

(1) documents to further the exercise of the rights and recourses provided for in the Professional Code, the Acts constituting the professional orders and the regulations and by-laws under the Code or those Acts, drawn up pursuant to subparagraph 9 of the third paragraph of section 12 of the Code;

(2) any draft letters patent or supplementary letters patents referred to in sections 27 and 27.1 of the Code, respectively, and published in the *Gazette officielle du Québec*;

(3) any draft amalgamation or integration order and any draft amendment to the amalgamation or integration order referred to in sections 27.2 and 27.3 of the Code, respectively, and published in the *Gazette officielle du Québec*.

5. A professional order must promptly distribute a document or information referred to in section 3 through a website and leave it there for as long as it is up-to-date, or until the order is no longer required to keep it. The foregoing also applies to the Office des professions du Québec with respect to a document referred to in section 4.

DIVISION IV MEASURES TO PROTECT PERSONAL INFORMATION

6. A professional order must ensure that its projects to acquire, develop or overhaul an information or electronic service system that collects, uses, keeps, releases or destroys personal information are monitored by special measures to protect personal information for the time required to carry out the project and measures to preserve that protection during the use, maintenance, modification or evolution of the information of electronic service system;

7. A professional order having recourse to a survey involving the collection or use of personal information must examine

(1) the need to conduct the survey; and

(2) the ethical aspect of the survey with regard to the sensitivity of the personal information collected and the purposes for which it is to be used.

8. A professional order having recourse to video-surveillance technology must ensure that its use is monitored by special measures to protect personal information. The order must examine, in particular,

(1) the need to use that technology; and

(2) whether the use of that technology is consistent with the right to privacy.

The syndic of the order is responsible for the obligations in the first paragraph in the course of the exercise of his or her duties.

DIVISION V FINAL

9. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*, except

(1) paragraph 20 of section 3, which comes into force on (30 months after the coming into force of this Regulation);

(2) sections 3 to 5, which come into force on (18 months after the coming into force of this Regulation).

1359

Draft Regulation

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1)

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

Commission d'accès à l'information — Procedure

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting procedure and evidence of the Commission d'accès à l'information, made by the Commission d'accès à l'information and appearing below, may be submitted to the Government for approval on the expiry of 45 days following this publication.

The draft Regulation replaces the Rules of Proof and Procedure before the Commission d'accès à l'information, approved by Order in Council 2058-84 dated 19 September 1984 (1984, *G.O.* 2, 3475). The draft Regulation sets out the rules of procedure and evidence governing hearings of the adjudicative division of the Commission. Certain provisions concern documents submitted, the notice of hearing to the parties, the summoning of witnesses and rules on the time allotted to proceedings, from the time applications are filed with the Commission.

In addition to the results expected from the new rules on procedure and evidence for the best interest of parties, study of the matter shows no constraints or financial impact on the public and enterprises, including small and medium-sized businesses.

Further information may be obtained by contacting Christyne Cantin, Direction des affaires juridiques, Commission d'accès à l'information, 575, rue Saint-Amable, bureau 1.10, Québec (Québec) G1R 2G4; telephone: 418 528-7741 or 1 888 528-7741 (toll-free); fax: 418 529-3102.

Any interested person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Jean-Sébastien Desmeules, Secretary General, Commission d'accès à l'information, 575, rue Saint-Amable, bureau 1.10, Québec (Québec) G1R 2G4.

PIERRE MOREAU,
*Minister responsible for the Reform
of Democratic Institutions and Access
to Information*

Regulation respecting procedure and evidence of the Commission d'accès à l'information

An Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., c. A-2.1, s. 137.3)

An Act respecting the protection of personal information in the private sector (R.S.Q., c. P-39.1, s. 50.1)

DIVISION I GENERAL

1. This Regulation applies to applications made to the Commission d'accès à l'information in the performance of its adjudicative function.

For the purposes of sections 9, 11, 12, 26 and 48 of this Regulation, "application" means an application for review, an application for the examination of a disagreement, an application for authorization to disregard certain applications and an application to refuse or cease examining a case.

2. No proceedings brought pursuant to this Regulation must be considered invalid or dismissed for any defect of form.

3. The following are non-judicial days:

- (1) Saturdays and Sundays;
- (2) 1 and 2 January;
- (3) Good Friday;
- (4) Easter Monday;
- (5) the Monday preceding 25 May;
- (6) 24 June;
- (7) 1 July;
- (8) the first Monday of September;
- (9) the second Monday of October; and
- (10) 24, 25, 26 and 31 December.

4. If the date set for performing an act falls on a non-judicial day, it may validly be done on the following judicial day.

