

1982, chapter 30

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

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**Bill No. 65**

Introduced by Mr Jean-François Bertrand, Minister of Communications

First reading: 6 May 1982

Second reading: 19 May 1982

Third reading: 22 June 1982

**Assented to: 23 June 1982**

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**Coming into force: 1 October 1982, except sections 9 to 102, 122 to 130, 132 to 173 and 175 to 178, which will come into force on the dates fixed by proclamation of the Government**

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**Act amended:**

Executive Power Act (R.S.Q., chapter E-18)



## CHAPTER 30

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

*[Assented to 23 June 1982]*

HER MAJESTY, with the advice and consent of the National  
Assembly of Québec, enacts as follows:

### CHAPTER I

#### APPLICATION AND INTERPRETATION

Docu-  
ments.

**1.** This Act applies to documents kept by a public body in the exercise of its duties, whether it keeps them itself or through the agency of a third party.

Docu-  
ments.

This Act applies whether the documents are recorded in writing or print, on sound tape or film, in computerized form, or otherwise.

Exception.

**2.** This Act does not apply to

- (1) acts and registers of civil status;
- (2) the documents registered in a registry office or the registers, lists, indexes or any other books kept there;
- (3) the central register of matrimonial regimes or the notices registered therein.

Public  
bodies.

**3.** The Government, the Conseil exécutif, the Conseil du Trésor, the government departments and agencies, municipal and school bodies and the health services and social services establishments are public bodies.

Public  
bodies.

For the purposes of this Act, the Lieutenant-Governor, the National Assembly of Québec, agencies whose members are appointed by the Assembly and every person designated by the

Assembly to an office under its jurisdiction, together with the personnel under its supervision, are classed as public bodies.

Exception. The courts within the meaning of the Courts of Justice Act (R.S.Q., chapter T-16) are not public bodies.

Government agencies.

**4.** Government agencies include agencies not contemplated in sections 5 to 7 to which the Government or a minister appoints the majority of the members, to which, by law, the personnel are appointed and remunerated in accordance with the Civil Service Act (R.S.Q., chapter F-3.1), or whose capital stock forms part of the public domain.

Municipal bodies.

**5.** Municipal bodies include

(1) the Communauté urbaine de Montréal, the Communauté urbaine de Québec, the Communauté régionale de l'Outaouais, agencies established pursuant to the constituting Acts of these communities, the Commission de transport de la Ville de Laval and the Commission de transport de la Rive sud de Montréal, the Conseil métropolitain du Haut-Saguenay and the Kativik Regional Government;

(2) municipalities, whether incorporated under a general law or a special Act, including county municipalities and regional county municipalities, and every organization established as an agent of any such municipality or otherwise under its jurisdiction.

School bodies.

**6.** School bodies include regional school boards, school boards and corporations of school trustees governed by the Education Act (R.S.Q., chapter I-14), the Conseil scolaire de l'île de Montréal, general and vocational colleges, the Université du Québec and its branches, research institutes and schools of higher education.

School bodies.

They also include institutions declared to be of public interest or recognized for purposes of grants under the Act respecting private education (R.S.Q., chapter E-9), the schools governed by the Specialized Schools Act (R.S.Q., chapter E-10), and institutions of higher education more than one-half of whose operating expenses are paid out of the appropriations entered in the budget estimates tabled in the National Assembly of Québec.

Health and Social Services establishments.

**7.** Health services and social services establishments include the public establishments referred to in sections 10 and 11 of the Act respecting health services and social services (R.S.Q., chapter S-5), the regional health services and social services councils established pursuant to the said Act, the hospital centres that are private establishments under agreement within the meaning of this Act, and the Corporation d'hébergement du Québec.

Person in  
charge.

**8.** The person exercising the highest authority in a public body shall perform the duties conferred by this Act on the person in charge of access to documents or of protection of personal information.

Delega-  
tion.

However, that person may designate another member of the public body or of its board of directors, as the case may be, or another member of its management staff as the person in charge, and delegate all or part of his duties to him.

Notice.

The delegation must be made in writing, and given public notice by the delegator.

## CHAPTER II

### ACCESS TO DOCUMENTS HELD BY PUBLIC BODIES

#### DIVISION I

##### RIGHT OF ACCESS

Right.

