

1993, chapter 17

## AN ACT RESPECTING THE PROTECTION OF PERSONAL INFORMATION IN THE PRIVATE SECTOR

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### **Bill 68**

Introduced by Mr Lawrence Cannon, Minister of Communications

Introduced 16 December 1992

Passage in principle 16 March 1993

Passage 15 June 1993

**Assented to 15 June 1993**

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**Coming into force: on the date of coming into force of articles 35 to 41 and 1525 of the Civil Code of Québec, except sections 5 to 9 and subparagraph 2 of the first paragraph of section 22, the second paragraph of section 23 and sections 24 to 26, which will come into force six months after that date**

– 1 January 1994: G.O., 1993, Part 2, p. 2805

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### **Acts amended:**

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

Savings and Credit Unions Act (R.S.Q., chapter C-4.1)

Act respecting market intermediaries (R.S.Q., chapter I-15.1)

Consumer Protection Act (R.S.Q., chapter P-40.1)

Real Estate Brokerage Act (1991, chapter 37)





## CHAPTER 17

### **An Act respecting the protection of personal information in the private sector**

*[Assented to 15 June 1993]*

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### DIVISION I

##### APPLICATION AND INTERPRETATION

- Object**            **1.** The object of this Act is to establish, for the exercise of the rights conferred by articles 35 to 40 of the Civil Code of Québec concerning the protection of personal information, particular rules with respect to personal information relating to other persons which a person collects, holds, uses or communicates to third persons in the course of carrying on an enterprise within the meaning of article 1525 of the Civil Code of Québec.
- Applicability**    The Act applies to such information whatever the nature of its medium and whatever the form in which it is accessible, whether written, graphic, taped, filmed, computerized, or other.
- Exception**        This Act does not apply to journalistic material collected, held, used or communicated for the purpose of informing the public.
- Personal information**    **2.** Personal information is any information which relates to a natural person and allows that person to be identified.
- Applicability**    **3.** This Act does not apply to a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) or to information held on behalf of a public body by a person other than a public body.

## DIVISION II

## COLLECTION OF PERSONAL INFORMATION

**Object of file**      **4.** Any person carrying on an enterprise who may, for a serious and legitimate reason, establish a file on another person must, when establishing the file, enter its object.

**Entry**      The entry is considered to be part of the file.

**Necessary information**      **5.** Any person collecting personal information to establish a file on another person or to record personal information in such a file may collect only the information necessary for the object of the file.

**Lawful means**      Such information must be collected by lawful means.

**Source of information**      **6.** Any person collecting personal information relating to another person may collect such information only from the person concerned, unless the latter consents to collection from third persons.

**Information from third person**      However, he may, without the consent of the person concerned, collect such information from a third person if the law so authorizes.

**Conditions**      He may also do so if he has a serious and legitimate reason and either of the following conditions is fulfilled:

(1) the information is collected in the interest of the person concerned and cannot be collected from him in due time;

(2) collection from a third person is necessary to ensure the accuracy of the information.

**Source of information**      **7.** Any person establishing a file on another person or recording personal information in such a file must make an entry indicating the source of any personal information collected from a third person when the third person is a person carrying on an enterprise.

**Entry**      The entry is considered to be part of the file of the person concerned.

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

**Obligation to inform**      **8.** A person who collects personal information from the person concerned must, when establishing a file on that person, inform him

(1) of the object of the file;

(2) of the use which will be made of the information and the categories of persons who will have access to it within the enterprise;

(3) of the place where the file will be kept and of the rights of access and rectification.

Goods and  
services

**9.** No person may refuse to respond to a request for goods or services or to a request relating to employment by reason of the applicant's refusal to disclose personal information except where

(1) collection of that information is necessary for the conclusion or performance of a contract;

(2) collection of that information is authorized by law; or

(3) there are reasonable grounds to believe that the request is not lawful.

Doubt

In case of doubt, personal information is considered to be non-necessary.

### DIVISION III

#### CONFIDENTIALITY OF PERSONAL INFORMATION

##### § 1.—*Retention, use and non-communication of information*

Safety  
measures

**10.** Every person carrying on an enterprise who collects, holds, uses or communicates personal information about other persons must establish and apply such safety measures as are appropriate to ensure the confidentiality of the information.

Accuracy  
of file

**11.** Every person carrying on an enterprise must ensure that any file held on another person is up to date and accurate when used to make a decision in relation to the person concerned.

