

1990, chapter 57

**AN ACT TO AMEND THE ACT RESPECTING ACCESS
TO DOCUMENTS HELD BY PUBLIC BODIES AND THE
PROTECTION OF PERSONAL INFORMATION AND
OTHER LEGISLATION**

Bill 62

Introduced by Mr Lawrence Cannon, Minister of Communications

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Passage in principle 22 June 1990

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Assented to 14 December 1990

Coming into force: 14 December 1990

Acts amended:

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

Workmen's Compensation Act (R.S.Q., chapter A-3)

Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001)

Act respecting family assistance allowances (R.S.Q., chapter A-17)

Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5)

Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)

Act respecting income security (R.S.Q., chapter S-3.1.1)



CHAPTER 57

An Act to amend the Act respecting Access to documents held by public bodies and the Protection of personal information and other legislation

[Assented to 14 December 1990]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

c. A-2.1,
s. 4, am.

1. Section 4 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 by adding, at the end, the following paragraph:

Presumption

“For the purposes of this Act, a person appointed by the Government or a minister, together with the personnel he manages, is deemed, in respect of the exercise of the functions assigned to him by law, by the Government or by the Minister, to be a Government agency.”

c. A-2.1,
s. 5,
replaced
Municipal
bodies

2. Section 5 of the said Act is replaced by the following section:

“5. Municipal bodies include

(1) a municipality, and any body declared by law to be the mandatary or agent of a municipality, and any body whose board of directors is composed in the majority of members of the council of a municipality, as well as any body otherwise under municipal authority;

(2) an urban or regional community, an intermunicipal board, an intermunicipal transit corporation, an intermunicipal board of

transport, the Kativik Regional Government and any other body whose board of directors is composed in the majority of elected municipal officers, except a private body.”

c. A-2.1,
s. 7, am.

3. Section 7 of the said Act is amended by inserting the words “the private establishments referred to in the said Act which operate with sums of money taken out of the consolidated revenue fund,” after the comma in the third line and by striking out the words “the hospital centres that are private establishments under agreement within the meaning of this Act,” in the fifth and sixth lines.

c. A-2.1,
s. 10, am.

4. Section 10 of the said Act is amended by replacing the words “The right may also be exercised by obtaining” in the first line of the second paragraph by the words “The applicant may also obtain”.

c. A-2.1,
s. 13,
replaced
Right of
access

5. Section 13 of the said Act is replaced by the following section :

“13. The right of access to a document produced by or for a public body and having been published or distributed can only be exercised by examining the document on the premises during regular working hours or by procuring enough information to enable the applicant to examine or obtain the document where it is available.

Right of
access

Furthermore, the right of access to a document produced by or for a public body and that is to be distributed or published six months or less after the request for access shall be exercised by an applicant in one or more of the following ways :

(1) examining the document on the premises during regular working hours;

(2) procuring sufficient information to enable him to examine the document where it is available or to obtain it at the time of its publication or distribution;

(3) obtaining the document on loan, provided that that does not compromise its publication or distribution.”

c. A-2.1,
s. 17, am.

6. Section 17 of the said Act is amended by replacing the words “Minister of Communications” in the first line by the word “Commission” and by adding the words “and of the person in charge of the protection of personal information” after the word “documents” in the fourth line.

c. A-2.1,
s. 28, am.

7. Section 28 of the said Act is amended by adding, at the end, the following paragraph :

Information
obtained
through
internal
security
service

“The same applies to a public body that may be designated by regulation of the Government in accordance with the standards provided for therein, in respect of information obtained by the body through its internal security service in the course of an investigation conducted by such service held to prevent, detect or repress crime or statutory offences that may be or have been committed within that body by its members, the members of its board of directors or the members of its personnel, if the disclosure of such information would likely entail one of the consequences set out in subparagraphs 1 to 9 of the first paragraph.”

c. A-2.1,
s. 29.1,
replaced

8. Section 29.1 of the said Act is replaced by the following section:

Decisions

“29.1 Every decision rendered by a public body in the performance of its quasi-judicial functions is public.