**9.** Every person has a right of access, on request, to the documents held by a public body.

Restric-  
tion.

The right does not extend to personal notes written on a document or to sketches, outlines, drafts, preliminary notes or other documents of the same nature.

Examina-  
tion.

**10.** The right of access to a document may be exercised by examining it on the premises during regular working hours.

Copy.

The right may also be exercised by obtaining a copy of the document, unless reproducing it would endanger its preservation or raise serious practical difficulties owing to its form.

Transcript.

At the request of the applicant, computerized documents must be communicated in the form of a written and intelligible transcript.

Gratuity.

**11.** Access to a document is free of charge.

Fee.

However, a fee not greater than the cost of transcription, reproduction or transmission of the document may be charged to the applicant.

Regula-  
tion.

The amount and the terms and conditions of payment of the fee are prescribed by government regulation, which may prescribe cases where persons are exempt from payment.

Restric-  
tion.

**12.** The exercise of the right of access to a document is subject to the rights respecting intellectual property.

Published  
document.

**13.** Notwithstanding sections 10 and 11, the right of access to a document produced by or for a public body and subsequently published may be exercised by procuring enough information to enable the applicant to obtain or examine the document where it is available.

Prohibition.

**14.** No public body may deny access to a document for the sole reason that it contains certain information that, according to this Act, it must or may refuse to release.

Restricted  
information.

Where a request pertains to a document containing such information, the public body may deny access thereto where the information forms the substance of the document. In other cases, the public body must give access to the requested document after deleting only the information to which access is not authorized.

Restriction.

**15.** The right of access applies only to documents that can be released without requiring computation or comparison of information.

List.

**16.** A public body must classify its documents in such a manner as to allow their retrieval. It must set up and keep up to date a list setting forth the order of classification of the documents. It must be sufficiently precise to facilitate the exercise of the right of access.

Examination.

The right of access to the list shall not be exercised except by examining it on the premises during regular working hours.

Index.

**17.** The Minister of Communications must publish and distribute yearly in every region of Québec an index giving, for each public body, the title, address and telephone number of the person in charge of access to documents.

## DIVISION II

### RESTRICTIONS TO THE RIGHT OF ACCESS

#### § 1. — *Information affecting intergovernmental relations*

Received  
information.

**18.** The Government or one of its departments may refuse to release information received from a government other than that of Québec, an agency of such a government or an international organization.

Received  
information.

Similarly, the Lieutenant-Governor, the Conseil exécutif and the Conseil du trésor may refuse to release the information described.

Relations.

**19.** A public body may refuse to release information if its disclosure would likely be detrimental to relations between the Gouvernement du Québec and another government or an international organization.

§ 2. — *Information affecting negotiations  
between public bodies*

Negotia-  
tions.

**20.** A public body may refuse to release information if its disclosure would likely hamper negotiations in progress with another public body in a field within their competence.

§ 3. — *Information affecting the economy*

Financial  
operations.

**21.** A public body may refuse to release or to confirm the existence of information if, as a result of its disclosure, borrowings, proposed borrowings, transactions or proposed transactions relating to property, services or works, a proposed tariffing, taxation or imposition of dues, or proposed amendments to taxes or dues would be revealed, where such disclosure would likely

(1) unduly benefit or seriously harm a person, or

(2) have a serious adverse effect on the economic interests of the public body or group of persons under its jurisdiction.

Industrial  
secret.

**22.** A public body may refuse to release an industrial secret that it owns.

Financial  
or technical  
informa-  
tion.

It may also refuse to release other industrial, financial, commercial, scientific or technical information that it owns if its disclosure would likely hamper negotiations in view of a contract, or result in losses for the body or in considerable profit for another person.

Manage-  
ment.

A public body established for industrial, commercial or financial management purposes may also refuse to release such information if its disclosure would likely substantially reduce its competitive margin.

Third  
person.

**23.** No public body may release industrial secrets of a third person or confidential industrial, financial, commercial, scientific, technical or union information supplied by a third person and ordinarily treated by a third person as confidential, without his consent.

Third  
person.

