



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 64
(2021, chapter 25)

**An Act to modernize legislative
provisions as regards the protection
of personal information**

**Introduced 12 June 2020
Passed in principle 20 October 2020
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Assented to 22 September 2021**

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EXPLANATORY NOTES

This Act modernizes the framework applicable to the protection of personal information in various Acts, including the Act respecting Access to documents held by public bodies and the Protection of personal information and the Act respecting the protection of personal information in the private sector.

Rules are introduced in both of those Acts concerning how public bodies and enterprises handle incidents affecting the confidentiality of personal information. Under the Act, such bodies and enterprises must publish governance rules regarding personal information, or information relating to the governance policies and practices regarding such information, and those that collect personal information through technological means must publish and disseminate a confidentiality policy. In addition, the Act introduces a requirement in those Acts to conduct a privacy impact assessment in certain circumstances, including regarding any project to acquire, develop or overhaul an information system or electronic service delivery system involving the collection, use, release, keeping or destruction of personal information.

The Act clarifies various requirements relating to the consent required before personal information is collected, used or released. A public body or an enterprise that makes a request for consent in writing must do so separately from any other information provided to the person concerned. The consent necessary for certain uses or releases of sensitive personal information must be given expressly. Furthermore, the consent of the person having parental authority or of the tutor must be obtained to collect, use or release personal information concerning a minor under 14 years of age.

In addition, the Act requires public bodies and enterprises to provide certain information to the person concerned when they collect personal information using technology that includes functions allowing the person concerned to be identified, located or profiled, or when they use personal information to render a decision based exclusively on an automated processing of such information. It establishes a person's right to access certain computerized personal information concerning him or her in a structured, commonly used technological format or to require such information to be released

to a third person. In addition, under the Act, public bodies and enterprises that collect personal information when offering to the public a technological product or service having privacy settings are required to ensure that those settings provide the highest level of confidentiality by default.

The Act amends the conditions on which public bodies and enterprises may release personal information without the consent of the persons concerned to a person or body wishing to use the information for study or research purposes or for the production of statistics. The Act also clarifies the conditions applicable to other releases of personal information for which the consent of the person concerned is not necessary, such as a release of such information outside Québec, or to the spouse or a close relative of a deceased person, or by one enterprise to another for the purpose of concluding a commercial transaction.

The Act clarifies the obligations of public bodies and enterprises regarding the keeping of personal information, and provides in particular for the possibility of anonymizing such information.

The Act amends the composition of the Commission d'accès à l'information and adjusts its functions and powers.

The Act amends the penal provisions applicable for a contravention of the law, in particular by raising the amount of the fines.

More specifically, the Act amends the Act respecting Access to documents held by public bodies and the Protection of personal information to set out rules regarding the establishment within public bodies of a committee on access to information and the protection of personal information.

The Act also amends the Act respecting the protection of personal information in the private sector to create the function of person in charge of the protection of personal information within enterprises, withdraws from those enterprises the possibility of communicating nominative lists without the consent of the persons concerned, and updates the rules governing the use of personal information for commercial or philanthropic prospection purposes.

The Act grants rights to a person to whom personal information relates, including the right to require that such information cease to be disseminated or that any hyperlink attached to the person's name providing access to the information by a technological means be de-indexed or re-indexed.

The Act updates the obligations imposed on personal information agents, provides for the possibility for the Commission d'accès à l'information to impose monetary administrative penalties, and sets out the terms for recovering and claiming the amounts owing.

The Act also amends the Election Act to make the political parties, independent Members and independent candidates governed by that Act subject to certain provisions of the Act respecting the protection of personal information in the private sector, while providing for exceptions.

The Act also amends the Act to prevent and fight sexual violence in higher education institutions to require those institutions to communicate information to persons who have filed a complaint.

Lastly, the Act contains amending, transitional and final provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1);
- Financial Administration Act (chapter A-6.001);
- Tax Administration Act (chapter A-6.002);
- Health Insurance Act (chapter A-29);
- Act to establish a legal framework for information technology (chapter C-1.1);
- Act respecting elections and referendums in municipalities (chapter E-2.2);
- Act respecting school elections to elect certain members of the boards of directors of English-language school service centres (chapter E-2.3);
- Election Act (chapter E-3.3);
- Act respecting the Institut de la statistique du Québec (chapter I-13.011);
- Act respecting La Financière agricole du Québec (chapter L-0.1);

- Act respecting the Ministère de l’Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail (chapter M-15.001);
- Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1);
- Act respecting the sharing of certain health information (chapter P-9.0001);
- Act to prevent and fight sexual violence in higher education institutions (chapter P-22.1);
- Act respecting the protection of personal information in the private sector (chapter P-39.1);
- Animal Health Protection Act (chapter P-42);
- Act respecting the legal publicity of enterprises (chapter P-44.1);
- Act respecting the Régie de l’assurance maladie du Québec (chapter R-5);
- Act respecting the Government and Public Employees Retirement Plan (chapter R-10);
- Act respecting occupational health and safety (chapter S-2.1);
- Public Health Act (chapter S-2.2);
- Act respecting health services and social services (chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (chapter S-5);
- Credit Assessment Agents Act (2020, chapter 21).

Bill 64

AN ACT TO MODERNIZE LEGISLATIVE PROVISIONS AS REGARDS THE PROTECTION OF PERSONAL INFORMATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES AND THE PROTECTION OF PERSONAL INFORMATION

1. The Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) is amended by replacing section 8 by the following sections:

“8. The person exercising the highest authority within a public body shall see to ensuring that this Act is implemented and complied with within the body. That person shall exercise the function of person in charge of access to documents and the function of person in charge of the protection of personal information.

All or part of those functions may be delegated in writing to a member of the public body or of its board of directors, as the case may be, or to a member of the management personnel. That person must be able to exercise them autonomously.

Where the person exercising the highest authority within a public body does not exercise those functions himself, he must see to it that such exercise is facilitated.

The public body must, as soon as possible, notify the Commission in writing of the title, contact information and starting date of the person who exercises the function of person in charge of access to documents and those of the person who exercises the function of person in charge of the protection of personal information.

“8.1. Within a public body, a committee on access to information and the protection of personal information is responsible for supporting the body in the exercise of its responsibilities and the performance of its obligations under this Act. The committee shall also exercise the functions entrusted to it by this Act.

The committee is under the responsibility of the person exercising the highest authority within the public body or, in the case of a government department, of the deputy minister and, in the case of a municipality, a professional order or a school board, of the director general. It is composed of the person in charge of access to documents, the person in charge of the protection of personal information and any other person whose expertise is required, including, if applicable, the person responsible for information security and the person responsible for document management.

A government regulation may exempt a public body from the obligation to establish such a committee or modify a body's obligations according to criteria it defines."

2. Section 41.2 of the Act is amended by inserting "person or" after "to a" in subparagraph 3 of the first paragraph.

3. Section 43 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: "If it is in writing, it may be made in a technological format.";

(2) by replacing "designated by him" in the third paragraph by "to whom that function has been delegated".

4. Section 47 of the Act is amended

(1) by replacing "cannot be notified by mail but will be informed" in subparagraph 7 of the first paragraph by "will be notified";

(2) by replacing "thereof by mail" in the second paragraph by "of the extension in writing".

5. Section 49 of the Act is amended

(1) by replacing "by mail" in the first paragraph by "by sending it to him in writing";

(2) by replacing "by mail" in the second paragraph by "in accordance with the first paragraph";

(3) by replacing "by mail" and "mailed" in the fourth paragraph by "in writing" and "sent", respectively.

6. Section 50 of the Act is amended by adding the following sentence at the end: "If an applicant so requests, the person in charge must also help him understand the decision."

7. The Act is amended by adding the following section before section 53:

“52.2. A public body is responsible for protecting the personal information it holds.”

8. Section 53 of the Act is amended by striking out “; in the case of a minor, consent may also be given by the person having parental authority” in paragraph 1.

9. The Act is amended by inserting the following section after section 53:

“53.1. Consent under this Act must be clear, free and informed and be given for specific purposes. It must be requested for each such purpose, in clear and simple language. If the request for consent is made in writing, it must be presented separately from any other information provided to the person concerned. If the person concerned so requests, assistance must be provided to help him understand the scope of the consent requested.

The consent of a minor under 14 years of age is given by the person having parental authority or by the tutor. The consent of a minor 14 years of age or over is given by the minor, by the person having parental authority or by the tutor.

Consent is valid only for the time necessary to achieve the purposes for which it was requested.

Consent not given in accordance with this Act is without effect.”

10. Section 54 of the Act is amended by inserting “directly or indirectly” before “allows”.

11. Section 55 of the Act is amended by adding the following sentence at the end of the first paragraph: “Nor is personal information concerning the performance of duties within an enterprise by the person concerned, such as the person’s name, title and duties, as well as the address, email address and telephone number of the person’s place of work.”

12. Section 57 of the Act is amended

(1) in the first paragraph,

(a) by inserting “, email address” after “address” in subparagraphs 1 and 2;

(b) by replacing “a member, the board of directors or the management personnel of a public body” in subparagraph 1 by “a member of a public body, its board of directors or its management personnel”;

(2) by inserting “person or” after “work of a” in the second paragraph.

13. Section 59 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “Such consent must be given expressly when it concerns sensitive personal information.”;

(2) in the second paragraph,

(a) by replacing “tel renseignement sans le consentement de cette personne” in the introductory clause in the French text by “renseignement personnel sans le consentement de la personne concernée”;

(b) by inserting “person or” after “to a” in subparagraph 3;

(c) by striking out subparagraph 5;

(d) by replacing “61, 66, 67, 67.1, 67.2, 68 and 68.1” in subparagraph 8 by “61, 63.8, 66, 67, 67.1, 67.2, 67.2.1 and 68”;

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

“For the purposes of this Act, personal information is sensitive if, due to its nature, in particular its medical, biometric or otherwise intimate nature, or the context of its use or release, it entails a high level of reasonable expectation of privacy.”

14. Section 60 of the Act is amended

(1) by replacing “must refuse to” in the third paragraph by “must not”;

(2) by striking out “following a request made” in the fourth paragraph.

15. The Act is amended by inserting the following sections after section 63.2:

“63.3. A public body must publish on its website governance rules regarding personal information. Such rules must be approved by its committee on access to information and the protection of personal information.

The rules may be in the form of a policy, directive or guide and must, in particular, define the roles and responsibilities of the members of its personnel throughout the life cycle of such information and provide a process for dealing with complaints regarding the protection of the information. They must include a description of the training and awareness activities offered by the public body to its personnel regarding the protection of personal information.

The rules must also include the protective measures to be taken in respect of the personal information collected or used as part of a survey, including an assessment of

(1) the necessity of conducting the survey; and

(2) the ethical aspect of the survey, taking into account, in particular, the sensitivity of the personal information collected and the purposes for which it is to be used.

A government regulation may determine the content and terms of those rules.