Refusal

A public body must, however, refuse to release information contained in the decision where the decision prohibits the release of the information on the ground that it was obtained when the body was holding a sitting *in camera*, where the body issued, in respect of the information, an order not to disclose, publish or distribute, or where the release of the information would reveal information the release or the confirmation of the existence of which must be refused under this Act.”

c. A-2.1,
s. 44, am.

9. Section 44 of the said Act is amended by inserting the words “and identifying the document requested” after the word “request” in the first line.

c. A-2.1,
s. 52.1,
added

10. The said Act is amended by inserting, after section 52, the following section:

Keeping of
document

“52.1 The person in charge must see to it that every document that has been the subject of a request for access be kept for as long as is required to enable the applicant to exhaust the recourses provided in this Act.”

c. A-2.1,
s. 53,
replaced

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

Confiden-
tiality

“53. Nominative information is confidential, except in the following cases:

(1) where its disclosure is authorized by the person concerned by the information; in the case of a minor, the authorization may also be given by the person having parental authority;

(2) where it relates to information obtained in the performance of an adjudicative function by a public body performing quasi-judicial functions; the information remains confidential, however, if the body obtained it when holding a sitting *in camera* or if the information is contemplated by an order not to disclose, publish or distribute.”

c. A-2.1,
s. 57, am.

12. Section 57 of the said Act is amended

(1) by inserting the words “of the personnel” after the word “member” in the third line of subparagraph 2 of the first paragraph;

(2) by inserting the words “and address” after the word “name” in the first line of subparagraph 4 of the first paragraph;

(3) by adding, after subparagraph 4 of the first paragraph, the following subparagraph:

“(5) the name and business address of the holder of a permit issued by a public body and which is required by law to be held for the carrying on of an activity, the practice of a profession or the operation of a business.”

c. A-2.1,
s. 59, am.

13. Section 59 of the said Act is amended by adding, after subparagraph 8 of the second paragraph, the following subparagraph:

“(9) to a person involved in an incident that has been the subject of a report by a police force; in the case of information on the identity of any other person involved in the incident, except a witness, an informer or a person whose health or safety could be endangered by the release of such information.”

c. A-2.1,
s. 62,
replaced

14. Section 62 of the said Act is replaced by the following section:

Qualified
person

“**62.** Every person qualified to receive nominative information within a public body has access to nominative information without the consent of the person concerned where such information is necessary for the discharge of his duties.

Categories

Moreover, the person must belong to one of the categories of persons referred to in subparagraph 4 of the second paragraph of section 76 or in subparagraph 5 of the first paragraph of section 81.”

c. A-2.1,
s. 65, am.

15. Section 65 of the said Act is amended by inserting, after the first paragraph, the following paragraph:

Adoption
files

“Notwithstanding the foregoing, a person duly authorized by a public body which holds files respecting the adoption of persons and

collects information relating to the antecedents of a person referred to in any of such files or permitting to locate a parent or an adopted person is not required to inform the person concerned or the third person of the use to which the information will be put nor the categories of persons who will have access to it."

c. A-2.1,
s. 67.2, am.

16. Section 67.2 of the said Act is amended

(1) by striking out the words "administrative management" in the third and fourth lines;

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

Duties

"In that case, the public body shall

(1) entrust the duties by a mandate in writing;

(2) specify, in the mandate, which provisions of this Act apply to the information which has been released to the person or body and the measures to be taken by the person or body to ensure that the information is not used except for the carrying out of the mandate and that it is not kept by the person or body after the expiry of the mandate.

Exception

The second paragraph does not apply to the members of the professional corporations listed in Schedule I to the Professional Code (R.S.Q., chapter C-26) who are bound by professional secrecy."

c. A-2.1,
s. 67.3, am.