**24.** No public body may release information supplied by a third person if its disclosure would likely hamper negotiations in view of a contract, result in losses for the third person or in considerable profit for another person or substantially reduce the third person's competitive margin, without his consent.

Prior  
notice.

**25.** A public body, before releasing industrial, financial, commercial, scientific, technical or union information supplied by a third person, must give him notice, in accordance with section 49, of the release to enable him to submit his observations unless the information was supplied in carrying out an Act requiring that the information be accessible to the applicant, or unless the third person has waived the notice by consenting to the release of the information or otherwise.

Health  
hazard.

**26.** No public body may refuse to release information referred to in sections 22, 23 and 24 if the information reveals or confirms the existence of an immediate hazard to the health or safety of persons or a serious or irreparable impediment to their right to a healthy environment.

Shorter  
procedure.

In such a case, the public body may, notwithstanding section 49, render its decision upon giving the third person the notice required in section 25.

Contractual  
negotiations.

**27.** If, as the likely result of the disclosure of information, a mandate or a strategy concerning the negotiation of a collective agreement or a contract would be revealed, a public body may refuse to release the information, for a period of eight years from the opening of the negotiations.

Taxation  
study.

A public body may also refuse to release, for a period of ten years from its date, a study prepared for the purposes of taxation, tariffing or the imposition of dues.

§ 4. — *Information affecting the administration of justice  
and public security*

Person  
responsible  
for crime  
prevention.

**28.** A public body must refuse to release or to confirm the existence of information received by a person responsible under the law for the prevention, detection or repression of crime or statutory offences, if its disclosure would likely

(1) impede the progress of proceedings before a person or body carrying on judicial or quasi-judicial functions;

(2) hamper an investigation;

(3) reveal a method of investigation, a confidential source of information, or a program or plan of action designed to prevent, detect or repress crime or statutory offences;

(4) endanger the safety of a person;

(5) cause prejudice to the person who is the source or the subject of the information;

(6) reveal the components of a communications system intended for the use of a person responsible for law enforcement;

(7) reveal information transmitted in confidence by a police force having jurisdiction outside Québec;

(8) facilitate the escape of a prisoner; or

(9) prejudice the fair hearing of a person's case.

Method or  
weapon.

**29.** A public body must refuse to disclose information concerning a method or a weapon that is likely to be used to commit a crime or a statutory offence.

Security  
system.

A public body must also refuse to release information if, as a result of its disclosure, the efficiency of a security system designed for the protection of persons or property would be impaired.

#### § 5. — *Information affecting administrative or political decisions*

Conseil ex-  
écutif.

**30.** The Conseil exécutif may refuse to disclose or to confirm the existence of a decision resulting from its deliberations, or of an order the publication of which is deferred under section 11.1 of the Executive Power Act (R.S.Q., chapter E-18).

Conseil du  
trésor.

Similarly, the Conseil du trésor may, subject to the Financial Administration Act (R.S.Q., chapter A-6), refuse to disclose or to confirm the existence of its decisions.

Legal opin-  
ion or  
draft bill.

**31.** A public body may refuse to disclose a legal opinion concerning the application of the law to a particular case, or the constitutionality or validity of legislative or regulatory provisions, or a preliminary or final draft of a bill or regulations.

Judicial  
proceed-  
ings.

**32.** A public body may refuse to disclose a study if its disclosure might well affect the outcome of judicial proceedings.

Internal  
executive  
matters.

**33.** In no case may the following information be released before the expiry of twenty-five years from its date:

(1) communications from the Conseil exécutif to one of its members, the Conseil du trésor or a cabinet committee, unless the Conseil exécutif decides otherwise;

(2) communications from a member of the Conseil exécutif to another member of the Conseil, unless the author decides otherwise;

(3) recommendations from the Conseil du trésor or a cabinet committee to the Conseil exécutif, unless the author or the person receiving them decides otherwise;

(4) recommendations from a member of the Conseil exécutif to the Conseil exécutif, to the Conseil du trésor or to a cabinet committee, unless the author or the person receiving them decides otherwise;

(5) studies made within the Ministère du Conseil exécutif or the office of the secretary of the Conseil du trésor regarding a recommendation or request made by a minister, a cabinet committee or a public body, or regarding a document contemplated in section 36;

(6) records or reports of the deliberations of the Conseil exécutif or a cabinet committee;

(7) a list of titles of documents containing recommendations to the Conseil exécutif or the Conseil du trésor;

(8) the agenda of a meeting of the Conseil du trésor or of a cabinet committee.

