum at board meetings consists of a majority of the board members, including the chair or vice-chair.

Decisions are made by a majority vote of the board members present. In the case of a tie vote, the person presiding has a casting vote.

58. A board member with a direct or indirect interest in an enterprise causing that member's personal interest to conflict with the Bureau's interest must, on pain of forfeiture of office, disclose that personal interest and abstain from participating in any decision involving the enterprise in which the member has the interest. The member must also withdraw from the meeting while the decision is being discussed.

59. A board member may waive notice of a meeting. Attendance at the meeting constitutes a waiver of notice unless the member is attending for the purpose of objecting to the meeting on the ground that it was not lawfully called.

60. Board members may, in the cases and on the conditions specified in the Bureau's internal management by-laws, take part in a board meeting from separate locations by means of equipment allowing all board members to communicate directly with one another.

61. A written resolution, signed by all board members, has the same value as if adopted during a board meeting.

A copy of all such resolutions is kept with the minutes of the proceedings or other equivalent record book.

62. The minutes of board meetings, approved by the board of directors and certified by the chair or vice-chair of the board or the secretary of the Bureau, are authentic. The same applies to documents and copies emanating from the Bureau or forming part of its records if so certified.

63. An intelligible transcription of a decision or of other data stored by the Bureau on a computer or any data storage medium is a document of the Bureau and constitutes proof of its contents if certified by a person referred to in section 62.

64. No act, document or writing binds the Bureau or may be attributed to it unless it is signed by the chair or vice-chair of the board of directors or the secretary of the Bureau.

65. The Bureau's internal management by-laws may allow, subject to the conditions and on the documents specified, that a signature be affixed using an automatic device, that a signature be electronic or that a facsimile of a signature be engraved, lithographed or printed. However, the facsimile has the same force as the signature itself only if the document is countersigned by a person referred to in section 62.

66. The Bureau may appoint a secretary and hire the personnel it needs to carry out its functions.

The executive director may make the conditions prescribed in paragraphs 2 and 3 of section 19 applicable, with the necessary modifications, to the secretary and personnel of the Bureau if it is warranted by their functions.

67. A member of the Bureau's personnel who has a direct or indirect interest in an enterprise causing that member's personal interest to conflict with the Bureau's interest must, on pain of forfeiture of office, disclose that personal interest in writing to the chair of the board of directors.

68. Neither the Bureau nor members of the Bureau's board of directors or personnel may be sued for any act performed in good faith in the exercise of their functions.

DIVISION III

INSPECTIONS AND INVESTIGATIONS

69. The Bureau may authorize any person to act as an inspector for the purpose of verifying compliance with this Act or the regulations under this Act.

70. An inspector may, in the exercise of inspection functions,

(1) at any reasonable time enter any premises where a private security activity is sold as a service or carried on, or where the inspector has reasonable grounds to believe that such an activity is sold as a service or carried on;

(2) take photographs of the premises and equipment;

(3) require the persons present to provide any information about the activities sold as services or carried on in those premises that is necessary for the discharge of inspection functions and to produce any document or extract of a document containing such information for examination or the making of copies.

71. On request, an inspector must identify himself or herself and produce a certificate of authorization.

72. An inspector may not be sued for any act performed in good faith in the exercise of inspection functions.

73. The Bureau may, on its own initiative or following a complaint, conduct an investigation if it has reasonable grounds to believe this Act or a regulation under this Act has been contravened.

If, after a preliminary analysis of a complaint, it appears that a criminal offence may have been committed, the Bureau refers the complaint to the competent police force without delay for the purposes of a criminal investigation.

74. The Bureau may entrust the conduct of an investigation to a person it designates for that purpose. The person is vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

75. The investigator submits an investigation report to the Bureau.

DIVISION IV

REGISTER OF LICENCE HOLDERS

76. The Bureau maintains a register of licence holders.

77. The register must contain the following information for each agency licence holder:

(1) the licence holder's name and licence number, contact information for the licence holder's head office and for each establishment operated by the licence holder, the name of the licence holder's representative and the representative's workplace contact information;

(2) the class and term of the licence; and

(3) the operative part of any decisions concerning the licence holder.