17. Section 67.3 of the said Act is amended

(1) by replacing the word and figure "and 67.2" in the fourth line of the first paragraph by the words and figures "67.2, 68 and 68.1, except the release of nominative information required by a person or body for charging, to the account of a member of a public body, or to a member of its board of directors or of its personnel, an amount required by law to be withheld or paid";

(2) by striking out paragraph 5.

c. A-2.1,
s. 70, am.

18. Section 70 of the said Act is amended

(1) by replacing the words "government approval" in the third line of the first paragraph by the words "the favourable opinion of the Commission";

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

Government approval “Should the Commission give an unfavourable opinion, the agreement may be submitted to the Government for approval; the agreement comes into force on the day of its approval.

Tabling The agreement, together with the opinion of the Commission and, where applicable, the approval of the Government shall be tabled in the National Assembly within thirty days of such opinion and approval if the Assembly is sitting or, if it is not sitting, within thirty days of the opening of the next session, or of resumption.

Publication The agreement must, in addition, be published in the *Gazette officielle du Québec* within thirty days of its tabling in the National Assembly.”

c. A-2.1,
ss. 74, 75,
repealed **19.** Sections 74 and 75 of the said Act are repealed.

c. A-2.1,
s. 76, am. **20.** Section 76 of the said Act is amended by replacing the words “, the method by which the file is maintained and, where such is the case, the identification of the computer programs used” in the second and third lines of subparagraph 1 of the second paragraph by the words “and the method by which the file is maintained”.

c. A-2.1,
s. 83, am. **21.** Section 83 of the said Act is amended by striking out the third paragraph.

c. A-2.1,
s. 84, am. **22.** Section 84 of the said Act is amended by replacing the word “or” in the third line of the first paragraph by the word “and” and by striking out the words “, at his option” in the third and fourth lines of the same paragraph.

c. A-2.1,
s. 86.1,
added **23.** The said Act is amended by inserting, after section 86, the following section:

Refusal **“86.1** A public body may refuse to release to a person nominative information concerning him where such information is contained in an opinion or recommendation given by one of its members or a member of its personnel, or a member of another public body or a member of its personnel, in the performance of his duties, or given at the request of the body by a consultant or adviser on a matter within his competence and where the body has not rendered its final decision on the matter which is the subject of the opinion or recommendation.”

c. A-2.1,
s. 87, am. **24.** Section 87 of the said Act is amended by inserting, at the beginning, the words “Except in the case provided for in section 86.1,”.

c. A-2.1,
s. 96, am. **25.** Section 96 of the said Act is amended by inserting the words “and identifying the information requested” after the word “request” in the first line.

c. A-2.1,
s. 99,
repealed **26.** Section 99 of the said Act is repealed.

c. A-2.1,
s. 102.1,
added **27.** The said Act is amended by inserting, after section 102, the following section:

Keeping of
information **“102.1** The person in charge must see to it that any information that has been the subject of a request for access be kept for as long as is required to enable the applicant to exhaust the recourses provided in this Act.”

c. A-2.1,
s. 124, am. **28.** Section 124 of the said Act is amended by striking out the words “, the persons who are exempted from registering pursuant to paragraph 3 of section 75,” in the second and third lines of paragraph 4.

c. A-2.1,
s. 126, am. **29.** Section 126 of the said Act is amended by adding, after the second paragraph, the following paragraph:

Powers **“A member of the Commission may, in the name of the Commission, exercise by himself the powers conferred on the Commission by this section.”**

c. A-2.1,
s. 132,
replaced **30.** Section 132 of the said Act is replaced by the following section:

Index
published **“132.** The Commission must, at least every two years, publish and distribute in all regions of Québec an index of all the personal information files held by public bodies.”

c. A-2.1,
s. 144, am. **31.** Section 144 of the said Act is amended

(1) by striking out the words “, unless an appeal is brought under section 147” in the third line of the first paragraph;

(2) by adding, after the second paragraph, the following paragraphs:

Certified
copy **“From the time a decision becomes executory, a certified copy thereof may be filed by the Commission or a party in the office of the prothonotary of the Superior Court of the district of Montréal or Québec or of the district where the head office, place of business or residence of a party is situated.**

Filing of
decision

The filing of a decision grants thereupon to the decision the force and effect of a judgment of the Superior Court.”

c. A-2.1,
s. 147, am.