Municipal  
body.

The first paragraph applies *mutatis mutandis* to the records of the deliberations of the executive committee of a municipal body, to the recommendations made to it by its members, and to communications among its members.

M.N.A.

**34.** No person may have access to a document from the office of a member of the National Assembly of Québec or a document produced for that member by the services of the Assembly, unless the member deems it expedient.

President  
of the  
National  
Assembly.

The same applies to a document from the office of the President of the Assembly or of a member of the Assembly contemplated in section 117 of the Civil Service Act, and to a document from the office staff or office of a member of a municipal or school body.

Delibera-  
tions.

**35.** A public body may refuse to disclose the records of the deliberations of a meeting of its board of directors or, as the case may be, of its members in the performance of their duties until the expiry of fifteen years from their date.

Draft bill.

**36.** A public body may refuse to release a preliminary draft of a bill or regulations until the expiry of ten years from its date.

Related  
study.

Subject to subparagraph 5 of the first paragraph of section 33, the same applies to studies directly relating to the draft bill or draft regulation, unless the draft bill has been tabled in the National Assembly of Québec or the draft regulation has been made public in accordance with the law.

Civil servant.

**37.** A public body may refuse to disclose a recommendation or opinion presented less than ten years earlier, and obtained from one of its members, a member of its personnel, a member of another public body or a member of the personnel of the other public body, in the discharge of his duties.

Consultant.

A public body may also refuse to disclose a recommendation or opinion presented, at its request, by a consultant or an adviser less than ten years earlier on a matter within its jurisdiction.

Agency.

**38.** A public body may refuse to disclose a recommendation or opinion made by an agency under its jurisdiction or made by it to another public body until the final decision on the subject matter of the recommendation or opinion is made public by the authority having jurisdiction.

Agency.

The same applies to a minister regarding a recommendation or opinion made to him by an agency under his authority.

Related study.

**39.** A public body may refuse to disclose a study prepared in connection with a recommendation made within a decision making process until a decision is made on the recommendation or, if no decision is made, until five years have elapsed from the date the study was made.

Aptitude test.

**40.** A public body may refuse to disclose a test intended for the comparative appraisal of a person's knowledge, aptitudes or experience, until the test is no longer used.

#### § 6. — *Information affecting auditing*

Auditor.

**41.** The Auditor General or a person carrying out an auditing function in or for a public body may refuse to release or to confirm the existence of information the disclosure of which would be likely to

- (1) hamper an audit in progress;
- (2) reveal an auditing program or operation plan;
- (3) reveal a confidential source of information regarding an audit; or,
- (4) seriously impair the power of appraisal granted to the Auditor-General pursuant to section 78 of the Financial Administration Act.

## DIVISION III

## ACCESS PROCEDURE

Precision. **42.** To be receivable, a request for access to a document must be sufficiently precise to allow the document to be located.

Form. **43.** A request for access may be made in writing or orally.

Addressee. The request must be addressed to the person in charge of access to documents within the public body.

Person in charge. If the written request is addressed to the person exercising the highest authority within the public body, he must transmit it with diligence to the person in charge designated by him under section 8, where such is the case.

Assistance. **44.** The person in charge must lend assistance in drafting a request to any applicant who requires it.

Review. **45.** The person in charge must inform the person who makes an oral request that he may make a written request and that only a decision on a written request may be reviewed under this Act.

Receipt. **46.** The person in charge must give the person making a written request notice of the date his request is received.

Form and content. The notice must be in writing. It must indicate the prescribed time for the processing of the request and the effect under this Act of failure by the person in charge to respect it. It must also inform the applicant of the recourses provided by Chapter V.