78. The register must contain the following information for each agent licence holder:

(1) the licence holder's name and licence number;

(2) the name of the licence holder's employer;

(3) the class and term of the licence;

(4) the licence holder's training; and

(5) the operative part of any decisions concerning the licence holder.

79. A licence holder must inform the Bureau of any change in the information relating to the licence holder contained in the register no later than the thirtieth day after the change occurs.

80. The Bureau may require that an agency licence holder, an agent licence holder or the employer of an agent licence holder communicate any information needed to maintain the register.

81. The register is public.

However, on application by the holder of an investigation agent licence, the Bureau may decide that the information the register contains about the licence holder is to remain confidential if it is satisfied that disclosure of the information would be likely to hinder the licence holder's activities and pose a serious threat to the licence holder's safety. The decision to keep the information confidential ceases to have effect on the expiry of the licence, unless the Bureau grants an extension on application by the licence holder on renewal of the licence. The extension may not exceed the term for which the licence is renewed. Subsequent extensions may be granted on the same conditions.

This section applies despite sections 9 and 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

DIVISION V

FINANCIAL PROVISIONS AND REPORTS

82. The Bureau finances its activities out of the fees paid to it by licence holders and out of the other revenues derived from the administration of this Act.

83. The Bureau must have its books and accounts audited every year by an auditor. The auditor's report must be submitted with the Bureau's annual report.

If the Bureau fails to have its books and accounts audited, the Minister may have the audit conducted and may, for that purpose, designate an auditor whose remuneration will be charged to the Bureau.

84. The auditor has access to all the Bureau's books, registers, accounts, other accounting records and vouchers. Persons having custody of those documents must facilitate their examination by the auditor.

The auditor may require from the Bureau's board members, mandataries or employees the information and documents needed to conduct the audit.

85. The auditor may require the holding of a board meeting on any question related to the audit.

86. The Bureau's fiscal year ends on 31 March.

87. Within four months after the end of its fiscal year, the Bureau submits an activity report for the preceding fiscal year to the Minister. The report must contain all the information required by the Minister.

88. The Minister lays the Bureau's financial statements and activity report before the National Assembly within 30 days of receiving them or, if the Assembly is not sitting, within 30 days of resumption.

89. The sums received by the Bureau must be applied to the payment of its obligations.

CHAPTER IV

MINISTER'S POWERS

DIVISION I

INSPECTIONS AND INQUIRIES

90. The Minister may authorize any person to inspect the affairs of the Bureau in order to verify compliance with this Act and the regulations under this Act.

91. An inspector may, to that end,

(1) enter the Bureau's head office at any reasonable time;

(2) examine and make copies of the books, registers, accounts, records and other documents relating to the Bureau's activities; and

(3) require any information or document relating to the application of this Act or the regulations made under this Act.

92. On request, an inspector must identify himself or herself and produce a certificate of authorization signed by the Minister.

93. An inspector may not be sued for any act performed in good faith in the exercise of inspection functions.

94. The Minister may order an inquiry into any matter relating to the application of this Act if the Minister is of the opinion that the public interest requires it.

95. The Minister may entrust the conduct of an inquiry to a person the Minister designates for that purpose. The person is vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

DIVISION II

MINISTER'S ORDER AND PROVISIONAL ADMINISTRATION

96. If the Minister is of the opinion that the Bureau is engaging in practices or tolerating a situation likely to undermine the protection of the public or that there has been a serious fault, such as embezzlement, breach of trust or other misconduct by one or more members of the board of directors, or if the board of directors is seriously remiss in the performance of its obligations under the law, the Minister may order the Bureau to cease such conduct and take the necessary corrective measures.

The order issued by the Minister must set out the reasons on which it is based.

97. In the circumstances referred to in section 96, the Minister may designate a person to assume the provisional administration of the Bureau for a period of up to 90 days.

98. If the Bureau is placed under provisional administration, the powers of the members of the board of directors are suspended and the person designated by the Minister exercises all the powers of the board of directors.

99. At least 30 days before the date on which the provisional administrator's term is set to expire, the provisional administrator must file a report with the Minister setting out findings and recommendations. The report must contain all the information required by the Minister.

100. On receiving the provisional administrator's report, the Minister must send the Bureau a copy and allow the Bureau at least 10 days to submit observations.