32. Section 147 of the said Act is amended by replacing the words “three judges” in the second line of the first paragraph by the words “a judge”.

c. A-2.1,
s. 148, am.

33. Section 148 of the said Act is amended by replacing the words “one or more judges” in the first and second lines by the words “a judge”.

c. A-2.1,
s. 149, am.

34. Section 149 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

Motion for
leave to
appeal

“**149.** 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, must be filed in the office of the Court of Québec, at Montréal or at Québec, within thirty days after the date of receipt of the decision of the Commission by the parties.”;

(2) by adding, after the second paragraph, the following paragraph:

Decision
authorizing
appeal

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

c. A-2.1,
s. 149.1,
added

35. The said Act is amended by inserting, after section 149, the following section:

Motion for
leave to
appeal

“**149.1** 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 154 is rendered, except in the case of an appeal from a decision ordering a public body to abstain from doing something.”

c. A-2.1,
s. 151, am.

36. Section 151 of the said Act is amended by replacing the words “and every other relevant document,” in the second line of the second paragraph by the words “the documents related to the contestation and the decision authorizing the appeal”.

c. A-2.1,
s. 152, am.

37. Section 152 of the said Act is amended by replacing the second sentence by the following sentence: “The parties are not required, however, to file a statement of their claims.”

c. A-2.1,
s. 154, am.

38. Section 154 of the said Act is amended by replacing the words “three judges” in the first line by the word “judge”.

c. A-2.1,
s. 155, am. **39.** Section 155 of the said Act is amended by inserting, after subparagraph 6 of the first paragraph, the following subparagraph:

“(7) designating, according to the standards provided for in the regulation and for the purposes of the second paragraph of section 28, the public bodies that must refuse to release or to confirm the existence of information obtained through their internal security service.”

WORKMEN'S COMPENSATION ACT

c. A-3,
s. 34.1, am. **40.** Section 34.1 of the Workmen's Compensation Act (R.S.Q., chapter A-3) is amended by striking out the second paragraph.

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

c. A-3.001,
s. 42, am. **41.** Section 42 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by striking out the second paragraph.

ACT RESPECTING FAMILY ASSISTANCE ALLOWANCES

c. A-17,
s. 22, am. **42.** Section 22 of the Act respecting family assistance allowances (R.S.Q., chapter A-17), as amended by section 1 of chapter 4 of the statutes of 1989, is amended by striking out the words “, with the authorization of the Government and,” in the first line of the third paragraph.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE DU QUÉBEC

c. R-5,
s. 22.1, am. **43.** Section 22.1 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) is amended by striking out the second paragraph.

ACT RESPECTING THE QUÉBEC PENSION PLAN

c. R-9,
s. 214, am. **44.** Section 214 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing the words “with the authorization of the Government and on such conditions as it may determine” in the first and second lines by the words “in accordance with the terms and conditions provided for in the Act respecting Access to documents held by public bodies and the Protection of personal information”.

ACT RESPECTING INCOME SECURITY

c. S-3.1.1,
s. 25, am.

45. Section 25 of the Act respecting income security (R.S.Q., chapter S-3.1.1) is amended by adding, at the end of the first paragraph, the following sentence: "Notwithstanding subparagraph 4 of the first paragraph of section 57 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the name and address of a person who is granted such benefits is not public information."

Coming into
force

46. This Act comes into force on 14 December 1990.