Use of file

**12.** Once the object of a file has been achieved, no information contained in it may be used otherwise than with the consent of the person concerned, subject to the time limit prescribed by law or by a retention schedule established by government regulation.

Consent

**13.** No person may communicate to a third person the personal information contained in a file he holds on another person, or use it for purposes not relevant to the object of the file, unless the person concerned consents thereto or such communication or use is provided for by this Act.

Validity of  
consent

**14.** Consent to the communication or use of personal information must be manifest, free, and enlightened, and must be given for specific purposes. Such consent is valid only for the length of time needed to achieve the purposes for which it was requested.

Validity of  
consent

Consent given otherwise than in accordance with the first paragraph is without effect.

Communica-  
tion of  
consent

**15.** Consent to the communication of personal information by a third person may be given by the person concerned to the person who collects the information from the third person.

Access to  
information

**16.** Any person holding personal information on behalf of a person carrying on an enterprise may refer to the latter every request for access or rectification received from a person to whom such information relates.

Access to  
information

Nothing in this section limits a person's right to obtain, from a personal information agent, access to, or rectification of, personal information concerning him held by that agent.

Information  
outside  
Québec

**17.** Every person carrying on an enterprise in Québec who communicates, outside Québec, information relating to persons residing in Québec or entrusts a person outside Québec with the task of holding, using or communicating such information on his behalf must take all reasonable steps to ensure

(1) that the information will not be used for purposes not relevant to the object of the file or communicated to third persons without the consent of the persons concerned, except in cases similar to those described in sections 18 and 23;

(2) in the case of nominative lists, that the persons concerned have a valid opportunity to refuse that personal information concerning them be used for purposes of commercial or philanthropic prospection and, if need be, to have such information deleted from the list.

## § 2.—*Communication to third persons*

Communica-  
tion of  
information

**18.** A person carrying on an enterprise may, without the consent of the person concerned, communicate personal information contained in a file he holds on that person

(1) to his attorney;

(2) to the Attorney General if the information is required for the purposes of the prosecution of an offence under an Act applicable in Québec;

(3) to a person responsible, by law, for the prevention, detection or repression of crime or statutory offences who requires it in the performance of his duties, if the information is needed for the prosecution of an offence under an Act applicable in Québec;

(4) to a person to whom it is necessary to communicate the information under the law or a collective agreement, who requires it in the performance of his duties;

(5) to a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) which, through a representative, collects such information in the exercise of its functions or the implementation of a program under its management;

(6) to a person or body having the power to compel communication of the information if he or it requires it in the exercise of his or its duties or functions;

(7) to a person to whom the information must be communicated by reason of the urgency of a situation that threatens the life, health or safety of the person concerned;

(8) to a person who is authorized to use the information for study, research or statistical purposes in accordance with section 21;

(9) to a person who is authorized by law to recover debts on behalf of others and who requires it in the performance of his duties;

(10) to a person in accordance with section 22, in the case of a nominative list.

Communica-  
tions

A person carrying on an enterprise must make an entry of every communication made under subparagraphs 6 to 10 of the first paragraph. The entry is considered to be part of the file.

Necessary  
communica-  
tion

The persons referred to in subparagraphs 1 and 9 of the first paragraph who receive communication of information may communicate the information to the extent that such communication is necessary, in the performance of their duties, to achieve the purposes for which they received communication of the information.

Detective  
agencies

A detective or security agency holding a permit issued under the Act respecting detective or security agencies (R.S.Q., chapter A-8),

or a body having as its object the prevention, detection or repression of crime or statutory offences and a person carrying on an enterprise may, without the consent of the person concerned, communicate among themselves the information needed for conducting an inquiry for the purpose of preventing, detecting or repressing a crime or a statutory offence. The same applies in respect of information communicated among persons carrying on an enterprise, if the person who communicates or collects such information has reasonable grounds to believe that the person concerned has committed, or is about to commit, a crime or statutory offence against one or other of the persons carrying on an enterprise.

Access to  
credit  
reports

**19.** Every person carrying on an enterprise having as its object the lending of money, who consults credit reports or recommendations as to the solvency of natural persons prepared by a personal information agent, must inform such persons of their right of access and rectification in relation to the file held by the agent and indicate to them the manner in which and the place where they may have access to the reports or recommendations and cause them to be rectified, where necessary.

Request for  
access

The person carrying on such an enterprise must communicate to a natural person, on request, the content of any credit report or recommendation he has consulted for the purpose of making a decision concerning that person.