101. After examining the provisional administrator's report and considering the Bureau's observations, the Minister may, if the Minister considers it warranted in order to remedy a situation referred to in section 96 or avoid the recurrence of such a situation,

(1) extend the provisional administration for a period of up to 90 days or terminate the provisional administration subject to specified conditions; or

(2) remove one or more members of the board of directors from office.

Any extension of the provisional administration may be renewed by the Minister for the same reasons provided each renewal does not exceed 90 days.

102. If the provisional administrator's report does not confirm the existence of a situation referred to in section 96, the Minister must terminate the provisional administration without delay.

103. A decision of the Minister must give reasons and be forwarded with dispatch to the members of the board of directors.

104. On the termination of the provisional administration, the provisional administrator must render a final account of the provisional administration to the Minister. The account must be sufficiently detailed to allow verification of its accuracy and be submitted with the related books and vouchers.

105. The costs, fees and expenses of the provisional administration are borne by the Bureau, unless the Minister decides otherwise.

106. The provisional administrator exercising powers and functions under this division may not be sued for any act performed in good faith in the exercise of such powers and functions.

CHAPTER V

REGULATORY POWERS

107. The Bureau must make regulations determining

(1) the form in which an application for a licence must be filed and the documents and fee that must be submitted with the application;

(2) the annual fee that a licence holder must pay;

(3) the coverage and other features of the liability insurance that an agency licence holder must take out;

(4) the amount and form of the security that an agency licence holder must furnish;

(5) the cases in and conditions on which a temporary agent licence may be issued; the conditions set in a regulation under this paragraph may be different from those set in section 19 or in a regulation made under paragraph 2 of section 108; and

(6) the standards of conduct to be followed by agent licence holders in the exercise of their functions.

108. The Bureau may make regulations

(1) determining the nature, form and content of the books, registers and records that an agency licence holder must keep and the rules relating to their preservation, use and destruction; and

(2) setting conditions additional to those prescribed in this Act for the issue of a licence.

109. Regulations made by the Bureau under this chapter must be submitted to the Minister, who may approve them with or without amendments.

Despite the first paragraph, a regulation made under paragraph 6 of section 107 must be submitted to the Government, which may approve it with or without amendments.

110. If the Bureau fails to make regulations under section 107 within six months after the coming into force of this section or fails to make amendments to a regulation within the time specified by the Minister or the Government, the Government may make or amend the regulations. Such regulations are deemed to be regulations of the Bureau.

111. After consulting with the Bureau, the Government may make regulations determining

(1) the persons or classes of persons exempted from the application of this Act and conditions for any such exemptions;

(2) standards for badges and other identification, and the characteristics of the uniforms to be worn by agent licence holders;

(3) conditions for the use of equipment and animals by agent licence holders, particularly the training required; and

(4) standards for the identification of vehicles used in the private security industry and the equipment allowed in such vehicles.

The Government may also determine, among the provisions of a regulation under any of subparagraphs 2 to 4 of the first paragraph, those whose contravention constitutes an offence.

112. The Government may make a regulation determining the training required to obtain an agent licence. The regulation may include exemptions or provisional conditions for existing personnel. It also defines the Bureau's role as regards training.

113. Regulatory provisions made under this chapter may vary according to the class of licence to which they apply.

CHAPTER VI

PENAL PROVISIONS

114. Any person who contravenes section 4 is guilty of an offence and is liable to a fine of $500 to $5,000 or, if that person's licence has been suspended or cancelled under section 29, an additional fine of $1,000 to $10,000.

115. Any person who contravenes section 13, 14, 15, 24, 25, 26, 36 or 79 is guilty of an offence and is liable to a fine of $250 to $2,500.

116. Any person who contravenes section 16 is guilty of an offence and is liable to a fine of $150 to $1,500 or, if that person's licence has been suspended or cancelled under section 30, an additional fine of $300 to $3,000.

117. Any person who employs a person referred to in section 16 who does not hold an agent licence as required under that section is guilty of an offence and is liable to a fine of $500 to $5,000.

118. Any person who orders or advises or who issues a directive or policy causing an agent licence holder to violate a standard of conduct is guilty of an offence and is liable to a fine of $500 to $5,000.

119. Any person who hinders an inspector or investigator in the exercise of inspection or investigation functions, refuses to provide any information or document the inspector or investigator is entitled to require or examine, or conceals or destroys any document or other object relevant to an inspection, investigation or inquiry is guilty of an offence and is liable to a fine of $500 to $5,000.