“63.4. A public body that collects personal information through technological means must publish on its website a confidentiality policy drafted in clear and simple language and disseminate it by any appropriate means to reach the persons concerned. It must do the same for the notice required for any amendment to such a policy.

A government regulation may determine the content and terms of the policy and the notice.

“63.5. A public body must conduct a privacy impact assessment for any project to acquire, develop or overhaul an information system or electronic service delivery system involving the collection, use, release, keeping or destruction of personal information.

For the purposes of such an assessment, the public body must consult its committee on access to information and the protection of personal information from the outset of the project.

The public body must also ensure that the project allows computerized personal information collected from the person concerned to be released to him in a structured, commonly used technological format.

The conduct of a privacy impact assessment under this Act must be proportionate to the sensitivity of the information concerned, the purposes for which it is to be used, the quantity and distribution of the information and the medium on which it is stored.

“63.6. The committee may, at any stage of a project referred to in section 63.5, suggest personal information protection measures applicable to the project, such as

(1) the appointment of a person to be responsible for implementing the personal information protection measures;

(2) measures to protect the personal information in any document relating to the project, such as specifications or a contract;

(3) a description of the project participants' responsibilities with regard to the protection of personal information; or

(4) training activities for project participants on the protection of personal information.

“63.7. A public body that collects personal information when offering to the public a technological product or service having privacy settings must ensure that those settings provide the highest level of confidentiality by default, without any intervention by the person concerned.

The first paragraph does not apply to privacy settings for browser cookies.

“63.8. A public body that has cause to believe that a confidentiality incident involving personal information it holds has occurred must take reasonable measures to reduce the risk of injury and to prevent new incidents of the same nature.

If the incident presents a risk of serious injury, the public body must promptly notify the Commission. It must also notify any person whose personal information is concerned by the incident, failing which the Commission may order it to do so. It may also notify any person or body that could reduce the risk, by releasing to the person or body only the personal information necessary for that purpose without the consent of the person concerned. In the latter case, the person in charge of the protection of personal information must record the release of the information.

Despite the second paragraph, a person whose personal information is concerned by the incident need not be notified so long as doing so could hamper an investigation conducted by a person or body responsible by law for the prevention, detection or repression of crime or statutory offences.

A government regulation may determine the content and terms of the notices provided for in this section.

“63.9. For the purposes of this Act, “confidentiality incident” means

(1) access not authorized by law to personal information;

(2) use not authorized by law of personal information;

(3) release not authorized by law of personal information; or

(4) loss of personal information or any other breach of the protection of such information.

“63.10. In assessing the risk of injury to a person whose personal information is concerned by a confidentiality incident, a public body must consider, in particular, the sensitivity of the information concerned, the anticipated consequences of its use and the likelihood that such information will be used for injurious purposes. The body must also consult the person in charge of the protection of personal information within the body.

“63.11. A public body must keep a register of confidentiality incidents. A government regulation may determine the content of the register.

A copy of the register must be sent to the Commission at its request.”

16. Section 64 of the Act is amended by replacing the third paragraph by the following paragraphs:

“The collection of information referred to in the second paragraph must be preceded by a privacy impact assessment and carried out under a written agreement that is sent to the Commission. The agreement comes into force 30 days after it is received by the Commission.

The agreement must indicate

- (1) the identity of the public body collecting the information and of the public body on whose behalf it is collected;
- (2) the purposes for which the information is collected;
- (3) the nature or type of information collected;
- (4) the means by which the information is collected;
- (5) the measures for ensuring the protection of the information;
- (6) the intervals at which the information is collected; and
- (7) the duration of the agreement.”

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

“64.1. The personal information concerning a minor under 14 years of age may not be collected from him without the consent of the person having parental authority or of the tutor, unless collecting the information is clearly for the minor’s benefit.”

18. Section 65 of the Act is amended

(1) by replacing the first two paragraphs by the following paragraphs:

“Anyone who collects personal information from the person concerned on behalf of a public body must, when the information is collected and subsequently on request, inform that person

(1) of the name of the public body on whose behalf the information is collected;

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

(3) of the means by which the information is collected;

(4) of whether the request is mandatory or optional;

(5) of the consequences for the person concerned or for the third person, as the case may be, for refusing to reply to the request or, if applicable, for withdrawing consent to the release or use of the information collected pursuant to an optional request; and

(6) of the rights of access and correction provided by law.

If applicable, the person concerned is informed of the name of the third person collecting the information on behalf of the public body, the name of the third persons or categories of third persons to whom it is necessary to release the information for the purposes referred to in subparagraph 2 of the first paragraph, and the possibility that the information could be released outside Québec.

On request, the person concerned is also informed of the personal information collected from him, the categories of persons who have access to the information within the public body, the duration of the period of time the information will be kept, and the contact information of the person in charge of the protection of personal information.”;

(2) by striking out “introduce himself and” in the third paragraph;

(3) by inserting “person or” after “by a” in the fifth paragraph.

19. The Act is amended by inserting the following sections after section 65:

“**65.0.1.** In addition to the information that must be provided in accordance with section 65, anyone who collects personal information from the person concerned using technology that includes functions allowing the person concerned to be identified, located or profiled must first inform the person

(1) of the use of such technology; and

(2) of the means available to activate the functions that allow a person to be identified, located or profiled.

“Profiling” means the collection and use of personal information to assess certain characteristics of a natural person, in particular for the purpose of analyzing that person’s work performance, economic situation, health, personal preferences, interests or behaviour.

“65.0.2. Any person who provides his personal information in accordance with section 65 consents to its use and its release for the purposes referred to in subparagraph 2 of the first paragraph of that section.”

20. Section 65.1 of the Act is amended

(1) by replacing the first two paragraphs by the following paragraphs:

“Unless the person concerned gives his consent, personal information may not be used within a public body except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information.

A public body may, however, use personal information for another purpose without the consent of the person concerned, but only

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

(2) if it is clearly used for the benefit of the person concerned;

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

(4) if its use is necessary for study or research purposes or for the production of statistics, and the information is de-identified.”;

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

“For the purposes of this Act, personal information is de-identified if it no longer allows the person concerned to be directly identified.

A public body that uses de-identified information must take reasonable measures to limit the risk of someone identifying a natural person using de-identified information.”

21. The Act is amended by inserting the following section after section 65.1:

“65.2. A public body that uses personal information to render a decision based exclusively on an automated processing of such information must inform the person concerned accordingly not later than at the time it informs the person of the decision.

It must also inform the person concerned, at the latter's request,

(1) of the personal information used to render the decision;

(2) of the reasons and the principal factors and parameters that led to the decision; and

(3) of the right of the person concerned to have the personal information used to render the decision corrected.

The person concerned must be given the opportunity to submit observations to a member of the personnel of the public body who is in a position to review the decision.”

22. Section 67.2 of the Act is amended by replacing the last paragraph by the following paragraph:

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

23. The Act is amended by inserting the following sections after section 67.2:

“67.2.1. A public body may release personal information without the consent of the persons concerned to a person or body wishing to use the information for study or research purposes or for the production of statistics.

The information may be released if a privacy impact assessment concludes that

(1) the objective of the study or research or of the production of statistics can be achieved only if the information is released in a form allowing the persons concerned to be identified;

(2) it is unreasonable to require the person or body to obtain the consent of the persons concerned;

(3) the objective of the study or research or of the production of statistics outweighs, with regard to the public interest, the impact of releasing and using the information on the privacy of the persons concerned;

(4) the personal information is used in such a manner as to ensure confidentiality; and

(5) only the necessary information is released.

“67.2.2. A person or body wishing to use personal information for study or research purposes or for the production of statistics must

- (1) request it in writing;
- (2) enclose a detailed presentation of the research activities with the request;
- (3) state the grounds supporting fulfillment of the criteria set out in subparagraphs 1 to 5 of the second paragraph of section 67.2.1;
- (4) mention all the persons and bodies to whom or which the person or body is making a similar request for the purposes of the same study or research or production of statistics;
- (5) if applicable, describe the different technologies that will be used to process the information; and
- (6) if applicable, submit the documented decision of a research ethics committee relating to the study or research or the production of statistics.

“67.2.3. A public body that releases personal information in accordance with section 67.2.1 must first enter into an agreement with the person or body to whom or which the information is to be sent that stipulates, among other things, that the information

- (1) may be made accessible only to persons who need to know it to exercise their functions and who have signed a confidentiality agreement;
- (2) may not be used for purposes other than those specified in the detailed presentation of the research activities;
- (3) may not be matched with any other information file that has not been provided for in the detailed presentation of the research activities; and
- (4) may not be released, published or otherwise distributed in a form allowing the persons concerned to be identified.

The agreement must also

- (1) specify the information that must be provided to the persons concerned if personal information concerning them is used to contact them to participate in the study or research;
- (2) provide for measures for ensuring the protection of the personal information;
- (3) determine a preservation period for the personal information;
- (4) set out the obligation to notify the public body of the destruction of the personal information; and

(5) provide that the public body and the Commission must be informed without delay

(a) of non-compliance with any condition set out in the agreement;

(b) of any failure to comply with the protection measures provided for in the agreement; and

(c) of any event that could breach the confidentiality of the information.

The agreement must be sent to the Commission and comes into force 30 days after it is received by the Commission.”

24. Section 67.3 of the Act is amended by replacing “68 and 68.1” in the first paragraph by “67.2.1 and 68”.

25. Section 68 of the Act is amended

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

“The information may be released if a privacy impact assessment concludes that

(1) the intended objective can be achieved only if the information is released in a form allowing the person concerned to be identified;

(2) it is unreasonable to require obtaining the consent of the person concerned;

(3) the objective for which the release of the information is required outweighs, with regard to the public interest, the impact of releasing and using the information on the privacy of the person concerned; and

(4) the personal information is used in such a manner as to ensure confidentiality.”;

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

“The agreement must be sent to the Commission and comes into force 30 days after it is received by the Commission.”

26. Sections 68.1 and 70 of the Act are repealed.

27. Section 70.1 of the Act is replaced by the following section:

“70.1. Before releasing personal information outside Québec, a public body must conduct a privacy impact assessment. The body must, in particular, take into account

- (1) the sensitivity of the information;
- (2) the purposes for which it is to be used;
- (3) the protection measures, including those that are contractual, that would apply to it; and
- (4) the legal framework applicable in the State in which the information would be released, including the personal information protection principles applicable in that State.

The information may be released if the assessment establishes that it would receive adequate protection, in particular in light of generally recognized principles regarding the protection of personal information. The release of the information must be the subject of a written agreement that takes into account, in particular, the results of the assessment and, if applicable, the terms agreed on to mitigate the risks identified in the assessment.

The same applies where the public body entrusts a person or body outside Québec with the task of collecting, using, releasing or keeping such information on its behalf.

This section does not apply to a release of information under subparagraph 4 of the second paragraph of section 59 or under subparagraph 1.1 of the first paragraph of section 68. Nor does it apply to a release of information within the scope of an international commitment referred to in Chapter III of the Act respecting the Ministère des Relations internationales (chapter M-25.1.1), a release of information within the scope of an agreement referred to in Chapter III.1 or III.2 of that Act, or a communication of information under section 133 of the Public Health Act (chapter S-2.2).”