5. In computing a time period, the day marking the start of the period is not counted but the last day is counted.

6. The Commission has, within the scope of the law, full authority over the conduct of the hearing. It must, in conducting the proceedings, be flexible and ensure that the substantive law is rendered effective and carried out.

The Commission is not bound to apply the rules of civil evidence and procedure.

7. The Commission may relieve a party from the obligation to act within the time prescribed by this Regulation if, in its opinion, the party establishes that it was unable, for valid reasons, to act sooner and that no party suffers serious harm therefrom.

8. With the exception of the documents related to the contestation referred to in section 151 of the Act respecting Access to documents held by public bodies and the Protection of personal information, confidential documents in dispute must be destroyed on the expiry of 60 days after the date of the decision of the Commission unless the public body, enterprise or professional order asks the Commission to return them.

DIVISION II

MAKING AN APPLICATION

9. An application filed with the Commission must be made in writing and contain

(1) the applicant's name, address and telephone number and any fax number and e-mail address;

(2) the name, address, telephone and fax numbers of the applicant's advocate, if applicable, and any e-mail address; and

(3) the name of the public body, enterprise or professional order concerned.

The application must be signed by the applicant or the applicant's advocate.

10. An application for review or for the examination of a disagreement must be accompanied by

(1) a copy of the request for access, request for correction or rectification, notice to a third person or request for removal from a nominative list; and

(2) a copy of the decision or, failing that, of the acknowledgment of receipt of the public body, enterprise or professional order, if applicable.

11. An application or a document may be filed with the Commission at one of its offices

(1) by mail;

(2) by fax;

(3) by its delivery; or

(4) by e-mail, insofar as that means is proposed by the Commission.

12. Upon receiving an application, the Commission sends an acknowledgment of receipt to the applicant or the applicant's advocate.

The Commission informs the public body, enterprise or professional order and, if applicable, the third person concerned by the request by sending them a copy of the request.

13. Within 30 days of receiving the acknowledgment of receipt sent by the Commission, the public body or professional order must provide, if applicable, the contact information of all the third persons referred to in

sections 23 and 24 of the Act respecting Access to documents held by public bodies and the Protection of personal information.

DIVISION III

WRITTEN PROCEEDINGS

14. A person who requests to be released from a failure to observe the time limit provided for in section 135 of the Act respecting Access to documents held by public bodies and the Protection of personal information or section 43 of the Act respecting the protection of personal information in the private sector must specify in the application for review or for the examination of a disagreement, as the case may be, the reasons for which the person failed to act sooner.

15. It is the responsibility of a party to send to every other party a copy of every application, document or notice that the party files with the Commission, except confidential documents.

Every written document filed following the opening of the file must indicate the file number assigned by the Commission and mention that a copy was sent to every other party.

16. As soon as the Commission is informed of the name of the advocate of a party, all subsequent correspondence is sent to the advocate until the Commission is informed in writing that the advocate's mandate has been revoked.

17. An advocate who ceases to represent a party must immediately so inform the Commission and the other parties in writing.

18. Any change to the contact information of a party or a party's advocate is immediately communicated in writing to the Commission.

DIVISION IV

MEDIATION AND SETTLEMENT

19. Mediation is a confidential, free and voluntary process. Its goal is to bring the parties to explore solutions that are mutually satisfactory.

20. Not later than 2 months after receiving an application, the Commission informs the parties of the name and contact information of the mediator designated by the Commission to attempt to bring the parties to an agreement.

The mediator represents neither party and acts neutrally.

21. Mediation may take place between the parties at any time during the course of a proceeding before the Commission. A party or the mediator may suspend or terminate mediation at any time.

22. Mediation does not suspend the proceedings.

23. Unless the parties consent thereto, nothing that is said or written in the course of a mediation session may be admitted as evidence.

24. The settlement reached by the parties may be confirmed by the Commission, on its own initiative or at the request of either party.

25. The filing of a notice indicating that the dispute is resolved terminates the proceedings.

DIVISION V NOTICE OF HEARING AND INTERVENTION

26. Not later than 8 months after receiving an application, the Commission informs the parties of the means by which they will be able to submit their observations and of the time limit allowed to do so, which may not be less than 30 days.

27. Where a hearing is scheduled, the Commission sends to the parties a notice of hearing specifying the date and place of the hearing. The notice is sent to the parties' last address provided to the Commission or, if applicable, to their advocate's address.

28. A person who alleges to have an interest in a case may apply to the Commission in writing for the authorization to intervene. The application for intervention must be notified to the parties and contain the information provided for in section 9 as well as a brief summary of the person's interest.

29. A party that intends to object to an intervention indicates to the Commission, as soon as the application for intervention is received, the reasons for the party's objection.