Response. **47.** The person in charge must, promptly and not later than twenty days from the date the request was received,

(1) grant access to the document, which may then be accompanied with information on the circumstances in which it was produced;

(2) inform the applicant of the special conditions, if any, to which access is subject;

(3) inform the applicant that the agency is not in possession of the requested document or that full or partial access to the document cannot be granted to him;

(4) inform the applicant that his request should more appropriately be transferred to another public body or that it concerns a document filed by or for another public body;

(5) inform the applicant that the existence of the requested information cannot be confirmed; or,

(6) inform the applicant that the document concerned is a document to which Chapter II of this Act does not apply by virtue of the second paragraph of section 9.

Extension. If the request cannot be processed within the time limit provided in the first paragraph without impeding the normal course of operations of the public body, the person in charge may, before the expiry of the time, extend it by not over ten days. He must then give  
Notice. notice thereof by mail to the applicant within the time limit provided in the first paragraph.

Transfer to appropriate body. **48.** Where a request referred to the person in charge should, in his opinion, more appropriately be transferred to another public body or concerns a document filed by or for another public body, the person in charge must, within the time limit provided in the first paragraph of section 47, indicate to the applicant the competent body and the name of the person in charge of access to documents in that body, and give him the particulars provided for in section 45 or in the second paragraph of section 46, as the case may be.

Writing. Where the request is made in writing, the indications must be communicated in writing.

Third person. **49.** Where the person in charge must give the third person the notice required in section 25, he must do so by mail within twenty days from the date the request was received and provide him with an opportunity to submit written observations. He must also inform the applicant of the notice and indicate to him the time limits provided in this section.

Observations. The third person concerned may submit his observations within twenty days of being informed of the intention of the person  
Presumption. in charge. If he fails to do so within the time limit, he is deemed to have consented to granting access to the document.

Decision. The person in charge must give notice of his decision by mail to the applicant and the third person concerned within fifteen days of presentation of the observations, or of expiry of the period prescribed for presentation. Where the decision grants access to the documents, it is executory on the expiry of fifteen days from the date the notice was mailed.

Substantiation. **50.** The person in charge must give the reasons for any refusal to disclose information, and indicate the provision of the Act on which the denial is based.

Writing.

**51.** Where the request is in writing, the decision is made in writing by the person in charge, and a copy thereof is sent to the applicant, and, if such is the case, to the third person who submitted observations in accordance with section 49.

Review  
and  
appeal.

The decision must be accompanied with a notice indicating the recourses provided in Chapter V and specially indicating the time limits in which they may be exercised.

Presumed  
denial.

**52.** On failure to give effect to a request for access within the applicable time limit, the person in charge is deemed to have denied access to the document. In the case of a written request, the failure gives rise to review proceedings as provided for in Division I of Chapter V, as in the case of a denial of access.

## CHAPTER III

### PROTECTION OF PERSONAL INFORMATION

#### DIVISION I

##### CONFIDENTIALITY OF NOMINATIVE INFORMATION

Confiden-  
tial.

**53.** Nominative information is confidential unless the person the information concerns authorizes its disclosure.

Minor.

In the case of a minor, the person having parental authority also may authorize the disclosure.

Identifying  
informa-  
tion.

**54.** In any document, information concerning a natural person which allows the person to be identified is nominative information.

Exception.

**55.** Personal information which, by law, is public is not nominative information.

Name of a  
natural  
person.

**56.** The name of a natural person is not nominative information, except where it appears in conjunction with other information concerning him, or where the mere mention of his name would disclose nominative information concerning him.

Public in-  
formation.

**57.** The following is public information:

(1) the name, title, duties, classification, salary, address and telephone number at work of a member of a public body or of the board of directors of a public body;

(2) the name, title, duties, address and telephone number at work of a member of the personnel of a public body;

(3) information concerning a person as a party to a service contract entered into with a public body, and the terms and conditions of the contract;

(4) the name of a person deriving an economic benefit granted by a public body by virtue of a discretionary power, and any information on the nature of that benefit.

Exception. However, the information contemplated in the first paragraph is not public information where its disclosure would be likely to hinder or impede the work of a person responsible under the law for the prevention, detection or repression of crime.

Signature. **58.** The sole fact that a signature is affixed at the bottom of a document does not make the information shown therein nominative.