28. Section 73 of the Act is amended

- (1) by inserting “, or anonymize it to use it for public interest purposes” after “destroy the information”;
- (2) by adding the following paragraphs at the end:

“For the purposes of this Act, information concerning a natural person is anonymized if it is, at all times, reasonably foreseeable in the circumstances that it irreversibly no longer allows the person to be identified directly or indirectly.

Information anonymized under this Act must be anonymized according to generally accepted best practices and according to the criteria and terms determined by regulation.”

29. Section 79 of the Act is amended

(1) by replacing “63.1 to 66” in the first paragraph by “63.1 to 63.4, 64 to 66”;

(2) by replacing “63.1 to 66, 67.3 and 67.4 and 71 to 76” in the second paragraph by “63.1 to 63.4, 64 to 66, 67.3, 67.4 and 71 to 76”.

30. Section 84 of the Act is amended by inserting the following paragraph after the second paragraph:

“Unless doing so raises serious practical difficulties, computerized personal information collected from the applicant, and not created or inferred using personal information concerning him, must, at his request, be released to him in a structured, commonly used technological format. The information must also be released, at the applicant’s request, to any person or body authorized by law to collect such information.”

31. The Act is amended by inserting the following section after section 88:

“88.0.1. A public body may release personal information that it holds concerning a deceased person to the spouse or a close relative of the person if knowledge of the information could help the applicant in the grieving process and if the deceased person did not record in writing his refusal to grant such a right of access.”

32. Section 88.1 of the Act is amended by inserting “Subject to section 88.0.1,” at the beginning.

33. Section 94 of the Act is amended

(1) by replacing “or the person having parental authority even if the minor child is deceased” in the first paragraph by “the person having parental authority even if the minor child is deceased, or the spouse or close relative of a deceased person in accordance with section 88.0.1”;

(2) by replacing “designated by him” in the third paragraph by “to whom that function was delegated”.

34. Section 98 of the Act is amended by replacing “thereof by mail” in the second paragraph by “of the extension in writing”.

35. Section 100 of the Act is amended by adding the following sentence at the end: “If an applicant so requests, the person in charge must also help him understand the decision.”

36. Section 104 of the Act is amended

(1) by replacing “five” and “a vice-chair” in the first paragraph by “six” and “two vice-chairs”, respectively;

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

“One of the vice-chairs is responsible for the oversight division and must have expertise in the field of information technology, and another vice-chair is responsible for the adjudicative division.”;

(3) by striking out “and the vice-chair” in the second paragraph.

37. Section 107.1 of the Act is repealed.

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

“108. If the chair is absent or unable to act or if the office of chair is 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 and after consulting the other leaders of the parliamentary groups within the meaning of the Standing Orders of the National Assembly, designate a vice-chair of the Commission or, if there is no vice-chair or the vice-chairs are absent or unable to act, another member of the Commission to act in the place of the chair for the duration of the absence or inability to act or, if the office is vacant, for a period not exceeding 18 months.

If a vice-chair of the Commission is absent or unable to act or if the office of the vice-chair is 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 and after consulting the other leaders of the parliamentary groups within the meaning of the Standing Orders of the National Assembly, designate another member of the Commission to act in the place of the vice-chair for the duration of the absence or inability to act or, if the office is vacant, for a period not exceeding 18 months.”

39. Section 109 of the Act is amended

(1) by inserting “and after consulting the other leaders of the parliamentary groups within the meaning of the Standing Orders of the National Assembly” after “in the Assembly” in the first paragraph;

(2) by replacing “second” in the second paragraph by “third”.

40. The Act is amended by inserting the following sections after section 110:

“110.0.1. The chair may delegate all or some of the chair’s powers and duties to a vice-chair.

“110.0.2. In addition to the powers and duties that may otherwise be assigned to him or that may be delegated to him by the chair, a vice-chair

- (1) assists and advises the chair in the exercise of the chair’s functions; and
- (2) performs his administrative functions under the chair’s authority.”

41. Section 118 of the Act is amended

(1) by replacing “to the designated Minister” in the first paragraph by “the minister responsible for the administration of this Act”;

(2) by inserting “and with any other subject the Minister may submit to the Commission” at the end of the fourth paragraph.

42. Section 120 of the Act is amended by replacing “designated Minister” in the first paragraph by “minister responsible for the administration of this Act”.

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

“122. The functions and powers of the Commission provided for in this division are exercised by the chair, the vice-chair responsible for the oversight division and the members assigned to that division.”

44. Section 122.1 of the Act is amended by inserting “, in particular by using awareness tools” at the end of the second paragraph.

45. Section 123 of the Act is amended by adding the following paragraphs at the end:

“(7) conduct or commission research, inventories, studies or analyses;

“(8) issue opinions regarding proposed legislation and plans to develop information systems; and

“(9) develop guidelines to facilitate the application of this Act and the Act respecting the protection of personal information in the private sector (chapter P-39.1), in particular with regard to consent.”

46. Section 125 of the Act is repealed.

47. Section 127 of the Act is amended by replacing “an interested” in the introductory clause of the first paragraph by “a”.

48. The Act is amended by inserting the following sections after section 127:

“127.1. The Commission may, by a formal demand notified by any appropriate method, require any person, whether subject to this Act or not, to file, within a reasonable time specified in the demand, any information or document to verify compliance with this Act or the regulations.

The person to whom the demand is made shall comply with it within the specified time regardless of whether the person has already filed such information or documents pursuant to a similar demand or pursuant to an obligation under this Act or the regulations.

“127.2. The Commission may, when a confidentiality incident is brought to its attention, order any person, after giving him the opportunity to submit observations, to take any measure to protect the rights of the persons concerned that are granted to them by this Act, for the time and on the conditions the Commission determines. It may, in particular, order that the personal information involved be returned to the public body or destroyed.

If a person to whom an order applies was not given prior notice because, in the opinion of the Commission, urgent action is required or there is a danger of irreparable injury being caused, the person may, within the time specified in the order, submit observations so that the order may be reviewed by the Commission.”

49. Section 129 of the Act is amended

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

“Where the inquiry concerns an agreement sent under the law to the Commission, the Commission may make any order against a public body that is a party to the agreement that it considers appropriate for protecting the rights granted by this Act to the persons to whom the information relates.”;

(2) in the third paragraph,

(a) by replacing “order it to” by “recommend or order that the public body”;

(b) by inserting “within the reasonable time limit the Commission specifies” at the end.

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

“129.1. Any order issued by the Commission’s oversight division becomes executory in the same manner as a decision referred to in section 144.”

51. Section 130.2 of the Act is amended

(1) by replacing “the third paragraph” in the first paragraph by “the third and fourth paragraphs”;

(2) in the second paragraph,

(a) by inserting “2,” after “paragraphs 1,”;

(b) by replacing “sections 123.1 and 125” by “section 123.1”.

52. Section 133 of the Act is amended

(1) by striking out “or after making an order”;

(2) by replacing “or set out the situation in its annual report” by “, set out the situation in its annual report or inform the public accordingly”.

53. Section 134.1 of the Act is replaced by the following section:

“134.1. The functions and powers of the Commission provided for in this division are exercised by the chair, the vice-chair responsible for the adjudicative division and the members assigned to that division.”

54. The Act is amended by inserting the following sections after section 134.2:

“134.3. When exercising the functions and powers provided for in this division, the Commission and its members are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (chapter C-37), except the power to order imprisonment.

“134.4. The parties to a proceeding must ensure that their actions, their pleadings and the means of proof they use are proportionate, in terms of the cost and time involved, to the nature and complexity of the matter and the purpose of the application.

The Commission must do likewise in managing each proceeding it is assigned. It must ensure that the measures and acts it orders or authorizes are in keeping with that principle of proportionality, while having regard to the proper administration of justice.”

55. Section 136 of the Act is amended by replacing “mailing” in the first paragraph by “date of transmission”.

56. Section 137 of the Act is amended by replacing “mail” in the fourth paragraph by “sending a written notice”.

57. Section 137.1 of the Act is amended

(1) in the first paragraph,

(a) by replacing “applications” and “an application” by “requests” and “a request”, respectively;

(b) by adding the following sentence at the end: “It may also limit the scope of the applicant’s request or extend the time limit within which the public body must reply.”;

(2) by replacing “applications” in the second paragraph by “requests”;

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

“The public body’s application must be filed, from the date the applicant’s most recent request was received, within the same time limit as would be applicable to the processing of a request under section 47 or 98.”

58. Section 137.2 of the Act is amended by adding the following paragraph at the end:

“In such cases, the Commission may prohibit a person from bringing an application except with the authorization of and subject to the conditions determined by the chair of the Commission. It may, in the same manner, prohibit a person from presenting a pleading in an ongoing proceeding.”

59. The Act is amended by inserting the following section after section 137.3:

137.4. The Commission may, at any stage of the proceeding, use technological means that are available to both the parties and itself. It may, even on its own initiative, order that such means be used by the parties. If the Commission considers it necessary, it may also, despite an agreement between the parties, require a person to appear in person at a hearing, conference or examination.”

60. Section 139 of the Act is amended by inserting “136,” after “135,”.

61. The heading of Chapter V of the Act is amended by adding “AND CONTESTATION” at the end.

62. Section 147 of the Act is amended

(1) by striking out “, including an order of the Commission issued following an investigation,”;

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

“The person may also contest before a judge of the Court of Québec an order issued by the Commission’s oversight division.”

63. Section 149 of the Act is amended

(1) by replacing “the date the parties receive the final decision” in the second paragraph by “notification of the final decision”;

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

“The proceeding to contest an order issued by the Commission’s oversight division must be filed at the office of the Court of Québec within 30 days after notification of the order and must specify the questions that ought to be examined.”

64. Section 150 of the Act is amended by adding the following paragraph at the end:

“The filing of the proceeding to contest an order issued by the Commission’s oversight division does not suspend the execution of the order. However, on a motion heard and judged on an urgent basis, a judge of the Court of Québec may order otherwise because of the urgency of the situation or the risk of serious and irreparable injury.”

65. Section 151 of the Act is amended

(1) by replacing “contested decision and the documents related to the contestation” in the second paragraph by “decision appealed from and the accompanying documents”;

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

“The contestation of an order issued by the Commission’s oversight division must be served on the Commission and, if applicable, on the other parties, 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 order and the accompanying documents to the office of the Court, to serve as a joint record.”

66. Section 152 of the Act is amended by adding the following paragraph at the end:

“The contestation is governed by the rules of the Code of Civil Procedure that are applicable in first instance.”

