

Draft Regulations

Draft Regulation

Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)

Act respecting the protection of personal information in the private sector (chapter P-39.1)

Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25)

Confidentiality incidents

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation respecting confidentiality incidents, appearing below, may be made by the Government on the expiry of 45 days following this publication.

The Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25), assented to on 22 September 2021, introduces in the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and the Act respecting the protection of personal information in the private sector (chapter P-39.1) requirements to be complied with when confidentiality incidents occur. In particular, notices must be sent to the Commission d'accès à l'information and to any person whose personal information is concerned by the incident if the incident presents a risk of serious injury, under the second paragraph of section 63.8 of the Act respecting Access to documents held by public bodies and the Protection of personal information and the second paragraph of section 3.5 of the Act respecting the protection of personal information in the private sector. An obligation to keep a register of confidentiality incidents under section 63.11 of the Act respecting Access to documents held by public bodies and the Protection of personal information and section 3.8 of the Act respecting the protection personal information in the private sector is also set out. The provisions come into force on 22 September 2022.

The Act to modernize legislative provisions as regards the protection of personal information also amends the Election Act (chapter E-3.3), indicating that, except if inconsistent with that Act, the Act respecting the protection of personal information in the private sector applies to the personal information of electors held by a political party, an independent Member or an independent candidate, with

a few exceptions. The requirements listed above in relation to confidentiality incidents and contained in sections 3.5 and 3.8 of the Act respecting the protection of personal information in the private sector, will also apply to those political bodies when section 127.22 of the Election Act comes into force.

The purpose of the draft Regulation is to give enterprises and public bodies and the political bodies subject to the Regulation parameters respecting the elements to be included in notices sent to the Commission d'accès à l'information and the persons concerned and in the registers of confidentiality incidents they must keep. It gives them useful tools and guidance for fulfilling their obligations in such context.

As regards the private sector, a regulatory impact study has been conducted. It should be noted that any costs will be generated not by the draft Regulation but by the new provisions on confidentiality incidents to be added to the Act respecting the protection of personal information in the private sector pursuant to the Act to modernize legislative provisions as regards the protection of personal information.

The draft Regulation standardizes the content that the public will have access to if it receives notices that a confidentiality incident has occurred that presents a risk of serious injury. The public will be better informed as to the circumstances surrounding such incidents and the recommended recourses available if the public needs to protect its personal information.

Further information on the draft Regulation may be obtained by contacting Julie Goulet, attorney, Secrétariat à la réforme des institutions démocratiques, à l'accès à l'information et à la laïcité, Ministère du Conseil exécutif; email: julie.goulet@mce.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Julie Samuël, Director, Direction de l'accès à l'information et de la protection des renseignements personnels, Secrétariat à la réforme des institutions démocratiques, à l'accès à l'information et à la laïcité, Ministère du Conseil exécutif; email: daiprp@mce.gouv.qc.ca.

ÉRIC CAIRE

*Minister Responsible for Access to Information
and the Protection of Personal Information*

Regulation respecting confidentiality incidents

Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1, s. 155, 1st par., subpars. 6.1 and 6.2)

Act respecting the protection of personal information in the private sector (chapter P-39.1, s. 90, 1st par., subpars. 3 and 3.1)

Act to modernize legislative provisions as regards the protection of personal information (2021, chapter 25, s. 67, par. 2, and s. 158)

DIVISION I

SCOPE AND DEFINITION

1. This Regulation applies to all public bodies referred to in section 3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), and any person carrying on an enterprise and who is referred to in the Act respecting the protection of personal information in the private sector (chapter P-39.1).

It also applies to the professional orders to the extent provided for in the Professional Code (chapter C-26) and to political parties, independent Members and independent candidates to the extent provided for in section 127.22 of the Election Act (chapter E-3.3).

2. In this Regulation, “body” means a public body, a person carrying on an enterprise, a professional order, a political party, an independent Member or an independent candidate to which this Regulation applies.