Prohibition.  
Exceptions. **59.** In no case may nominative information be released by a public body, without the consent of the person concerned, except in the following cases and strictly on the following conditions:

(1) to the attorney of that body if the information is required for the purposes of a prosecution for an offence against an Act administered by that body or to the Attorney General, if the information is required for the purposes of a prosecution for an offence against an Act applicable in Québec;

(2) to the attorney of that body, or to the Attorney General where he is acting as the attorney of that body, if the information is required for purposes of judicial proceedings other than those contemplated in paragraph 1;

(3) to a person responsible by law for the prevention, detection or repression of crime or statutory offences, if the information is required for the purposes of a prosecution for an offence against an Act applicable in Québec;

(4) to a person to whom the information must be disclosed because of the urgency of a situation that threatens the life, health or safety of the person concerned;

(5) to a person authorized by the Commission d'accès à l'information, in accordance with section 125, to use the information for study, research or statistics purposes;

(6) to the Archives nationales, according to law;

(7) to the Bureau de la statistique du Québec, according to law;

(8) to a body or agency, in accordance with sections 61, 67 and 68.

Prior  
ascertain-  
ment.

**60.** Before agreeing to the release of nominative information pursuant to paragraphs 1 to 3 of section 59, a public body must ascertain that the information is required for the purposes of a prosecution or proceedings contemplated in the said paragraphs.

Prior  
ascertain-  
ment.

In the case contemplated in paragraph 4 of the said section, the body must, similarly, ascertain that an urgent and dangerous situation exists.

Refusal.

Where a public body has not ascertained that the information is required for such purposes or, where such is the case, that an urgent and dangerous situation exists, the public body must refuse to release the information.

Record of  
request.

Where a public body agrees to release nominative information following a request made pursuant to paragraphs 1 to 4 of section 59, the person in charge of the protection of personal information within the public body must record the request.

Police  
force.

**61.** A police force may, without the consent of the person concerned, release nominative information to another police force.

Qualified  
persons.

**62.** Every person qualified to receive nominative information within a public body who belongs to a category of persons referred to in the declaration contemplated in section 76 or in the order made pursuant to section 80, has, on the conditions prescribed by the Commission, or as the case may be, provided in the order, access to such information without the consent of the person concerned.

List of  
names.

**63.** Subject to section 68, a public body must refuse to release a list of names of natural persons or information allowing them to be identified, except where such release is required by law.

## DIVISION II

### COLLECTION, KEEPING AND USE OF NOMINATIVE INFORMATION

Unneces-  
sary in-  
formation.

**64.** No person may, on behalf of a public body, collect nominative information if it is not necessary for the carrying out of the attributions of the body or the implementation of a program under its management.

Prior iden-  
tification  
and in-  
formation.

**65.** Every person who, on behalf of a public body, collects nominative information from the person concerned or from a third person must first identify himself and inform him

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

(2) of the use to which the information will be put;

(3) of the categories of persons who will have access to the information;

(4) of the fact that a reply is obligatory, or that it is optional;

(5) of the consequences for the person concerned or, as the case may be, for the third person, in case of a refusal to reply;

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

Regulation.

The rules according to which nominative information is to be collected are prescribed by government regulation.

Exception.

This section does not apply to judicial inquiries or to any investigation or report made by a person responsible by law for the prevention, detection or repression of crime or statutory offences.

Prior information.

**66.** Before obtaining from any person or private body nominative information that has already been assembled concerning one or several persons, public bodies must inform the Commission thereof.

Written agreement.

**67.** Where the law, otherwise than in the cases contemplated in sections 59 and 61 of this Act, authorizes a public body to release nominative information to another public body without the consent of the person concerned, the release must be made under the terms of a written agreement between the bodies.

Opinion of Commission.

Where nominative information, the release of which is thus authorized, is required for the carrying out of an Act, a public body may, if there is no agreement, apply to the Commission for its opinion on the content of the proposed agreement.

Opinion of Commission.

After giving the other public body an opportunity to submit its observations, the Commission shall give its own opinion to the bodies concerned.

Binding order.

If, after considering the opinion, the proposed agreement is not accepted, the Commission may, at the request of one of the bodies concerned, determine the content of the agreement and submit it to the Government for approval. The order binds the public bodies concerned and constitutes an agreement for the purposes of this Act.

Disclosure agreement.