67. Section 155 of the Act is amended, in the first paragraph,

(1) by striking out “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;” in subparagraph 3.1;

(2) by inserting the following subparagraphs after subparagraph 3.1:

“(4) exempting a public body from the obligation to establish the committee provided for in section 8.1 or modify a body’s obligations under that section according to criteria it defines;

“(5) determining the content and terms of the governance rules provided for in section 63.3;

“(6) determining the content and terms of the policy provided for in section 63.4;

“(6.1) determining the content and terms of the notices provided for in section 63.8;

“(6.2) determining the content of the register provided for in section 63.11;

“(6.3) for the purposes of section 73, determining the criteria and terms applicable to the anonymization of personal information;”.

68. Section 156 of the Act is amended

(1) by replacing “designated minister” by “minister responsible for the administration of this Act”;

(2) by inserting “made under this Act” after “draft regulation”.

69. Sections 158 to 162 of the Act are replaced by the following sections:

“158. Anyone who

(1) denies or impedes access to a document or information that is accessible by law, in particular by destroying, modifying or concealing the document or by unduly delaying its release,

(2) grants access to a document to which the law does not allow access or to which a public body refuses access in accordance with the law,

(3) informs a person of the existence of information he does not have the right to be informed of under the law,

(4) hinders the person in charge of access to documents or the protection of personal information in the performance of his functions,

(5) collects, uses, keeps or destroys personal information in contravention of the law,

(6) fails to report, where required to do so, a confidentiality incident to the Commission or to the persons concerned, or

(7) fails to comply with the conditions set out in an agreement entered into under section 67.2.3

commits an offence and is liable to a fine of \$1,000 to \$10,000 in the case of a natural person and of \$3,000 to \$30,000 in all other cases.

“159. Anyone who

(1) releases personal information in contravention of the law,

(2) identifies or attempts to identify a natural person using de-identified information without the authorization of the public body holding the information or using anonymized information,

(3) impedes the progress of an inquiry or inspection of the Commission or the hearing of an application by the Commission by providing it with false or inaccurate information, by omitting to provide information it requires or otherwise,

(4) refuses or neglects to comply, within the prescribed time, with a demand sent under section 127.1,

(5) fails to comply with an order of the Commission, or

(6) does not take the security measures necessary to ensure the protection of the personal information in accordance with section 63.1

commits an offence and is liable to a fine of \$5,000 to \$100,000 in the case of a natural person and of \$15,000 to \$150,000 in all other cases.

“160. In determining the penalty, the judge shall take into account the following factors, among others:

(1) the nature, seriousness, repetitiveness and duration of the offence;

(2) the sensitivity of the personal information concerned by the offence;

(3) whether the offender acted intentionally or was negligent or reckless;

(4) the foreseeable character of the offence or the failure to follow recommendations or warnings to prevent it;

(5) the offender’s attempts to cover up the offence or failure to try to mitigate its consequences;

(6) whether the offender failed to take reasonable measures to prevent the commission of the offence;

(7) whether the offender obtained or intended to obtain an increase in revenues or a decrease in expenses by committing the offence or by omitting to take measures to prevent it; and

(8) the number of persons concerned by the offence and the risk of injury to which they are exposed.”

70. The Act is amended by inserting the following sections after section 164:

“164.1. In the case of a subsequent offence, the fines under this division are doubled.

“164.2. All penal proceedings must be instituted within five years of the commission of the offence.”

71. Section 167 of the Act is replaced by the following section:

“167. Where the unlawful infringement of a right recognized by Chapter III causes injury and the infringement is intentional or results from a gross fault, the court shall award punitive damages of not less than \$1,000.”

72. Section 174 of the Act is amended by replacing “the Commission” in the second paragraph by “the Commission’s oversight division”.

73. Section 179 of the Act is amended by replacing “2011” in the first paragraph by “2026”.

FINANCIAL ADMINISTRATION ACT

74. Section 44 of the Financial Administration Act (chapter A-6.001) is repealed.

TAX ADMINISTRATION ACT

75. Section 31.1.7 of the Tax Administration Act (chapter A-6.002) is repealed.

76. Section 69.8 of the Act is amended by replacing “, 68, 68.1 and 70” in the last paragraph by “and 68”.

77. Section 71 of the Act is amended by replacing “, 68, 68.1 and 70” in the last paragraph by “and 68”.

HEALTH INSURANCE ACT

78. Section 65.0.2 of the Health Insurance Act (chapter A-29) is amended by replacing the second paragraph by the following paragraph:

“The agreement shall be sent to the Commission d’accès à l’information and comes into force 30 days after it is received by the Commission.”

79. Section 67 of the Act is amended by replacing “authorized by the Commission d’accès à l’information” in the ninth paragraph by “or to a body to enable the person or body, in accordance with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information,”.

ACT TO ESTABLISH A LEGAL FRAMEWORK FOR INFORMATION TECHNOLOGY

80. Section 44 of the Act to establish a legal framework for information technology (chapter C-1.1) is amended by replacing “, except with the express consent of the person concerned. Where consent is obtained, only” and “be recorded” in the first paragraph by “except where such verification or confirmation has been previously disclosed to the Commission d’accès à l’information and except with the express consent of the person concerned. Only” and “then be used”, respectively.

81. Section 45 of the Act is amended by replacing the first paragraph by the following paragraph:

“The creation of a database of biometric characteristics and measurements must be disclosed to the Commission d’accès à l’information promptly and not later than 60 days before it is brought into service.”

ACT RESPECTING ELECTIONS AND REFERENDUMS IN MUNICIPALITIES

82. Section 659 of the Act respecting elections and referendums in municipalities (chapter E-2.2) is amended by replacing “70” in the third paragraph by “68”.

ACT RESPECTING SCHOOL ELECTIONS TO ELECT CERTAIN MEMBERS OF THE BOARDS OF DIRECTORS OF ENGLISH-LANGUAGE SCHOOL SERVICE CENTRES

83. Section 282 of the Act respecting school elections to elect certain members of the boards of directors of English-language school service centres (chapter E-2.3) is amended by replacing both occurrences of “70” by “68”.

ELECTION ACT

84. Section 40.38.3 of the Election Act (chapter E-3.3) is amended by replacing “must undertake” in the second paragraph by “receives it after undertaking”.

85. Section 40.42 of the Act is amended

(1) by replacing “the second paragraph” in the first paragraph by “the second and fourth paragraphs”;

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

“The Chief Electoral Officer may enter into an agreement, in accordance with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), to communicate personal information contained in the permanent list of electors to a person or body wishing to use the information for study or research purposes or for the production of statistics.”

86. The Act is amended by inserting the following title after section 127.21:

“TITLE III.1

“PROTECTION OF THE PERSONAL INFORMATION OF ELECTORS

“**127.22.** Subject to any provision that is inconsistent with this Act, the Act respecting the protection of personal information in the private sector (chapter P-39.1), except sections 4, 5, 12, 23 and 27 to 60, applies to the personal information of electors held by a political party, an independent Member or an independent candidate.

Every political party shall designate, from among its officers, the person who is to exercise the function of person in charge of the protection of personal information.

For the purposes of the Act respecting the protection of personal information in the private sector and of this Title, the party authority is considered to form an integral part of a political party.

“**127.23.** A political party, an independent Member and an independent candidate may collect only the personal information of electors that is necessary for election or political financing purposes, or for the purposes of a political activity within the meaning of section 88, in accordance with this Act. They may use such personal information only for those same purposes.

In addition, they may not collect or use personal information without the consent of the person concerned.”

87. Section 146 of the Act is amended by adding the following sentence at the end of the second paragraph: “A candidate receives the lists after undertaking in writing to take appropriate measures to protect the confidentiality of the lists and to ensure that they are used solely for the purposes provided for by this Act.”

88. Section 551.1.1 of the Act is amended by inserting “collects,” after “Every person who” and by replacing “\$1,000 to \$10,000 in the case of a natural person, and of \$3,000 to \$30,000 in the case of a legal person” by “\$5,000 to \$50,000 in the case of a natural person, and of \$15,000 to \$150,000 in all other cases”.

89. Section 551.2 of the Act is amended by replacing “\$10,000, in the case of a natural person, and of \$10,000 to \$30,000, in the case of a legal person” by “\$50,000 in the case of a natural person, and of \$15,000 to \$150,000 in all other cases”.

90. Section 570 of the Act is amended by striking out the second paragraph.

ACT RESPECTING THE INSTITUT DE LA STATISTIQUE DU QUÉBEC

91. Section 13.5 of the Act respecting the Institut de la statistique du Québec (chapter I-13.011), enacted by section 71 of chapter 15 of the statutes of 2021, is replaced by the following section:

“**13.5.** Designated information is communicated for research purposes by the Institut to a researcher attached to a public body in accordance with this chapter despite sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

92. Section 13.6 of the Act, enacted by section 71 of chapter 15 of the statutes of 2021, is amended by striking out “the first paragraph of” in the introductory clause.

ACT RESPECTING LA FINANCIÈRE AGRICOLE DU QUÉBEC

93. Section 28 of the Act respecting La Financière agricole du Québec (chapter L-0.1) is amended by replacing the last paragraph by the following paragraph:

“The agreement shall be sent to the Commission d'accès à l'information and comes into force 30 days after it is received by the Commission.”

ACT RESPECTING THE MINISTÈRE DE L'EMPLOI ET DE LA
SOLIDARITÉ SOCIALE AND THE COMMISSION DES PARTENAIRES
DU MARCHÉ DU TRAVAIL

94. Section 8 of the Act respecting the Ministère de l'Emploi et de la Solidarité sociale and the Commission des partenaires du marché du travail (chapter M-15.001) is amended by replacing the second paragraph by the following paragraph:

“The agreement must be sent to the Commission d'accès à l'information and comes into force 30 days after it is received by the Commission.”

ACT RESPECTING THE SECTORAL PARAMETERS OF CERTAIN
FISCAL MEASURES

95. Section 31 of the Act respecting the sectoral parameters of certain fiscal measures (chapter P-5.1) is amended by striking out the second paragraph.

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

“**32.** Communication of information to the Minister of Finance for a purpose mentioned in section 31 and in accordance with that section or on the initiative of a responsible minister or body referred to in that section need not be recorded in the register provided for in section 41.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

ACT RESPECTING THE SHARING OF CERTAIN HEALTH
INFORMATION

97. Section 106 of the Act respecting the sharing of certain health information (chapter P-9.0001) is amended by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) a person or body that may, in accordance with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), use the information for study or research purposes or for the production of statistics in the health and social services field.”

98. Section 107 of the Act is repealed.

ACT TO PREVENT AND FIGHT SEXUAL VIOLENCE IN HIGHER
EDUCATION INSTITUTIONS

99. Section 4 of the Act to prevent and fight sexual violence in higher education institutions (chapter P-22.1) is amended by adding the following paragraph at the end:

“At the request of a person who has filed a complaint, the educational institution must communicate to the person the information relating to the follow-up that has been given to the complaint, namely, whether or not a penalty has been imposed as well as the details and terms of the penalty, if applicable.”

ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

100. Section 1 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) is amended

(1) by inserting “, whether the enterprise keeps the information itself or through the agency of a third person,” after “information” in the second paragraph;

(2) by inserting “and to that held by a political party, an independent Member or an independent candidate to the extent provided for by the Election Act (chapter E-3.3)” after “(chapter C-26)” in the third paragraph;

(3) by adding the following sentence at the end of the fifth paragraph: “Nor do they apply to personal information concerning the performance of duties within an enterprise by the person concerned, such as the person’s name, title and duties, as well as the address, email address and telephone number of the person’s place of work.”

101. The Act is amended by inserting the following section after section 1:

“1.1. For the purposes of this Act, any person who collects personal information relating to another person for a serious and legitimate reason is deemed to be establishing a file within the meaning of the Civil Code and the rights concerning such a file conferred by articles 35 to 40 of that Code apply to the personal information collected.”

102. Section 2 of the Act is amended by inserting “directly or indirectly” before “allows”.

103. The Act is amended by inserting the following division after section 3:

“DIVISION 1.1

“RESPONSIBILITIES RELATING TO PROTECTION OF PERSONAL INFORMATION

“3.1. Any person carrying on an enterprise is responsible for protecting the personal information held by the person.

Within the enterprise, the person exercising the highest authority shall see to ensuring that this Act is implemented and complied with. That person shall exercise the function of person in charge of the protection of personal information; he may delegate all or part of that function in writing to any person.

The title and contact information of the person in charge of the protection of personal information must be published on the enterprise's website or, if the enterprise does not have a website, be made available by any other appropriate means.

“3.2. Any person carrying on an enterprise must establish and implement governance policies and practices regarding personal information that ensure the protection of such information. Such policies and practices must, in particular, provide a framework for the keeping and destruction of the information, define the roles and responsibilities of the members of its personnel throughout the life cycle of the information and provide a process for dealing with complaints regarding the protection of the information. The policies and practices must also be proportionate to the nature and scope of the enterprise's activities and be approved by the person in charge of the protection of personal information.

Detailed information about those policies and practices, in particular as concerns the content required under the first paragraph, must be published in simple and clear language on the enterprise's website or, if the enterprise does not have a website, made available by any other appropriate means.

“3.3. Any person carrying on an enterprise must conduct a privacy impact assessment for any project to acquire, develop or overhaul an information system or electronic service delivery system involving the collection, use, communication, keeping or destruction of personal information.

For the purposes of such an assessment, the person must consult the person in charge of the protection of personal information within the enterprise from the outset of the project.

The person must also ensure that the project allows computerized personal information collected from the person concerned to be communicated to him in a structured, commonly used technological format.

The conduct of a privacy impact assessment under this Act must be proportionate to the sensitivity of the information concerned, the purposes for which it is to be used, the quantity and distribution of the information and the medium on which it is stored.

“3.4. The person in charge of the protection of personal information may, at any stage of a project referred to in section 3.3, suggest personal information protection measures applicable to the project, such as

(1) the appointment of a person to be responsible for implementing the personal information protection measures;

(2) measures to protect the personal information in any document relating to the project;

(3) a description of the project participants' responsibilities with regard to the protection of personal information; or

(4) training activities for project participants on the protection of personal information.

“3.5. Any person carrying on an enterprise who has cause to believe that a confidentiality incident involving personal information the person holds has occurred must take reasonable measures to reduce the risk of injury and to prevent new incidents of the same nature.

If the incident presents a risk of serious injury, the person carrying on an enterprise must promptly notify the Commission d'accès à l'information established by section 103 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1). He must also notify any person whose personal information is concerned by the incident, failing which the Commission may order him to do so. He may also notify any person or body that could reduce the risk, by communicating to the person or body only the personal information necessary for that purpose without the consent of the person concerned. In the latter case, the person in charge of the protection of personal information must record the communication of the information.

Despite the second paragraph, a person whose personal information is concerned by the incident need not be notified so long as doing so could hamper an investigation conducted by a person or body responsible by law for the prevention, detection or repression of crime or statutory offences.

A government regulation may determine the content and terms of the notices provided for in this section.

“3.6. For the purposes of this Act, “confidentiality incident” means

(1) access not authorized by law to personal information;

(2) use not authorized by law of personal information;

(3) communication not authorized by law of personal information; or

(4) loss of personal information or any other breach of the protection of such information.

“3.7. In assessing the risk of injury to a person whose personal information is concerned by a confidentiality incident, a person carrying on an enterprise must consider, in particular, the sensitivity of the information concerned, the

anticipated consequences of its use and the likelihood that such information will be used for injurious purposes. The person must also consult the person in charge of the protection of personal information within the enterprise.

“3.8. A person carrying on an enterprise must keep a register of confidentiality incidents. A government regulation may determine the content of the register.

A copy of the register must be sent to the Commission at its request.”

104. Section 4 of the Act is replaced by the following sections:

“4. Any person carrying on an enterprise who, for a serious and legitimate reason, collects personal information on another person must determine the purposes for collecting the information before doing so.

“4.1. The personal information concerning a minor under 14 years of age may not be collected from him without the consent of the person having parental authority or of the tutor, unless collecting the information is clearly for the minor’s benefit.”

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

“Any person collecting personal information on another person may collect only the information necessary for the purposes determined before collecting it.”

106. Section 7 of the Act is amended by replacing the first two paragraphs by the following paragraph:

“Any person collecting personal information from another person carrying on an enterprise must, at the request of the person concerned, inform the latter of the source of the information.”

107. Section 8 of the Act is replaced by the following sections:

“8. Any person who collects personal information from the person concerned must, when the information is collected and subsequently on request, inform that person

(1) of the purposes for which the information is collected;

(2) of the means by which the information is collected;

(3) of the rights of access and rectification provided by law; and

(4) of the person’s right to withdraw consent to the communication or use of the information collected.

If applicable, the person concerned is informed of the name of the third person for whom the information is being collected, the name of the third persons or categories of third persons to whom it is necessary to communicate the information for the purposes referred to in subparagraph 1 of the first paragraph, and the possibility that the information could be communicated outside Québec.

On request, the person concerned is also informed of the personal information collected from him, the categories of persons who have access to the information within the enterprise, the duration of the period of time the information will be kept, and the contact information of the person in charge of the protection of personal information.

The information must be provided to the person concerned in clear and simple language, regardless of the means used to collect the personal information.

“8.1. In addition to the information that must be provided in accordance with section 8, any person who collects personal information from the person concerned using technology that includes functions allowing the person concerned to be identified, located or profiled must first inform the person

(1) of the use of such technology; and

(2) of the means available to activate the functions that allow a person to be identified, located or profiled.

“Profiling” means the collection and use of personal information to assess certain characteristics of a natural person, in particular for the purpose of analyzing that person’s work performance, economic situation, health, personal preferences, interests or behaviour.

“8.2. Any person who collects personal information through technological means must publish on the enterprise’s website, if applicable, a confidentiality policy drafted in clear and simple language and disseminate it by any appropriate means to reach the persons concerned. The person must do the same for the notice required for any amendment to such a policy.

“8.3. Any person who provides his personal information in accordance with section 8 consents to its use and its communication for the purposes referred to in subparagraph 1 of the first paragraph of that section.”

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

“9.1. Any person carrying on an enterprise who collects personal information when offering to the public a technological product or service having privacy settings must ensure that those settings provide the highest level of confidentiality by default, without any intervention by the person concerned.

The first paragraph does not apply to privacy settings for browser cookies.”

109. Section 11 of the Act is amended

- (1) by replacing “file” by “personal information”;
- (2) by adding the following paragraph at the end:

“The information used to make such a decision is kept for at least one year following the decision.”

110. Sections 12 to 14 of the Act are replaced by the following sections:

“12. Unless the person concerned gives his consent, personal information may not be used within the enterprise except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information.

Personal information may, however, be used for another purpose without the consent of the person concerned, but only

- (1) if it is used for purposes consistent with the purposes for which it was collected;
- (2) if it is clearly used for the benefit of the person concerned;
- (3) if its use is necessary for the purpose of preventing and detecting fraud or of assessing and improving protection and security measures;
- (4) if its use is necessary for the purpose of providing or delivering a product or providing a service requested by the person concerned; or
- (5) if its use is necessary for study or research purposes or for the production of statistics and if the information is de-identified.

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. However, commercial or philanthropic prospection may not be considered a consistent purpose.

For the purposes of this Act, personal information is

- (1) de-identified if it no longer allows the person concerned to be directly identified;
- (2) sensitive if, due to its nature, in particular its medical, biometric or otherwise intimate nature, or the context of its use or communication, it entails a high level of reasonable expectation of privacy.

Every person carrying on an enterprise who uses de-identified information must take reasonable measures to limit the risk of someone identifying a natural person using de-identified information.

“12.1. Any person carrying on an enterprise who uses personal information to render a decision based exclusively on an automated processing of such information must inform the person concerned accordingly not later than at the time it informs the person of the decision.

He must also inform the person concerned, at the latter’s request,

(1) of the personal information used to render the decision;

(2) of the reasons and the principal factors and parameters that led to the decision; and

(3) of the right of the person concerned to have the personal information used to render the decision corrected.

The person concerned must be given the opportunity to submit observations to a member of the personnel of the enterprise who is in a position to review the decision.

“13. No person may communicate to a third person the personal information he holds on another person, unless the person concerned consents to, or this Act provides for, such communication.

Such consent must be given expressly when it concerns sensitive personal information.

“14. Consent under this Act must be clear, free and informed and be given for specific purposes. It must be requested for each such purpose, in clear and simple language. If the request for consent is made in writing, it must be presented separately from any other information provided to the person concerned. If the person concerned so requests, assistance is provided to help him understand the scope of the consent requested.

The consent of a minor under 14 years of age is given by the person having parental authority or by the tutor. The consent of a minor 14 years of age or over is given by the minor, by the person having parental authority or by the tutor.

Consent is valid only for the time necessary to achieve the purposes for which it was requested.

Consent not given in accordance with this Act is without effect.”

III. Section 17 of the Act is replaced by the following section:

“17. Before communicating personal information outside Québec, a person carrying on an enterprise must conduct a privacy impact assessment. The person must, in particular, take into account

- (1) the sensitivity of the information;
- (2) the purposes for which it is to be used;
- (3) the protection measures, including those that are contractual, that would apply to it; and
- (4) the legal framework applicable in the State in which the information would be communicated, including the personal information protection principles applicable in that State.

The information may be communicated if the assessment establishes that it would receive adequate protection, in particular in light of generally recognized principles regarding the protection of personal information. The communication of the information must be the subject of a written agreement that takes into account, in particular, the results of the assessment and, if applicable, the terms agreed on to mitigate the risks identified in the assessment.

The same applies where the person carrying on an enterprise entrusts a person or body outside Québec with the task of collecting, using, communicating or keeping such information on his behalf.

This section does not apply to a communication of information under subparagraph 7 of the first paragraph of section 18.”