Information  
within  
enterprise

**20.** In the carrying on of an enterprise, authorized employees, mandataries 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 or the execution of their mandates.

Research  
purposes

**21.** 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 may, on written request, grant a person authorization to receive communication of personal information for study, research or statistical purposes, without the consent of the persons concerned, if it is of the opinion that

(1) the intended use is not frivolous and the ends contemplated cannot be achieved unless the information is communicated in a form allowing the persons to be identified;

(2) the information will be used in a manner that will ensure its confidentiality.

Authoriza-  
tion to  
receive  
information

Such authorization is granted for the period and on the conditions fixed by the Commission. It may be revoked before the expiry of the period for which it is granted if the Commission has reasons to believe that the person authorized does not respect the confidentiality of the information communicated to him or does not respect the other conditions.

Nominative  
list

**22.** A person carrying on an enterprise may, without the consent of the persons concerned, communicate a nominative list or any information used to establish such a list to a third person, if

(1) the communication is made pursuant to a contract that includes a stipulation prohibiting the third person from using or communicating the list or the information for purposes other than commercial or philanthropic prospection;

(2) prior to the communication, in cases where the list is a nominative list of the person's clients, members or employees, the persons concerned are given a valid opportunity to refuse that the information be used by a third person for purposes of commercial or philanthropic prospection; and

(3) the communication does not infringe upon the privacy of the persons concerned.

Definition

A nominative list is a list of the names, addresses or telephone numbers of natural persons.

Use of  
nominative  
list

**23.** A person carrying on an enterprise may, without the consent of the persons concerned, use, for purposes of commercial or philanthropic prospection, a nominative list of his clients, members or employees.

Opportunity  
of refusal

Every person using such a list for such purposes must grant the persons concerned a valid opportunity to refuse that the information concerning them be used for such purposes.

Commercial  
prospection

**24.** Every person who, on the basis of a nominative list, engages in commercial or philanthropic prospection through postal or telecommunications channels, must identify himself and inform the person to whom he is addressing himself of the latter's right to have the personal information concerning him deleted from the list that he holds.

Deletion of  
information

**25.** Any person wishing to have personal information concerning him deleted from a nominative list may, at any time, by



means of a request made orally or in writing to any person holding or using the list, obtain that the information be deleted.

Require-  
ment to  
delete

**26.** On receiving a request under section 25, the person who holds or, as the case may be, uses the nominative list must, with diligence, delete from the list any information relating to the person concerned.

#### DIVISION IV

##### ACCESS BY PERSONS CONCERNED

##### § 1.—*General provisions*

Require-  
ment to  
commu-  
nicate infor-  
mation

**27.** Every person carrying on an enterprise who holds a file on another person must, at the request of the person concerned, confirm the existence of the file and communicate to the person any personal information concerning him.

Illegal  
collection of  
information

**28.** In addition to the rights provided under the first paragraph of article 40 of the Civil Code, the person concerned is entitled to obtain that any personal information collected otherwise than according to law be deleted.

Exercise of  
rights

**29.** Every person carrying on an enterprise who holds files on other persons must take the necessary steps to ensure the exercise by a person concerned of the rights provided under articles 37 to 40 of the Civil Code and the rights conferred by this Act. In particular, he must inform the public of the place where, and manner in which, access to the files may be granted.

Requests for  
access

**30.** No request for access or rectification may be considered unless it is made in writing by a person who proves that he is the person concerned or the representative, heir or successor of that person, the administrator of the succession, the beneficiary of life insurance or the person having parental authority.

Deceased  
person

**31.** The spouse and the direct ascendants or descendants of a deceased person are entitled to receive, in accordance with the procedure provided for in section 30, communication of information relating to the cause of death contained in the person's medical file, unless the deceased person recorded in writing, in his file, his refusal to grant such right of access.

Medical  
information

Notwithstanding the first paragraph, the blood relatives of a deceased person are entitled to receive communication of the

information contained in that person's medical file to the extent that such communication is necessary to ascertain the existence of a genetic or family disease.

Response to  
request

**32.** The person holding a file that is the subject of a request for access or rectification by the person concerned must respond to that request with diligence and not later than 30 days after the date of the request.

Failure to  
respond

Failure to respond within 30 days of the receipt of a request is deemed to be a refusal to grant the request.

Access  
without  
charge

**33.** Access to the personal information contained in a file shall be free of charge.

Reasonable  
charge

However, a reasonable charge may be required from a person requesting the transcription, reproduction or transmission of such information.