**68.** A public body may make an agreement with another public body or in accordance with the law, with a government other than that of Québec, an international organization or an agency of such a government or organization, to allow the disclosure of nominative information for the carrying out of an Act or for an investigation.

Disclosure  
agreement.

A public body may also make an agreement with a person or a private body to allow the release of a list of names of natural persons or information allowing them to be identified.

Confiden-  
tiality.

**69.** Every agreement under section 67 or 68 must provide for the necessary measures to ensure the confidentiality of the nominative information contemplated in the agreement.

Opinion of  
Commis-  
sion.

**70.** Every agreement under section 67 or 68 must be submitted to the Commission for an opinion. The agreement comes into force on government approval.

Tabling.

The agreement and the Commission's opinion are tabled in the National Assembly of Québec within fifteen days of its approval, if the Assembly is in session, or, if it is not sitting, within fifteen days after the opening of the next session, or of resumption.

Revoca-  
tion.

The Government may, after obtaining the opinion of the Commission, revoke the agreement at any time.

### DIVISION III

#### ESTABLISHMENT AND MAINTENANCE OF FILES

##### § 1. — *Personal information files*

All  
nominative  
informa-  
tion.

**71.** Every public body shall file, in a personal information file established in accordance with this subdivision, all nominative information

(1) that is identified or presented in such a manner as to be retrievable by reference to the name of a person or to a sign or symbol identifiable with that person, or

(2) that has been or is intended to be used by it in making a decision concerning a person.

Accuracy.

**72.** Every public body must see to it that the nominative information kept by it is up to date, accurate and complete so as to serve the purposes for which it is collected.

Destruc-  
tion.

**73.** When the object for which nominative information was collected has been achieved, the public body shall destroy the document, subject to Division V of the Act respecting the Ministère des Affaires culturelles (R.S.Q., chapter M-20) and after consultation with the Minister of Cultural Affairs.

**Record.** **74.** Every examination of a personal information file must be recorded.

**Content.** The record must indicate the name of the person concerned in the information being sought, the name and function of the person examining the file, and, as the case may be, of the person having made the request, and the purpose for which it is examined. The public body must keep the record for at least two years.

**Exception.** **75.** No person who, in the discharge of his duties, has access to nominative information is bound to register

(1) to effect the payment of any benefit, wage or salary to a person entitled to it under an Act, a regulation or a program or as an employee of a public body;

(2) to collect or use data for statistics purposes with a view to preparing, carrying out or assessing an Act, a regulation or a program;

(3) to consult the file on a regular basis, if he is exempted by the Commission from the obligation to register.

**Declaration.** **76.** The establishment of a file must be the subject of a declaration to the Commission.

**Content.** The declaration must contain the following indications:

(1) the title of the file, the kind of information it contains, the use to which the information is to be put, the method by which the file is maintained and, where such is the case, the identification of the computer programs used;

(2) the source of the information entered in the file;

(3) the categories of persons concerned in the information entered in the file;

(4) the categories of persons who have access to the file in carrying on their duties;

(5) the security measures taken within the public body to ensure the confidentiality of the nominative information and its use according to the purposes for which it was collected;

(6) the title, address and telephone number of the person in charge of protection of personal information;

(7) the modalities of access to the file of the person concerned;

(8) any other indication prescribed by government regulation.

**Rules.** The declaration must be made in accordance with the rules established by the Commission.

- Change. **77.** Every public body must notify the Commission of every change that renders the declaration provided for in section 76 inaccurate or incomplete.
- Natural person. **78.** Sections 64 to 77 do not apply to the processing of nominative information collected and used as a working tool by a natural person, to the extent that the information is not disclosed to any person other than the person concerned or to a body other than that to which he belongs, and that it is used judiciously.
- Research. The same rule applies to the processing of nominative information collected by a natural person and which is used by him for scientific research purposes.
- Public body. The public body is subject to the said sections from the time the person contemplated in the first or second paragraph discloses to the public body nominative information that he has collected or which was obtained through processing.
- Archives. **79.** Sections 64 to 77 do not apply to documents filed in the Archives nationales in accordance with the Act respecting the Ministère des Affaires culturelles.
- Statistics. Sections 64 to 67 and 71 to 77 do not apply to documents filed with the Bureau de la statistique du Québec in accordance with the Act respecting the Bureau de la statistique (R.S.Q., chapter B-8).