II2. Section 18 of the Act is amended

- (1) in the first paragraph,
 - (a) by striking out “contained in a file” in the introductory clause;
 - (b) by inserting “person or” before “body responsible” in subparagraph 3;
 - (c) by inserting the following subparagraph after subparagraph 7:
“(7.1) to a person or body in accordance with sections 18.1 to 18.4;”;
 - (d) by replacing “is authorized to use” in subparagraph 8 by “may use”;
 - (e) by striking out subparagraph 10;

- (2) in the second paragraph,
- (a) by replacing “10” by “9.1”;
- (b) by striking out the last sentence.

113. Section 18.1 of the Act is amended

- (1) by striking out “included in a file” in the first paragraph;
- (2) by striking out the last sentence of the fourth paragraph.

114. Section 18.2 of the Act is amended by striking out “contained in a file” in the first paragraph.

115. The Act is amended by inserting the following sections after section 18.2:

“18.3. A person carrying on an enterprise may, without the consent of the person concerned, communicate personal information to any person or body if the information is necessary for carrying out a mandate or performing a contract of enterprise or for services entrusted to that person or body by the person carrying on an enterprise.

In such a case, the person carrying on an enterprise must

- (1) entrust the mandate or contract in writing; and

(2) specify in the mandate or contract the measures the mandatary or the person performing the contract must take to protect the confidentiality of the personal information communicated, to ensure that the information is used only for carrying out the mandate or performing the contract and to ensure that the mandatary or person does not keep the information after the expiry of the mandate or contract. A person or body carrying out a mandate or performing a contract of enterprise or for services referred to in the first paragraph must notify the person in charge of the protection of personal information without delay of any violation or attempted violation by any person of any obligation concerning the confidentiality of the information communicated, and must also allow the person in charge of the protection of personal information to conduct any verification relating to confidentiality requirements.

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

“18.4. Where the communication of personal information is necessary for concluding a commercial transaction to which a person carrying on an enterprise intends to be a party, the person may communicate such information, without the consent of the person concerned, to the other party to the transaction.

An agreement must first be entered into with the other party that stipulates, among other things, that the latter undertakes

- (1) to use the information only for concluding the commercial transaction;
- (2) not to communicate the information without the consent of the person concerned, unless authorized to do so by this Act;
- (3) to take the measures required to protect the confidentiality of the information; and
- (4) to destroy the information if the commercial transaction is not concluded or if using the information is no longer necessary for concluding the commercial transaction.

Where the commercial transaction has been concluded and the other party wishes to continue using the information or to communicate it, that party may use or communicate it only in accordance with this Act. Within a reasonable time after the commercial transaction is concluded, that party must notify the person concerned that it now holds personal information concerning him because of the transaction.

For the purposes of this section, “commercial transaction” means the alienation or leasing of all or part of an enterprise or of its assets, a modification of its legal structure by merger or otherwise, the obtaining of a loan or any other form of financing by the enterprise or of a security taken to guarantee any of its obligations.”

116. Section 19 of the Act is amended by replacing “the file held” in the first paragraph by “the personal information held”.

117. Section 20 of the Act is replaced by the following section:

“20. In the carrying on of an enterprise, authorized employees or agents may have access to personal information without the consent of the person concerned only if the information is needed for the performance of their duties.”

118. Section 21 of the Act is replaced by the following sections:

“21. A person carrying on an enterprise may communicate personal information without the consent of the persons concerned to a person or body wishing to use the information for study or research purposes or for the production of statistics.

The information may be communicated if a privacy impact assessment concludes that

- (1) the objective of the study or research or of the production of statistics can be achieved only if the information is communicated in a form allowing the persons concerned to be identified;

(2) it is unreasonable to require the person or body to obtain the consent of the persons concerned;

(3) the objective of the study or research or of the production of statistics outweighs, with regard to the public interest, the impact of communicating and using the information on the privacy of the persons concerned;

(4) the personal information is used in such a manner as to ensure confidentiality; and

(5) only the necessary information is communicated.

“21.0.1. A person or body wishing to use personal information for study or research purposes or for the production of statistics must

(1) request it in writing;

(2) enclose a detailed presentation of the research activities with the request;

(3) state the grounds supporting fulfillment of the criteria set out in subparagraphs 1 to 5 of the second paragraph of section 21;

(4) mention all the persons and bodies to whom or which the person or body is making a similar request for the purposes of the same study or research or production of statistics;

(5) if applicable, describe the different technologies that will be used to process the information; and

(6) if applicable, send the documented decision of a research ethics committee relating to the study or research or the production of statistics.

“21.0.2. A person who communicates personal information in accordance with section 21 must first enter into an agreement with the person or body to whom or which the information is to be sent that stipulates, among other things, that the information

(1) may be made accessible only to persons who need to know it to exercise their functions and who have signed a confidentiality agreement;

(2) may not be used for purposes other than those specified in the detailed presentation of the research activities;

(3) may not be matched with any other information file that has not been provided for in the detailed presentation of the research activities; and

(4) may not be communicated, published or otherwise distributed in a form allowing the persons concerned to be identified.

The agreement must also

(1) specify the information that must be provided to the persons concerned if personal information concerning them is used to contact them to participate in the study or research;

(2) provide for measures for ensuring the protection of the personal information;

(3) determine a preservation period for the personal information;

(4) set out the obligation to notify the person who communicates the personal information of its destruction; and

(5) provide that the person who communicates the personal information and the Commission must be informed without delay

(a) of non-compliance with any condition set out in the agreement;

(b) of any failure to comply with the protection measures provided for in the agreement; and

(c) of any event that could breach the confidentiality of the information.

The agreement must be sent to the Commission and comes into force 30 days after it is received by the Commission.”

119. Sections 22 to 26 of the Act are replaced by the following:

“22. Any person carrying on an enterprise who uses personal information for commercial or philanthropic prospection purposes must identify himself to the person whom he is addressing and inform that person of his right to withdraw his consent to the personal information concerning him being used for such purposes.

If the person concerned withdraws his consent regarding such use, the personal information must cease to be used for those purposes.

“§3.—*Destruction or anonymization*

“23. Where the purposes for which personal information was collected or used are achieved, the person carrying on an enterprise must destroy the information, or anonymize it to use it for serious and legitimate purposes, subject to any preservation period provided for by an Act.

For the purposes of this Act, information concerning a natural person is anonymized if it is, at all times, reasonably foreseeable in the circumstances that it irreversibly no longer allows the person to be identified directly or indirectly.

Information anonymized under this Act must be anonymized according to generally accepted best practices and according to the criteria and terms determined by regulation.”

120. Section 27 of the Act is amended by replacing the first paragraph by the following paragraphs:

“Every person carrying on an enterprise who holds personal information on another person must, at the request of the person concerned, confirm the existence of the personal information, communicate it to the person and allow him to obtain a copy of it.

At the applicant’s request, computerized personal information must be communicated in the form of a written and intelligible transcript.

Unless doing so raises serious practical difficulties, computerized personal information collected from the applicant, and not created or inferred using personal information concerning him, must, at his request, be communicated to him in a structured, commonly used technological format. The information must also be communicated, at the applicant’s request, to any person or body authorized by law to collect such information.”

121. Section 28 of the Act is replaced by the following sections:

“**28.** In addition to the rights provided under the first paragraph of article 40 of the Civil Code, any person may, if personal information concerning him is inaccurate, incomplete or equivocal, or if collecting, communicating or keeping it are not authorized by law, require that the information be rectified.

“**28.1.** The person to whom personal information relates may require any person carrying on an enterprise to cease disseminating that information or to de-index any hyperlink attached to his name that provides access to the information by a technological means, if the dissemination of the information contravenes the law or a court order.

The person may do likewise, or may require that the hyperlink providing access to the information be re-indexed, where the following conditions are met:

(1) the dissemination of the information causes the person concerned serious injury in relation to his right to the respect of his reputation or privacy;

(2) the injury is clearly greater than the interest of the public in knowing the information or the interest of any person in expressing himself freely; and

(3) the cessation of dissemination, re-indexation or de-indexation requested does not exceed what is necessary for preventing the perpetuation of the injury.

In assessing the criteria set out in the second paragraph, the following, in particular, must be taken into account:

- (1) the fact that the person concerned is a public figure;
- (2) the fact that the information concerns the person at the time the person is a minor;
- (3) the fact that the information is up to date and accurate;
- (4) the sensitivity of the information;
- (5) the context in which the information is disseminated;
- (6) the time elapsed between the dissemination of the information and the request made under this section; and
- (7) where the information concerns a criminal or penal procedure, the obtaining of a pardon or the application of a restriction on the accessibility of records of the courts of justice.

Sections 30, 32 and 34 apply, with the necessary modifications, to a request made under this section. When granting such a request, the person in charge of the protection of personal information shall attest, in his written reply under section 32, to the cessation of the dissemination of the personal information or to the de-indexation or the re-indexation of the hyperlink.”

122. Section 29 of the Act is amended by replacing both occurrences of “files” by “personal information”.

123. Section 30 of the Act is amended

(1) by replacing “or the person having parental authority even if the minor child is dead” in the first paragraph by “, the person having parental authority even if the minor child is deceased, or the spouse or a close relative of the deceased person in accordance with section 40.1”;

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

“Such a request must be addressed to the person in charge of the protection of personal information. If the request is not sufficiently precise or if a person requires it, the person in charge must assist in identifying the information sought.”;

(3) by replacing “correction” in the second paragraph in the French text by “rectification”.

124. Section 32 of the Act is amended by replacing the first paragraph by the following paragraph:

“The person in charge of the protection of personal information must reply in writing to the request for access or rectification, promptly and not later than 30 days after the date the request is received.”

125. Section 33 of the Act is amended by replacing “the personal information contained in a file” in the first paragraph by “personal information”.

126. Section 34 of the Act is replaced by the following section:

“**34.** The person in charge of the protection of personal information must give the reasons for any refusal to grant a request and indicate the provision of law on which the refusal is based, the remedies available to the applicant under this Act and the time limit for exercising them. If the applicant so requests, the person in charge must also help him understand the refusal.”

127. Section 35 of the Act is amended by replacing “the person holding a file” and “that personal information has been deleted” by “the person in charge of the protection of personal information” and “of the deletion of personal information”, respectively.

128. Section 40 of the Act is amended by striking out “who holds a file on another person”.

129. The Act is amended by inserting the following section after section 40:

“**40.1.** A person carrying on an enterprise may communicate personal information that he holds concerning a deceased person to the spouse or a close relative of the person if knowledge of the information could help the applicant in the grieving process and if the deceased person did not record in writing his refusal to grant such a right of access.”

130. Section 41 of the Act is amended

- (1) by replacing “A” by “Subject to section 40.1, a”;
- (2) by striking out “who holds a file on another person”.

131. Section 42 of the Act is amended by replacing “25” by “28.1”.

132. Section 46 of the Act is amended

(1) by adding the following sentence at the end of the first paragraph: “The person may also request the Commission to limit the scope of the applicant’s request or extend the time limit within which he must reply.”;

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

“A request made under the first paragraph must be sent to the Commission within the same time limit as would be applicable to the processing of a request under section 32, from the date the applicant’s most recent request was received.”