Amount of  
charge

Any person carrying on an enterprise who intends to require a charge under this section must inform the applicant, in advance, of the approximate amount that will be charged for the transcription, reproduction or transmission of information.

Refusal of  
access

**34.** A person who refuses to grant a request for access or rectification from a person concerned must inform the latter of his refusal in writing, giving reasons, and inform the person concerned of the recourses open to him.

Modified  
information

**35.** Where the person holding a file grants a request for rectification, he must, in addition to the obligations prescribed in the second paragraph of article 40 of the Civil Code, issue free of charge to the person who made the request a copy of any personal information modified or added or, as the case may be, an attestation that personal information has been deleted.

Retention of  
information

**36.** The person holding information that is the subject of a request for access or rectification must, if he does not grant the request, retain the information for such time as is necessary to allow the person concerned to exhaust the recourses provided by law.

## § 2.—*Restrictions on access*

Health care  
enterprises

**37.** A person carrying on a professional health care enterprise may temporarily refuse to the person concerned access to the file established on him if, in the opinion of a health care professional, consultation would result in serious harm to the person's health.

Other enter-  
prises

A person carrying on another type of enterprise and holding such information may refuse to the person concerned access to the information relating to him, provided that he offers the person the possibility of designating a health care professional of his choice to receive communication of the information and communicates the information to such physician.

Consultation  
of informa-  
tion

The health care professional shall determine the time at which consultation may take place and inform the person concerned thereof.

Young  
persons

**38.** No person of less than fourteen years of age may demand to be informed of the existence of information of a medical or social nature concerning him and contained in a file established on him, or receive communication of such information, except through his attorney in the context of judicial proceedings.

Normal  
communica-  
tion

Nothing in the first paragraph is intended to restrict normal communication between a health care or social services professional and his patient, or the right of access of the holder of parental authority.

Crime  
prevention

**39.** A person carrying on an enterprise may refuse to communicate personal information to the person it concerns where disclosure of the information would be likely to

(1) hinder an inquiry the purpose of which is the prevention, detection or repression of crime or statutory offences conducted by his internal security service or conducted on his behalf for the same purpose by an external service or a detective or security agency in accordance with the Act respecting detective or security agencies (R.S.Q., chapter A-8);

(2) affect judicial proceedings in which either person has an interest.

Third  
persons

**40.** Any person carrying on an enterprise who holds a file on another person must refuse to give communication of personal information to a person to whom it relates where disclosure would be likely to reveal personal information about a third person or the existence of such information and the disclosure may seriously harm that third person, unless the latter consents to the communication of the information or in the case of an emergency that threatens the life, health or safety of the person concerned.

Administra-  
tors of  
successions

**41.** Any person carrying on an enterprise who holds a file on another person must refuse to give communication of personal

information to the administrator of the succession or the beneficiary of life insurance of the person to whom the information relates, his heir, or his successor, unless such communication concerns the interests or rights of the person requesting it in his capacity as administrator, beneficiary, heir or successor.

## DIVISION V

### RECOURSE

#### § 1.—*Examination of disagreements*

**Applications**      **42.** Any interested person may submit an application to the Commission d'accès à l'information for the examination of a disagreement relating to the application of a legislative provision concerning access to or the rectification of personal information, or concerning the application of section 25.

**Application period**      **43.** Where the disagreement results from a refusal to grant a request or from a failure to respond within the time limit prescribed by law, the person concerned disposes of a period of 30 days from the refusal or the expiry of the time limit to submit the disagreement to the Commission unless the Commission, for reasonable cause, releases the person concerned from failure to submit the disagreement within that time.

**Fees**      **44.** Any party who wishes to submit a disagreement to the Commission for examination must apply therefor in writing and pay the fees prescribed by regulation.

**Reasons**      The application shall state briefly the reasons which justify examination of the disagreement by the Commission.

**Notice of application**      Notice of an application made by one party shall be given by the Commission to the other party.

**Group of persons**      **45.** A group of persons having an interest in the same subject of disagreement may submit an application to the Commission through a representative.

**Improper applications**      **46.** A person carrying on an enterprise who holds personal information on others may request authorization from the Commission to disregard applications that are obviously improper by reason of their number or their repetitious or systematic nature or applications that, in the opinion of the Commission, are not consistent with the object of this Act.

Assistance **47.** The members of the personnel of the Commission must lend their assistance to any interested person requiring it in the drawing up of an application for the examination of a disagreement.