30. The Commission may, on its own initiative or at the request of a party, implead a person whose presence is necessary to allow a complete resolution of the dispute or whose interests may be affected by the decision.

31. A request to postpone a hearing must be submitted in writing, as soon as possible, to the chair of the Commission. The request must be substantiated and sent to all the parties involved. The request is accompanied by any supporting documents, except personal information which is communicated only to the chair.

The postponement is granted only if the request is based on serious grounds and if the interests of justice are better served. No postponement is granted solely by the consent of the parties.

DIVISION VI HEARING

32. The Commission may, on its own initiative or at the request of an interested party, hold a pre-hearing conference in order to find means to simplify, shorten or facilitate the proceedings.

33. The Commission may, on its own initiative or at the request of a party, summon a person to appear at the hearing to testify or produce a document.

An application to summon a witness must be substantiated and be made in writing to the Commission at least 20 days before the date of the hearing. The Commission may, on serious grounds, agree to a different time limit.

The summons is served at least 5 clear days before the hearing and the payment of the expenses and indemnities relating to it are borne by the person who requires the presence of a witness.

34. A party that summons a witness must advance to the witness the indemnity for loss of time and the allowances for transportation, meals and accommodation in accordance with sections 2 and 3 of the Regulation respecting indemnities and allowances payable to witnesses summoned before courts of justice (R.R.Q., 1981, c. C-25, r. 2).

35. The hearing takes place in one of the places where the Commission sits nearest to the applicant's domicile. The Commission may choose another place in the interest of justice.

A party that wants the hearing to be held at another place must, as soon as possible and not later than 30 days following receipt of the notice of hearing, make a written request to the chair of the Commission.

36. At the opening of the hearing, if one of the parties duly called is absent and has not validly justified the absence, the Commission may dispose of the application in accordance with the law.

37. Hearings are public. However, in order to preserve public order, the Commission may order that a hearing be held *in camera*.

The Commission proceeds *in camera* to avoid releasing information that could qualify for protection under the law.

38. Where the public body, enterprise, professional order or third person alleges that a document should be withdrawn from access, the Commission may, in the absence of the applicant and *in camera*, examine the document and receive evidence related to the document.

39. The Commission may, where it deems it appropriate, order that the witnesses testify outside each other's presence.

40. Witnesses swear to tell the truth.

41. The cost of the services of an interpreter is borne by the party that hires the interpreter. However, the Commission provides the services of an interpreter to a handicapped person requiring those services.

42. Persons attending the hearing must behave with dignity and respect towards justice. They must refrain from any conduct that may interfere with the proper conduct of the hearing.

DIVISION VII EVIDENCE

43. At the opening of the hearing, the public body, enterprise or professional order must supply the Commission with the documents in dispute.

44. A party that intends to produce documents at the hearing must provide a sufficient number of copies for the Commission and the other parties.

45. When it has taken a case under advisement, the Commission may, on its own initiative or at the request of a party, before the decision is rendered, order the reopening of the case to hear any evidence and to receive the observations of the parties as it deems necessary.

46. Representations made at the hearing are recorded on audio tape, unless a party has them recorded by a stenographer or stenotypist at its expense.

Where a party has representations transcribed, the party must provide a copy to the Commission free of charge.

No other recording may be made without the authorization of the Commission.

DIVISION VIII ADVISEMENT AND DECISION

47. No case is taken under advisement until the record has been completed.

48. The decision is rendered by the member who has heard the application and that decision constitutes the decision of the Commission. The decision must be in writing and provide reasons.

49. The secretary of the Commission keeps the original of the decision and sends a true copy of the decision to each party or the party's advocate by any means providing evidence of the date of receipt.

DIVISION IX FINAL

50. This Regulation replaces the Rules of Proof and Procedure before the Commission d'accès à l'information approved by Order in Council 2058-84 dated 19 September 1984.

51. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

1358

Draft Regulation

Courts of Justice Act
(R.S.Q., c. T-16)

Exemption from security screening in courts of justice

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting security screening exemption cards for courts of justice, appearing below, may be made by the Ministers of Justice and Public Security on the expiry of 45 days following this publication.

The purpose of the draft Regulation is to determine a security device for gaining access to the courts of justice without being screened, to prescribe the conditions for the application and use of that device and to specify the categories of persons who may be so exempted.

To date, study of the matter has shown no impact on the public and on enterprises, in particular small and medium-sized businesses.

Further information may be obtained by contacting Denise McManiman, Office of the Deputy Minister of Justice, 1200, route de l'Église, 9^e étage, Québec (Québec) G1V 4M1; telephone: 418 643-4090, extension 20587; fax: 418 643-3877.