DIVISION II

NOTICES TO THE COMMISSION D’ACCÈS À L’INFORMATION

3. Notices to the Commission d’accès à l’information that a confidentiality incident presents a risk of serious injury, given under the second paragraph of section 63.8 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or the second paragraph of section 3.5 of the Act respecting the protection of personal information in the private sector (chapter P-39.1), must be in writing and must contain

(1) the name of the body affected by the confidentiality incident and any Québec business number assigned to such body under the Act respecting the legal publicity of enterprises (chapter P-44.1);

(2) the name and contact information of the person to be contacted in that body with regard to the incident;

(3) a description of the personal information covered by the incident or, if that information is not known, the reasons why it is impossible to provide such a description;

(4) a brief description of the circumstances of the incident and what caused it, if known;

(5) the date or time period when the incident occurred or, if that is not known, the approximate time period;

(6) the date or time period when the body became aware of the incident;

(7) the number of persons concerned by the incident and the number of those who reside in Québec or, if that is not known, the approximate numbers;

(8) a description of the elements that led the body to conclude that there is a risk of serious injury to the persons concerned, such as the sensitivity of the personal information concerned, any possible ill-intentioned uses of such information, the anticipated consequences of its use and the likelihood that such information will be used for injurious purposes;

(9) the measures the body has taken or intends to take to notify the persons whose personal information is concerned by the incident, pursuant to the second paragraph of section 63.8 of the Act respecting Access to documents held by public bodies and the Protection of personal information or the second paragraph of section 3.5 of the Act respecting the protection of personal information in the private sector, and the date on which such persons were notified, or the expected time limit for the notification;

(10) the measures the body has taken or intends to take after the incident occurred, including those aimed at reducing the risk of injury or mitigating any such injury and those aimed at preventing new incidents of the same nature, and the date on which the measures were taken or the expected time limit for taking the measures; and

(11) if applicable, an indication that a person or body outside Québec that exercises similar functions to those of the Commission d’accès à l’information with respect to overseeing the protection of personal information has been notified of the incident.

4. The body must send to the Commission d’accès à l’information all the information listed in section 3 that it becomes aware of after sending the notice described therein. The additional information must promptly be sent after the body becomes aware of it.

DIVISION III**NOTICES TO THE PERSONS CONCERNED**

5. Notices to persons whose personal information is concerned by a confidentiality incident presenting a risk of serious injury, given under the second paragraph of section 63.8 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or the second paragraph of section 3.5 of the Act respecting the protection of personal information in the private sector (chapter P-39.1), must contain

(1) a description of the personal information covered by the incident or, if that information is not known, the reasons why it is impossible to provide such a description;

(2) a brief description of the circumstances of the incident;

(3) the date or time period when the incident occurred or, if that is not known, the approximate time period;

(4) a brief description of the measures the body has taken or intends to take after the incident occurred in order to reduce the risks of injury;

(5) the measures that the body suggests the person concerned take in order to reduce the risk of injury or mitigate any such injury; and

(6) the contact information where the person concerned may obtain more information about the incident.

6. The notices referred to in section 5 are sent to the persons concerned by the confidentiality incident.

Despite the first paragraph, the notices referred to in section 5 are given by way of a public notice in any of the following circumstances:

(1) when the fact of sending such notice is likely to cause increased injury to the person concerned;

(2) when the fact of sending such notice is likely to cause undue hardship for the body;

(3) when the body does not have the contact information for the person concerned.

The notices referred to in section 5 may also be given by way of a public notice if there is a need to act rapidly to reduce the risk of a serious injury or to mitigate any such injury. In such cases, the body must still send a notice to the person concerned with proper diligence, unless one of the circumstances listed in the second paragraph applies.

Pursuant to this section, public notices may be made by any method that could be reasonably expected to reach the person concerned.