Agreement between the parties **48.** Where an application for the examination of a disagreement has been brought before it, the Commission may entrust a person it designates to attempt to bring the parties to an agreement and report to it on the result of the attempt within the time it determines.

Examination of disagreements **49.** If the Commission is of the opinion that no agreement is possible between the parties, it shall examine the subject of the disagreement according to the procedure it determines.

Observations It must give the parties an opportunity to present their observations.

Decision **50.** A member of the Commission may, on behalf of the Commission, examine a disagreement alone and render a decision.

Information **51.** Every person must furnish to the Commission any information it requires for the examination of a disagreement.

Frivolous applications **52.** The Commission may refuse or cease to examine a matter if it has reasonable grounds to believe that the application is frivolous or made in bad faith or that its intervention would clearly serve no purpose.

Burden of proof **53.** In the case of a disagreement relating to a request for rectification, the person holding the file must prove that the file need not be rectified, unless the information in question was communicated to him by the person concerned or with the latter's consent.

## § 2.—*Decision by the Commission*

Decision **54.** The Commission shall render, in respect of every disagreement submitted to it, a decision in writing giving the reasons on which it is based, and shall send a copy to the parties by registered or certified mail or by any other means providing evidence of the date of receipt.

Powers of Commission **55.** The Commission has all the powers necessary for the exercise of its jurisdiction; it may make any order it considers appropriate to protect the rights of the parties and rule on any issue of fact or law.

**Orders**           The Commission may, in particular, order a person carrying on an enterprise to communicate or rectify personal information or refrain from doing so.

**Execution of decisions**   **56.** A decision by the Commission ordering a party to carry out a certain act is executory on the expiry of 30 days after the date on which the decision is received by the party concerned.

**Doing of acts**       A decision ordering a party to cease, or refrain from, doing a certain act is executory upon being transmitted to the party concerned.

**Fees**             **57.** In rendering a decision, the Commission may rule as to payment of the fees prescribed by regulation.

**Execution of decisions**   **58.** A decision by the Commission becomes executory as a judgment of the Superior Court and has all the effects of such a judgment from the date of its homologation by the Superior Court.

**Homologation of decisions**   Homologation of the decision is obtained by the filing, by the Commission or one of the parties, of a true copy of the decision at the office of the prothonotary of the Superior Court of the district in which the domicile or the residence or principal place of business of the person affected by the decision is situated.

**Questions of fact**       **59.** A decision of the Commission on a question of fact coming under its jurisdiction is final and no appeal lies therefrom.

**Peremption of applications**   **60.** The Commission may declare an application for examination of a disagreement preempted if one year has elapsed since the last useful proceeding was filed.

**Procedure**         Articles 266 to 269 of the Code of Civil Procedure, adapted as required, apply to peremption of suit.

### § 3.—*Appeal*

**Appeals to Court of Québec**   **61.** Any person having a direct interest may bring an appeal to the Court of Québec, with the leave of one of its judges, from a final decision of the Commission on any question of law or jurisdiction.

**Leave to appeal**       No appeal may be brought except with leave from a judge of the Court of Québec. The judge shall grant leave if in his opinion the question ought to be examined in appeal.

Exercise of jurisdiction **62.** The jurisdiction conferred by this division on a judge of the Court of Québec is exercised by only the judges of that Court that are appointed by the chief judge.

Motions for leave **63.** The motion for leave to appeal must specify the questions of law or jurisdiction which ought to be examined in appeal and, after notice to the parties and to the Commission, be filed in the office of the Court of Québec, at Montréal or at Québec, within 30 days after the date of receipt of the decision of the Commission by the parties.

Costs The costs of the motion are at the discretion of the judge.

Decisions authorizing appeal The decision authorizing the appeal must mention only the questions of law or jurisdiction that will be examined in appeal.

Execution of decisions of Commission **64.** The filing of the motion for leave to appeal suspends the execution of the decision of the Commission until the decision referred to in section 69 has been rendered. In the case of an appeal from a decision ordering a person to cease or refrain from doing something, the filing of the motion does not suspend execution unless the judge who authorizes the appeal decides otherwise.

Notice of appeal **65.** The appeal is brought by filing with the Commission a notice to that effect served on the parties, within 10 days from the date of the decision granting leave to appeal.

Service The filing of the notice is in lieu of service on the Commission.

Notice of appeal **66.** The secretary of the Commission shall immediately send the notice of appeal to the office of the Court of Québec, at Montréal or at Québec, at the option of the appellant.