133. Section 52 of the Act is amended by adding the following paragraph at the end:

“In such cases, the Commission may prohibit a person from bringing an application except with the authorization of and subject to the conditions determined by the chair of the Commission. It may, in the same manner, prohibit a person from presenting a pleading in an ongoing proceeding.”

134. Section 53 of the Act is amended by replacing “holding the file” and “that the file” by “holding the personal information” and “that it”, respectively.

135. Section 56 of the Act is repealed.

136. Section 58 of the Act is replaced by the following section:

“58. A decision of the Commission prescribing a particular course of action to a party is enforceable 30 days after its receipt by the parties.

A decision prohibiting a course of action to a party is enforceable from its delivery to the party concerned.

From the time a decision becomes enforceable, a certified copy of the decision may be filed by the Commission or a party in the office of the clerk of the Superior Court of the district of Montréal or Québec or of the district where the head office, business establishment or residence of a party is situated.

The filing confers on the decision the same force and effect as a judgment of the Superior Court.”

137. The heading of subdivision 3 of Division V of the Act is amended by adding “*and contestation*” at the end.

138. Section 61 of the Act is amended by adding the following paragraph at the end:

“The person may also contest before a judge of the Court of Québec an order issued by the Commission’s oversight division.”

139. Section 63 of the Act is amended

(1) by replacing “the date the parties receive the final decision” in the second paragraph by “notification of the final decision”;

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

“The proceeding to contest an order issued by the Commission’s oversight division is filed at the office of the Court of Québec within 30 days after notification of the order and must specify the questions which ought to be examined.”

140. Section 64 of the Act is amended by adding the following paragraph at the end:

“The filing of the proceeding to contest an order issued by the Commission’s oversight division does not suspend the execution of the order. However, on a motion heard and judged on an urgent basis, a judge of the Court of Québec may order otherwise because of the urgency of the situation or the risk of serious and irreparable injury.”

141. Section 65 of the Act is amended

(1) by replacing “contested decision and the documents related to the contestation” in the second paragraph by “decision appealed from and the accompanying documents”;

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

“The contestation of an order issued by the Commission’s oversight division must be served on the Commission and, if applicable, on the other parties, 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 order and the accompanying documents to the office of the Court to serve as a joint record.”

142. Section 67 of the Act is amended by adding the following paragraph at the end:

“The contestation is governed by the rules of the Code of Civil Procedure that are applicable in first instance.”

143. Section 71 of the Act is amended by inserting “, and that it is communicated in accordance with this Act” at the end.

144. Section 72 of the Act is amended

(1) by replacing subparagraphs 1 to 3 of the first paragraph by the following subparagraphs:

“(1) the name, address and email address of the agent and, in the case of a legal person, the address of its head office and the names and addresses of its directors;

“(2) the address, email address and telephone number of each establishment of the agent in Québec;

“(3) the title and contact information of the person in charge of the protection of personal information;

“(4) the method of operation provided for in section 71;

“(5) the rules of conduct provided for in section 78; and

“(6) the other measures taken to ensure the confidentiality and security of personal information in accordance with this Act.”;

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

“Every personal information agent must inform the Commission of any change in the information referred to in the first paragraph no later than 30 days following the change. If applicable, the agent must also promptly inform the Commission of the expected termination of the agent’s activities.”

145. Section 74 of the Act is replaced by the following section:

“**74.** The Commission shall keep a current register of personal information agents containing, for each agent, the agent’s name, address and email address, and the title and contact information of the person in charge of the protection of personal information.”

146. Section 75 of the Act is amended by adding the following sentence at the end of the first paragraph: “It may also be consulted on the Commission’s website.”

147. Section 76 of the Act is repealed.

148. Sections 78 and 79 of the Act are replaced by the following sections:

“**78.** Every personal information agent must establish and apply within his enterprise rules of conduct allowing any person to whom personal information held by the agent relates to have access to the information according to a procedure that ensures the protection of the information and to cause the information to be rectified.

“**79.** Every personal information agent must inform the public

(1) of the fact that the agent holds personal information on other persons, that he gives communication of credit reports bearing on the character, reputation or solvency of the persons to whom the personal information relates to persons with whom he is bound by contract, and that he receives from the latter personal information relating to other persons;

(2) of the rights of access and rectification that the persons concerned may exercise under this Act in respect of the personal information the agent holds; and

(3) of the information provided for in subparagraphs 3 to 6 of the first paragraph of section 72.

The information must be published on the personal information agent's website, or, if the agent does not have a website, made available by any other appropriate means.

“79.1. Despite section 23, a personal information agent must destroy personal information collected more than seven years earlier.

This section does not apply to personal information in a file established for the purposes of an inquiry to prevent, detect or repress a crime or statutory offence.”

149. Section 80 of the Act is amended by replacing “in sections 21 and” by “in section”.

150. Section 80.1 of the Act is amended

(1) in the first paragraph,

(a) by inserting “functions and” after “exercise the”;

(b) by replacing “21, 21.1, 72, 81, 83, 84” by “21.1, 72, 80.2, 81, 81.3, 81.4, 83, 84, 92”;

(2) by replacing “21, 21.1” in the second paragraph by “21.1, 80.2”.

151. The Act is amended by inserting the following section after section 80.1:

“30.1.1. For the purposes of subdivisions 4.1 and 5, a political party is considered a natural person.”

152. Section 81 of the Act is amended

(1) by replacing “an interested” by “a”;

(2) by adding the following sentence at the end: “A complaint may be filed anonymously.”

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

“81.1. It is forbidden to take a reprisal against a person on the ground that the person has, in good faith, filed a complaint with the Commission or cooperated in an investigation.

It is also forbidden to threaten to take a reprisal against a person to dissuade him from filing a complaint or cooperating in an investigation.

“81.2. The demotion, suspension, dismissal or transfer of a person or any other disciplinary measure or measure that adversely affects a person's employment or conditions of employment is presumed to be a reprisal within the meaning of section 81.1.

“81.3. The Commission may, by a formal demand notified by any appropriate method, require any person, whether subject to this Act or not, to file, within a reasonable time specified in the demand, any information or document to verify compliance with this Act or the regulations.

The person to whom the demand is made shall comply with it within the specified time regardless of whether the person has already filed such information or documents pursuant to a similar demand or pursuant to an obligation under this Act or the regulations.

“81.4. The Commission may, when a confidentiality incident is brought to its attention, order any person, after giving him the opportunity to submit observations, to take any measure to protect the rights of the persons concerned that are granted by this Act, for the time and on the conditions the Commission determines. It may, in particular, order that the personal information involved be returned to the person carrying on an enterprise or destroyed.

If a person to whom an order applies was not given prior notice because, in the opinion of the Commission, urgent action is required or there is a danger of irreparable injury being caused, the person may, within the time specified in the order, submit observations so that the order may be reviewed by the Commission.”

154. Section 83 of the Act is amended

(1) by adding the following paragraph before the first paragraph:

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

(2) by inserting “within the reasonable time limit the Commission specifies” at the end of the first paragraph;

(3) by striking out the second paragraph.

155. The Act is amended by inserting the following section after section 83:

“83.1. Every person carrying on an enterprise must, at the request of the Commission, provide it with any information it requires on the carrying out of this Act.”

156. Sections 86 and 87 of the Act are replaced by the following sections:

“86. An order issued by the Commission’s oversight division becomes enforceable in the same manner as a decision referred to in section 58.

“87. A person directly interested may contest an order issued by the Commission’s oversight division.

The contestation is subject to the rules set out in sections 61 to 69.”

157. Section 88 of the Act is amended by replacing “2011” in the first paragraph by “2026”.

158. Section 90 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraphs:

“(3) determine the content and terms of the notices provided for in section 3.5;

“(3.1) determine the content of the register provided for in section 3.8;

“(3.2) for the purposes of section 23, determine the criteria and terms applicable to the anonymization of personal information;

“(3.3) determine the cases in which a recovery charge is payable under section 90.17, as well as the conditions of payment and the amount payable;”.

159. The Act is amended by inserting the following subdivision after section 90:

“§4.1. — *Monetary administrative penalties*

“**90.1.** A monetary administrative penalty may be imposed by a person designated by the Commission, but who is not a member of any of its divisions, on anyone who

(1) does not inform the persons concerned in accordance with sections 7 and 8;

(2) collects, uses, communicates, keeps or destroys personal information in contravention of the law;

(3) does not report, where required to do so, a confidentiality incident to the Commission or to the persons concerned;

(4) does not take the security measures necessary to ensure the protection of the personal information in accordance with section 10;

(5) does not inform the person concerned by a decision based exclusively on an automated process or does not give the person an opportunity to submit observations, in contravention of section 12.1; or

(6) is a personal information agent and contravenes any of sections 70, 70.1, 71, 72, 78, 79 and 79.1.

Following a failure referred to in the first paragraph, a person may, at any time, enter into an undertaking with the Commission to take the measures necessary to remedy the failure or mitigate its consequences. The undertaking must identify the acts or omissions constituting a failure and the provisions

involved. It may also include the conditions the Commission considers necessary and contain a requirement to pay a sum of money.

If the undertaking is accepted by the Commission and is complied with, no monetary administrative penalty may be imposed on the person carrying on an enterprise with regard to the acts or omissions mentioned in the undertaking.

“90.2. The Commission shall develop and make public a general framework for the application of monetary administrative penalties and shall specify in the framework the following elements in particular:

(1) the purpose of the penalties, such as urging a person carrying on an enterprise to rapidly take the measures required to remedy the failure and deter repetition of such failures;

(2) the criteria that must guide designated persons in the decision to impose a penalty when a failure occurs and in the determination of the amount of the penalty, including

(a) the nature, seriousness, repetitiveness and duration of the failure;

(b) the sensitivity of the personal information concerned by the failure;

(c) the number of persons concerned by the failure and the risk of injury to which they are exposed;

(d) the measures taken by the person in default to remedy the failure or mitigate its consequences;

(e) the degree of cooperation provided to the Commission to remedy the failure or mitigate its consequences;

(f) the compensation offered by the person in default, as restitution, to every person concerned by the failure; and

(g) the ability to pay of the person in default, given such considerations as the person’s assets, turnover and revenues;

(3) the circumstances in which priority will be given to penal proceedings; and

(4) the other terms regarding the imposition of such a penalty.

“90.3. When a failure referred to in section 90.1 has occurred, a notice of non-compliance may be notified to the person in default to urge him to take, without delay, the measures required to remedy the failure. The notice must mention the fact that the failure could give rise to a monetary administrative penalty or penal sanctions, among other things.

“90.4. The designated person must, before imposing a monetary administrative penalty, notify the notice of non-compliance referred to in section 90.3 to the person in default and give the person an opportunity to submit observations and produce any documents to complete the record.

“90.5. A monetary administrative penalty is imposed on the person in default by notification of a notice of claim setting out the amount of the claim, the reasons for it, the time from which it bears interest, the right to apply for a review of the decision, the right to contest the review decision before the Court of Québec and the time limit for bringing such proceedings.