DIVISION IV**REGISTERS OF CONFIDENTIALITY INCIDENTS**

7. The registers provided for in section 63.11 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) and section 3.8 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) must contain

(1) a description of the personal information covered by the incident or, if that information is not known, the reasons why it is impossible to provide such a description;

(2) a brief description of the circumstances of the incident;

(3) the date or time period when the incident occurred or, if that is not known, the approximate time period;

(4) the date or time period when the body became aware of the incident;

(5) the number of persons concerned by the incident or, if that is not known, the approximate number;

(6) a description of the elements that led the body to conclude that there is a risk of serious injury to the persons concerned, such as the sensitivity of the personal information concerned, any possible ill-intentioned uses of such information, the anticipated consequences of its use and the likelihood that such information will be used for injurious purposes;

(7) if the incident presents a risk of serious injury, the transmission dates of the notices to the Commission d'accès à l'information and the persons concerned, pursuant to the second paragraph of section 63.8 of the Act respecting Access to documents held by public bodies and the Protection of personal information or the second paragraph of section 3.5 of the Act respecting the protection of personal information in the private sector, as well as an indication of whether the body issued public notices and, if applicable, its reasons for doing so; and

(8) a brief description of the measures the body has taken after the incident occurred in order to reduce the risks of injury.

8. The information in the registers must be kept up to date and kept for at least 5 years after the date or time period when the body became aware of the incident.

DIVISION V FINAL

9. This Regulation comes into force on 22 September 2022, except as concerns political parties, independent Members and independent candidates, for which it comes into force on 22 September 2023.

105822

Notice

Act respecting industrial accidents
and occupational diseases
(chapter A-3.001)

Financing

— Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), that the Regulation to amend the Regulation respecting financing, appearing below, may be made by the Commission des normes, de l'équité, de la santé et de la sécurité du travail on the expiry of 45 days following this publication.

The draft Regulation determines, for the year 2023,

— the classification units and the rates of assessment applicable to each unit;

— the experience ratios of each classification unit for the years 2018, 2019, 2020 and 2021 used to fix the assessment of an employer who qualifies for a personalized rate;

— the updated qualifying threshold of an employer for a personalized rate as well as certain parameters used to calculate the rate;

— the insurance premiums used to calculate the retrospective adjustment of the annual assessment of an employer who qualifies for such adjustment for that year.

The draft Regulation also amends the compensation cost of a hearing impairment caused by noise not resulting from an industrial accident for the purpose of fixing the assessment of an employer who qualifies for a personalized rate and calculating the retrospective adjustment of the annual assessment of an employer who qualifies for such adjustment.

Further information may be obtained by contacting Marc-Étienne Gagnon, 1600, avenue D'Estimauville, Québec (Québec), G1J 0H7; telephone: (418) 266-4949, extension 2796; email: marc-etienne.gagnon@cnesst.gouv.qc.ca.

Any person wishing to comment on the draft Regulation is requested to submit written comments within the 45-day period to Bruno Labrecque, Vice-President of Finance, Commission des normes, de l'équité, de la santé et de la sécurité du travail, 1600, avenue D'Estimauville, Québec (Québec), G1J 0H7.

LOUISE OTIS

*Chair of the board of directors
of the Commission des normes, de l'équité,
de la santé et de la sécurité du travail*

Regulation to amend the Regulation respecting financing

Act respecting industrial accidents
and occupational diseases
(chapter A-3.001, s. 454, 1st par., subpars. 4.4 to 10)

1. The Regulation respecting financing (chapter A-3.001, r. 7) is amended by replacing Schedules 1, 2, 3, 4 and 7 by Schedules 1, 2, 3, 4 and 7, respectively, attached to this Regulation.

2. Schedule 5 is amended

(1) by adding the following before the last paragraph of section 2:

“(4) Hearing impairment: hearing impairment caused by noise not resulting from an industrial accident:

$1 + (4.000 \times A);$ ”;

(2) by adding the following before the last paragraph of section 3:

“(4) Hearing impairment: hearing impairment caused by noise not resulting from an industrial accident:

$1 + (3.500 \times B);$ ”;