Documents The secretary shall send two copies of the decision appealed from, the documents related to the contestation and the decision authorizing the appeal, to the office of the Court, in place of the joint record.

Procedure **67.** The appeal is governed by articles 491 to 524 of the Code of Civil Procedure (R.S.Q., chapter C-25), adapted as required. The parties are not required, however, to file a statement of their claims.

Rules of practice **68.** The Court of Québec may, in the manner prescribed under the Courts of Justice Act (R.S.Q., chapter T-16), make the rules of practice judged necessary for the carrying out of this division.

Appeal decision **69.** The decision of the judge of the Court of Québec is without appeal.

## DIVISION VI

## PERSONAL INFORMATION AGENTS

**Registration**      **70.** Every personal information agent carrying on an enterprise in Québec must be registered with the Commission.

**Definition**      Any person who, on a commercial basis, personally or through a representative, establishes files on other persons and prepares and communicates to third parties credit reports bearing on the character, reputation or solvency of the persons to whom the information contained in such files relates is a personal information agent.

**Method of operation**      **71.** Every personal information agent must establish and apply a method of operation that ensures that the information communicated by him is up to date and accurate.

**Applications for registration**      **72.** Applications for registration shall be filed according to the procedure determined by the Commission, accompanied with the fees prescribed by regulation. An application shall contain, in particular, the following information:

(1) the name and 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 and telephone number of each establishment of the agent in Québec;

(3) the address and telephone number of every office where persons concerned may apply to consult or obtain copies of information relating to them.

**Changes in information**      Every personal information agent must inform the Commission with diligence of any change in the information referred to in the first paragraph.

**Registration**      **73.** The Commission shall register an agent who files an application in conformity with the provisions of section 72.

**Register**      **74.** The Commission shall keep a current register of personal information agents containing the information filed under section 72 and any relevant decisions rendered by the Commission in respect of registered agents.

**Consultation of register**      **75.** The register shall be available for public consultation during the regular business hours of the Commission.



Extracts  
from  
register

The Commission shall furnish, free of charge, to any person who so requests any extract from the register concerning a personal information agent.

Publication  
of list

**76.** The Commission shall publish annually, in a newspaper having general circulation, a list of the personal information agents.

Decisions of  
judicial  
tribunals

**77.** A personal information agent may, without the consent of the person concerned, communicate in a credit report to the persons with whom he is bound by contract any information contained in a decision of a judicial or quasi-judicial tribunal unless the information was the object of *in camera* proceedings or is subject to an order not to disclose, publish or distribute.

Rules of  
conduct

**78.** Every personal information agent must establish, apply within his enterprise and circulate rules of conduct that will allow any person concerned by a file held by him to have access to that file according to a procedure that ensures the protection of the information contained in the file, either by allowing the person concerned to have access thereto, free of charge, by telephone consultation or at a place in the region of the domicile of the person concerned during the regular business hours of the personal information agent's place of business, or by transmitting a reproduction, transcription or copy of the file to him by mail or courier on payment of a reasonable charge.

Publication  
of notice

**79.** Every personal information agent must, not later than 60 days after the coming into force of this section and every two years thereafter, inform the public, by means of a notice published in a newspaper having general circulation in each region of Québec in which he does business, of

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

(2) the rights of consultation and rectification that may be exercised according to law, by persons to whom the information relates, in respect of the files he holds;

(3) the name, address and telephone number of the person, in each region, to whom the persons to whom the information relates may apply to consult their file, and the procedure for consultation.

## DIVISION VII

## APPLICATION OF THIS ACT

§ 1.—*Rules of proof and procedure*Rules of  
proof

**80.** The Commission may, by regulation, prescribe rules of proof and procedure for the examination of applications which may be brought before it. Such regulations shall be submitted to the Government for approval.

§ 2.—*Inquiry*Inquiries by  
Commission

**81.** The Commission may, on its own initiative or following a complaint by an interested person, inquire into or entrust a person with inquiring into any matter relating to the protection of personal information as well as into the practices of a person who carries on an enterprise and who collects, holds, uses or communicates such information to third persons.

Searches

For such purpose, any person authorized by the Commission to make inquiries may

(1) enter, at any reasonable time, the facilities of an enterprise carried on by a person collecting, holding, using or communicating personal information to third persons;

(2) examine and make copies of any personal information of whatever form.

False state-  
ments

**82.** No person may hinder, in any manner whatever, the action of a person authorized by the Commission to make inquiries, mislead that person by false or deceitful statements, or refuse to put at his disposal the documents he may examine under this Act.