The notice of claim must also include information on the procedure for recovery of the amount owing, in particular with regard to the issue of a recovery certificate under section 90.14 and its effects. The person must also be advised that the facts on which the claim is founded may result in penal proceedings.

The amount owing bears interest at the rate determined under the first paragraph of section 28 of the Tax Administration Act (chapter A-6.002), from the 31st day after notification of the notice.

The notification of a notice of claim interrupts the prescription provided for in the Civil Code with regard to the recovery of the amount owing.

“90.6. The person in default may apply to the Commission in writing for a review of the decision to impose a monetary administrative penalty, within 30 days after notification of the notice of claim.

A member assigned to the Commission’s oversight division is responsible for reviewing the decision.

“90.7. The application for review must be dealt with promptly. The review decision is rendered after giving the person in default an opportunity to submit observations and produce any documents to complete the record. The decision may confirm, quash or vary the decision under review.

“90.8. The review decision must be written in clear and concise terms, with reasons given, must be notified to the applicant and must state the applicant’s right to contest the decision before the Court of Québec and the time limit for bringing such a proceeding.

If the review decision is not rendered within 30 days after the application is received or, if applicable, after the time granted to the applicant to submit observations or produce documents, the interest provided for in the first paragraph of section 90.5 on the amount owing is suspended until the decision is rendered.

“90.9. A review decision confirming or amending the decision to impose a monetary administrative penalty may be contested before the Court of Québec within 30 days after notification of the contested decision.

The contestation is subject to the rules set out in sections 61 to 69, with the necessary modifications.

“90.10. The imposition of a monetary administrative penalty is prescribed two years from the date of the failure to comply with the Act.

“90.11. No monetary administrative penalty may be imposed on a person for a failure to comply with this Act if a statement of offence has already been served on the person for a failure to comply with the same provision on the same day, based on the same facts.

“90.12. The maximum amount of the monetary administrative penalty is \$50,000 in the case of a natural person and, in all other cases, \$10,000,000 or, if greater, the amount corresponding to 2% of worldwide turnover for the preceding fiscal year.

“90.13. The debtor and the Commission may enter into a payment agreement with regard to the amount owing. Such an agreement, or the payment of the amount owing, does not constitute, for the purposes of penal proceedings or any other administrative penalty under this Act, an acknowledgement of the facts giving rise to it.

“90.14. If the amount owing is not paid in its entirety or the payment agreement is not adhered to, the Commission may issue a recovery certificate upon the expiry of the time for applying for a review of the decision imposing the monetary administrative penalty, upon the expiry of the time for contesting the review decision before the Court of Québec or upon the expiry of 30 days after the final decision of the Court confirming all or part of the decision imposing the penalty or the review decision, as applicable.

However, a recovery certificate may be issued before the expiry of the time referred to in the first paragraph if the Commission is of the opinion that the debtor is attempting to evade payment.

A recovery certificate must state the debtor’s name and address and the amount of the debt.

“90.15. Once a recovery certificate has been issued, the Minister of Revenue applies, in accordance with section 31 of the Tax Administration Act (chapter A-6.002), any refund owed to a person under a fiscal law to the payment of an amount owed by that person under this Act.

The allocation interrupts the prescription provided for in the Civil Code with regard to the recovery of an amount owing.

“90.16. Upon the filing of the recovery certificate at the office of the competent court, together with a copy of the final decision stating the amount of the debt, the decision becomes enforceable as if it were a final judgment of that court not subject to appeal, and has all the effects of such a judgment.

“90.17. The debtor is required to pay a recovery charge in the cases, under the conditions and in the amount determined by regulation.”

160. Sections 91 to 92.1 of the Act are replaced by the following sections:

“91. Anyone who

(1) collects, uses, communicates, keeps or destroys personal information in contravention of the law,

(2) fails to report, where required to do so, a confidentiality incident to the Commission or to the persons concerned,

(3) contravenes the prohibition set out in section 8.4,

(4) does not take the security measures necessary to ensure the protection of the personal information in accordance with section 10,

(5) identifies or attempts to identify a natural person using de-identified information without the authorization of the person holding the information or using anonymized information,

(6) is a personal information agent and contravenes any of sections 70, 70.1, 71, 72, 78, 79 and 79.1,

(7) impedes the progress of an inquiry or inspection of the Commission or the hearing of an application by the Commission by providing it with false or inaccurate information, by omitting to provide information it requires or otherwise,

(8) contravenes section 81.1,

(9) refuses or neglects to comply, within the specified time, with a demand made under section 81.3, or

(10) fails to comply with an order of the Commission

commits an offence and is liable to a fine of \$5,000 to \$100,000 in the case of a natural person and, in all other cases, of \$15,000 to \$25,000,000, or, if greater, the amount corresponding to 4% of worldwide turnover for the preceding fiscal year.

“92. The Commission may, in accordance with article 10 of the Code of Penal Procedure (chapter C-25.1), institute penal proceedings for an offence under this division.

“92.1. In the case of a subsequent offence, the fines under this division are doubled.

“92.2. All penal proceedings must be instituted within five years of the commission of the offence.

“92.3. In determining the penalty, the judge takes into account the following factors, among others:

- (1) the nature, seriousness, repetitiveness and duration of the offence;
- (2) the sensitivity of the personal information concerned by the offence;
- (3) whether the offender acted intentionally or was negligent or reckless;
- (4) the foreseeable character of the offence or the failure to follow recommendations or warnings to prevent it;
- (5) the offender’s attempts to cover up the offence or failure to try to mitigate its consequences;
- (6) whether the offender failed to take reasonable measures to prevent the commission of the offence;
- (7) whether the offender obtained or intended to obtain an increase in revenues or a decrease in expenses by committing the offence or by omitting to take measures to prevent it; and
- (8) the number of persons concerned by the offence and the risk of injury to which they are exposed.”

161. The Act is amended by inserting the following after section 93:

“§6.—Damages

“93.1. Where the unlawful infringement of a right conferred by this Act or by articles 35 to 40 of the Civil Code causes an injury and the infringement is intentional or results from a gross fault, the court shall award punitive damages of not less than \$1,000.”

ANIMAL HEALTH PROTECTION ACT

162. Section 11.3 of the Animal Health Protection Act (chapter P-42) is amended by replacing the last paragraph by the following paragraph:

“The agreements must be sent to the Commission d’accès à l’information and come into force 30 days after they are received by the Commission.”

163. Section 22.4 of the Act is amended by replacing the last paragraph by the following paragraph:

“The agreements must be sent to the Commission d’accès à l’information and come into force 30 days after they are received by the Commission.”

ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

164. Section 101 of the Act respecting the legal publicity of enterprises (chapter P-44.1) is amended, in the second paragraph,

- (1) by striking out “and 5”;
- (2) by replacing “section 67 or” by “any of sections 67, 67.2.1 and”.

165. Section 121 of the Act is amended, in subparagraph 2 of the third paragraph,

- (1) by striking out “or 5”;
- (2) by replacing “section 67 or” by “any of sections 67, 67.2.1 and”.

ACT RESPECTING THE RÉGIE DE L’ASSURANCE MALADIE DU QUÉBEC

166. Section 2 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5) is amended by replacing “pursuant to an agreement subject to section 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in the fourth paragraph by “, pursuant to an agreement sent to the Commission d’accès à l’information,”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

167. Section 223 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) is amended by replacing “67 to 70” in the second paragraph by “67 to 68”.

ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

168. Section 175 of the Act respecting occupational health and safety (chapter S-2.1) is amended

- (1) by striking out “and notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)” in the first paragraph;

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

“The authorization is granted in accordance with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

PUBLIC HEALTH ACT

169. Section 36 of the Public Health Act (chapter S-2.2) is amended by replacing “which is within the purview of the Commission d’accès à l’information” in the second paragraph by “which must be the subject of an agreement sent to the Commission d’accès à l’information”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

170. Section 19.2 of the Act respecting health services and social services (chapter S-4.2) is amended by replacing the first sentence of the second paragraph by the following sentence: “Before granting such authorization, the director must, however, ascertain that it is consistent with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

171. Section 7 of the Act respecting health services and social services for Cree Native persons (chapter S-5) is amended, in the fourth paragraph,

(1) by striking out “, notwithstanding subparagraph 5 of the second paragraph of section 59 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1),”;

(2) by replacing “that the criteria determined under section 125 of the Act are satisfied” by “that it is consistent with sections 67.2.1 to 67.2.3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1)”.

CREDIT ASSESSMENT AGENTS ACT

172. Section 108 of the Credit Assessment Agents Act (2020, chapter 21) is amended by renumbering section 8.1 of the Act respecting the protection of personal information in the private sector (chapter P-39.1) that it enacts, which becomes section 8.4.

173. Section 111 of the Act is repealed.

TRANSITIONAL AND FINAL PROVISIONS

174. Sections 64, 68 and 68.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), as they read on 22 September 2021, continue to apply to any agreement entered into in accordance with one of those sections before that date and still in force on 22 September 2023, until the expiry date of the agreement or until 22 September 2025, whichever occurs first.

175. The provisions of this Act come into force on 22 September 2023, except

(1) paragraph 2 of section 41 and sections 73, 157, 172 and 173, which come into force on 22 September 2021;

(2) sections 1, 3 and 7, subparagraph *c* of paragraph 2 of section 13, subparagraph *d* of that paragraph insofar as it concerns sections 63.8 and 67.2.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information, section 15 insofar as it enacts sections 63.8 to 63.11 of the Act respecting Access to documents held by public bodies and the Protection of personal information, section 23, section 24 insofar as it concerns section 67.2.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information, paragraph 2 of section 33, sections 36 to 40, paragraph 1 of section 41, sections 42 to 54 and 57 to 66, section 67, except subparagraphs 5 and 6.3 of the first paragraph of section 155 of the Act respecting Access to documents held by public bodies and the Protection of personal information, enacted by paragraph 2 of that section, sections 68, 79 to 81, 85, 90 to 92, 97 and 99, section 103 insofar as it enacts sections 3.1 and 3.5 to 3.8 of the Act respecting the protection of personal information in the private sector (chapter P-39.1), subparagraph *c* of paragraph 1 of section 112 insofar as it concerns section 18.4 of the Act respecting the protection of personal information in the private sector, subparagraph *d* of that paragraph, section 115 insofar as it enacts section 18.4 of the Act respecting the protection of personal information in the private sector, sections 118, 132, 133, 135 to 142, 149, 150 and 153 to 156, section 158 insofar as it enacts subparagraphs 3 and 3.1 of the first paragraph of section 90 of the Act respecting the protection of personal information in the private sector, and sections 164, 165, 168, 170 and 171, which come into force on 22 September 2022;

(3) section 30, and section 120 to the extent that it enacts the third paragraph of section 27 of the Act respecting the protection of personal information in the private sector, which come into force on 22 September 2024;

(4) section 160 insofar as it enacts paragraph 3 of section 91 of the Act respecting the protection of personal information in the private sector, which comes into force on the date of coming into force of section 108 of the Credit Assessment Agents Act (2020, chapter 21).