120. Any person who helps, incites, advises, encourages, allows, authorizes or orders another person to commit an offence under this Act is guilty of an offence. Any person found guilty under this section is liable to the same penalty as prescribed for the offence committed by the other person.

121. Any person who contravenes a regulatory provision whose contravention constitutes an offence under the second paragraph of section 111 is guilty of an offence and is liable to a fine of $150 to $5,000.

122. In the case of a second or subsequent offence, the minimum and maximum fines prescribed in this Act are doubled.

CHAPTER VII

CONSEQUENTIAL AND TRANSITIONAL PROVISIONS

123. This Act replaces the Act respecting detective or security agencies (R.S.Q., chapter A-8).

124. Unless the context indicates otherwise, in any text or document, whatever the nature or medium, a reference to the Act respecting detective or security agencies or any of its provisions is a reference to this Act or the corresponding provision of this Act.

125. Schedule IV to the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by adding the following paragraph after paragraph 30:

"(31) section 37 of the Private Security Act (2006, chapter 23)."

126. Section 9 of the Act respecting the Ministère de la Sécurité publique (R.S.Q., chapter M-19.3) is amended by replacing paragraph 9 by the following paragraph:

"(9) to administer the Private Security Act (2006, chapter 23);".

127. Section 117 of the Police Act (R.S.Q., chapter P-13.1) is amended by replacing "private investigator, security guard, collection agent or representative of a collection agent, and detective" in the first paragraph by "collection agent or representative of a collection agent, and with functions for which a licence is required under the Private Security Act (2006, chapter 23)".

128. Section 18 of the Act respecting the protection of personal information in the private sector (R.S.Q., chapter P-39.1) is amended by replacing "A detective or security agency holding a permit issued under the Act respecting detective or security agencies (chapter A-8)," in the fourth paragraph by "The holder of a security guard agency licence or investigation agency licence issued under the Private Security Act (2006, chapter 23)".

129. Section 39 of the Act is amended by replacing "a detective or security agency in accordance with the Act respecting detective or security agencies (chapter A-8)" in paragraph 1 by "the holder of a security guard agency licence or investigation agency licence issued under the Private Security Act (2006, chapter 23)".

130. A permit issued under the Act respecting detective or security agencies (R.S.Q., chapter A-8) that is valid on the date of coming into force of this section remains valid until the date on which it would have expired under that Act. This Act applies to that permit as if it had been issued by the Bureau under this Act.

131. Any person that, on (*insert the date of coming into force of section 4*), operates an enterprise that carries on a private security activity for which an agency licence is required under this Act, but that was not subject to the Act respecting detective or security agencies (R.S.Q., chapter A-8) must obtain an agency licence of the appropriate class in accordance with this Act within six months after that date. The person may continue to operate the enterprise after that date until those six months expire unless, in the interval, the Bureau refuses to issue the person a licence.

Likewise, any person who, on (*insert the date of coming into force of section 16*), carries on a private security activity for which an agent licence is required under this Act, but who was not subject to the Act respecting detective or security agencies must obtain an agent licence of the appropriate class in accordance with this Act within six months after that date. The person may continue to carry on the activity after that date until those six months expire unless, in the interval, the Bureau refuses to issue the person a licence. The same rules apply to the immediate superior of a person referred to in the first paragraph of section 16.

To be certain to obtain a licence within the six-month period provided for in the first and second paragraphs, applicants must make sure their applications are received by the Bureau at least three months before the expiry of that period.

CHAPTER VIII

FINAL PROVISIONS

132. The Minister must see that an independent report be made on this Act and its implementation no later than (*insert the date occurring five years after the date of coming into force of section 1)* and every five years after that date. The Bureau and every public body must give the person in charge of making such a report any information needed for the purposes of the report and required by that person.

The Minister lays the report before the National Assembly within 30 days of receiving it if the Assembly is sitting or, if it is not sitting, within 30 days of resumption.

133. The Minister of Public Security is responsible for the administration of this Act.

134. The provisions of this Act come into force on the date or dates to be set by the Government.

PRIVATE SECURITY ACT

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Abbreviations: **A**: Abrogated, **N**: New, **M**: Modified