Identifica-  
tion

Every person authorized by the Commission to make inquiries must, on request, identify himself and produce a certificate attesting his capacity.

Remedial  
measures

**83.** Following an inquiry relating to the collection, retention or communication of personal information by a person carrying on an enterprise, the Commission may, after giving the person an opportunity to present his observations, recommend or order the application of such remedial measures as are appropriate to ensure the protection of the personal information.

Time limits

It may fix time limits for the implementation of the measures it orders.

Notice  
of non-  
compliance

**84.** If, within a reasonable time after issuing an order in respect of a person who carries on an enterprise, the Commission considers that appropriate measures have not been taken in response, it may publish, in the manner it determines, a notice to inform the public thereof.

Powers of  
Commission

**85.** The Commission, and any person entrusted by it with making an inquiry for the purposes of this Act, are vested for the inquiry with the powers and immunity provided for in the Act respecting public inquiry commissions (R.S.Q., chapter C-37) except the power to order imprisonment.

Execution  
of order

**86.** Any order issued by the Commission following an inquiry becomes executory in the same manner as a decision under sections 56 and 58.

Appeal from  
order

**87.** Any person having a direct interest may appeal from an order issued following an inquiry.

Rules

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

### § 3.—*Reports*

Report to  
Government

**88.** The Commission must, not later than 1 October 1997 and every five years thereafter, submit a report to the Government on the application of this Act.

Tabling of  
report

The report shall be tabled, within 15 days of being submitted before the National Assembly if it is sitting, or, if it is not sitting, deposited with the President.

Study of  
report

**89.** The Committee on the National Assembly shall designate, as soon as possible, the committee which will study the report concerning the carrying out of this Act.

Examination  
of Act

Within the year following the tabling of the report before the National Assembly, the designated committee must examine the advisability of maintaining this Act in force as it stands, or, if the need arises, of amending it, and shall hear the representations of interested persons and bodies on such matters.

### § 4.—*Regulations*

Regulations  
of Govern-  
ment

**90.** The Government, after obtaining the advice of the Commission, may make regulations to

- (1) fix the fees payable for any act performed by the Commission;

(2) determine cases of total or partial exemption from payment of the fees payable under this Act;

(3) establish retention schedules;

(4) fix the registration fees payable by personal information agents.

Sectors of activity

In exercising its regulatory power, the Government may define sectors of activity and categories of personal information and files.

### § 5.—*Penal provisions*

Penalties

**91.** Every person who collects, holds, communicates to third persons or uses personal information on other persons otherwise than in accordance with the provisions of Divisions II, III and IV of this Act is liable to a fine of \$1 000 to \$10 000 and, for a subsequent offence, to a fine of \$10 000 to \$20 000.

Penalties

**92.** Any personal information agent who contravenes any provision of section 70, 72, 78 or 79 of this Act is liable to a fine of \$6 000 to \$12 000 and, for a subsequent offence, to a fine of \$10 000 to \$20 000.

Legal persons

**93.** Where an offence under this Act is committed by a legal person, the administrator, director or representative of the legal person who ordered or authorized the act or omission constituting the offence, or who consented thereto, is a party to the offence and is liable to the prescribed penalty.

## DIVISION VIII

### MISCELLANEOUS PROVISIONS

Precedence of Act

**94.** The provisions of this Act have precedence over those of any subsequent general or special Act which would be contrary thereto, unless the latter Act expressly provides that it applies despite this Act.

Other Acts

However, they do not have the effect of limiting the protection of personal information or access to that information by a person concerned pursuant to another Act, a regulation, an order in council, a collective agreement, an order or a practice established before the coming into force of this section.

Agreements

**95.** The Commission may make agreements with any department, body or person authorized by law to make inquiries in

the matter of protection of personal information, in order to coordinate its actions with those of the department, body or person.

Associations  
or partner-  
ships

**96.** Any association or partnership that carries on an enterprise and holds personal information on its members or on third persons has, in respect of its members and such third persons, the same rights and the same obligations as a person carrying on an enterprise.

Credit  
unions

**97.** Savings and credit unions and their federations and confederation are not considered to be third persons in respect of each other as regards the communication and use, among themselves, of personal information necessary for the supply of property or the provision of a service under the Savings and Credit Unions Act (R.S.Q., chapter C-4.1).

Caisse  
centrale  
Desjardins  
du Québec

The Caisse centrale Desjardins du Québec, incorporated by section 20 of the Act respecting the Mouvement des caisses Desjardins (1989, chapter 113), its member federations, the credit unions affiliated with those federations and the Confédération to which those federations belong are not considered to be third persons in respect of each other as regards the communication and use, among themselves, of personal information.

Minister  
responsible

**98.** The Minister of Communications is responsible for the administration of this Act.

## DIVISION IX

### AMENDING PROVISIONS

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

c. A-2.1,  
s. 88.1, am.

**99.** Section 88.1 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) is amended

(1) by inserting the words “to the administrator of the succession, to the beneficiary of life insurance or” after the word “information” in the first line;

(2) by inserting the words “administrator, beneficiary,” after the word “an” in the third line.

c. A-2.1,  
s. 89.1, am.

**100.** Section 89.1 of the said Act is amended

(1) by inserting the words “by the beneficiary of the life insurance, by the administrator of the succession or” after the word “filed” in the second line;

(2) by inserting the words “administrator, beneficiary,” after the word “an” in the fourth line.

c. A-2.1,  
s. 94, am.

**101.** Section 94 of the said Act is amended by inserting the words “administrator of the succession, a beneficiary of life insurance or the” after the word “the” in the fourth line of the first paragraph.

c. A-2.1,  
s. 104, am.

**102.** Section 104 of the said Act is amended by replacing the word “three” in the first line of the first paragraph by the word “five”.

c. A-2.1,  
s. 118, am.

**103.** Section 118 of the said Act is amended by adding, at the end, the following paragraph:

Content

“The report must also deal with the application of the Act respecting the protection of personal information in the private sector (1993, chapter 17).”

c. A-2.1,  
s. 122, am.

**104.** Section 122 of the said Act is amended by adding, at the end, the following paragraph:

Object

“The Commission shall also exercise the functions conferred on it under the Act respecting the protection of personal information in the private sector.”

c. A-2.1,  
s. 130.1,  
added

**105.** The said Act is amended by inserting, after section 130, the following section:

Frivolous  
requests

**130.1** The Commission may refuse or cease to examine a matter if it has reasonable cause to believe that the request is frivolous or made in bad faith or that its intervention would clearly serve no purpose.”

c. A-2.1,  
s. 146.1,  
added

**106.** The said Act is amended by inserting, after section 146, the following section:

Peremption

**146.1** The Commission may declare an application for review of an agreement perempted if one year has elapsed since the last useful proceeding was filed.

Procedure

Articles 266 to 269 of the Code of Civil Procedure, adapted as required, apply to peremption of suit.”

c. A-2.1,  
s. 148, am. **107.** Section 148 of the said Act is amended by striking out the words “and the senior associate chief judge, within the limits of their respective territorial jurisdictions” in the third and fourth lines.

c. A-2.1,  
s. 151, am. **108.** Section 151 of the said Act is amended by replacing the word “four” in the first line of the second paragraph by the word “two”.

c. A-2.1,  
s. 174,  
replaced **109.** Section 174 of the said Act is replaced by the following section:

Minister  
responsible **“174.** The Minister of Communications is responsible for the administration of this Act.”

#### SAVINGS AND CREDIT UNIONS ACT

c. C-4.1,  
s. 196, am. **110.** Section 196 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended by inserting the words “, where applicable,” after the word “and” in the fourth line.

#### ACT RESPECTING MARKET INTERMEDIARIES

c. I-15.1,  
s. 25,  
repealed **111.** Section 25 of the Act respecting market intermediaries (R.S.Q., chapter I-15.1) is repealed.

#### CONSUMER PROTECTION ACT

c. P-40.1,  
ss. 260.1-  
260.4,  
repealed **112.** Sections 260.1 to 260.4 of the Consumer Protection Act (R.S.Q., chapter P-40.1) are repealed.

#### REAL ESTATE BROKERAGE ACT

1991, c. 37,  
s. 21,  
repealed **113.** Section 21 of the Real Estate Brokerage Act (1991, chapter 37) is repealed.

#### DIVISION X

#### FINAL PROVISIONS

Object of  
file **114.** The statement indicating the object of a file on another person held by a person carrying on an enterprise on the date of coming into force of section 4 must be entered before the expiry of a period of one year from that date.

Coming into  
force **115.** The provisions of this Act will come into force on the date of coming into force of articles 35 to 41 and 1525 of the Civil Code of

Québec, except sections 5 to 9 and subparagraph 2 of the first paragraph of section 22, the second paragraph of section 23 and sections 24 to 26, which will come into force six months after that date.