## § 2. — *Confidential file*

- Authorization order. **80.** The Government may by order authorize a public body to establish a confidential file.
- Interpretation. A confidential file is a file consisting mainly of nominative information intended for the use of a person who, under the law, is responsible for the prevention, detection or repression of crime or statutory offences.
- Content of order. **81.** The order must indicate the conditions to which the contemplated body must conform, and, in particular,
- (1) the kind of information that may be collected and the purposes for which it may be kept;
  - (2) the use to which the file may be put;
  - (3) the security measures that must be taken to ensure the confidentiality of nominative information;
  - (4) the conditions regarding the preservation and the destruction of nominative information;

(5) the categories of persons who have access to nominative information in the discharge of their duties, and where such is the case, the special restrictions and conditions of access;

(6) the special conditions to which the maintenance and examination of the file may be subject, where such is the case.

Conditions. Furthermore, the conditions may concern a category of information, documents or files.

Opinion of Commission. **82.** Before making, amending or repealing an order contemplated in section 80, the Government must obtain the opinion of the Commission.

Tabling. The order authorizing the establishment of a confidential file or the order amending or repealing it and the opinion of the Commission must be tabled by the Minister of Justice in the National Assembly of Québec within fifteen days of the making of the order if the Assembly is in session or, if it is not sitting, within fifteen days after the opening of the next session or of resumption.

#### DIVISION IV

##### RIGHTS OF PERSONS CONCERNED BY NOMINATIVE INFORMATION

##### § 1. — *Right of access*

Right. **83.** Every person has the right to be informed of the existence of nominative information concerning him in a personal information file.

Right. Every person has the right to obtain any nominative information kept on him.

Right. Every person has the right to obtain the record of every examination of nominative information concerning him kept in a personal information file and, if such is the case, the list of the persons or categories of persons who are exempt from the obligation to register pursuant to section 75.

Examination. **84.** A public body shall release nominative information to the person entitled to receive it by allowing him to examine the document during regular working hours or to obtain a copy thereof, at his option.

Transcript. At the request of the applicant, nominative information that is kept in computerized form must be released in the form of a written and intelligible transcript.

Gratuity. **85.** A person has access free of charge to nominative information concerning him.

Fee.                However, the applicant may be charged a fee not greater than the cost for transcribing, reproducing and sending the information.

Regulation.        The amount and modalities of payment of the fee are prescribed by government regulation, which may prescribe the cases where a person may be exempt from payment of a fee.

### § 2. — *Restrictions to the right of access*

Refusal.            **86.** A public body may refuse to release or confirm the existence of nominative information to the person concerned if the information is filed in a confidential file.

Refusal.            **87.** A public body may refuse to release or to confirm the existence of nominative information to the person concerned, to such extent as its release would disclose information whose release may or must be denied pursuant to Division II of Chapter II.

Refusal.            **88.** Except in the case provided for in paragraph 4 of section 59, a public body must refuse to release nominative information to the person concerned if its release would likely disclose nominative information concerning another natural person or the existence of such information, unless the latter person gives written consent.

### § 3. — *Right of correction*

Request.            **89.** Every person who receives confirmation of the existence of nominative information concerning him on a file may request that the file be corrected if the information is inaccurate, incomplete or equivocal, or if the collection, release or keeping of the information is not authorized by law.

Contestation.        **90.** If a request for correction is contested, the public body must prove that the file does not need to be corrected, unless it obtained the information in question from the person concerned or with his consent.

Record.             **91.** Every person concerned may demand that the request be recorded if the public body denies the request in whole or in part.

Attestation.        **92.** Where a public body accepts a request for correction of a file, it shall issue to the applicant, free of charge, a copy of any amended or added nominative information or, as the case may be, an attestation of the deletion of nominative information.

Follow up. **93.** Every person who has requested the correction of a file may demand that the public body send a copy of the documents provided for in section 92 or, as the case may be, of the record contemplated in section 91, to the body from which it received the information or to every body to which the information may have been disclosed pursuant to an agreement under this Act.

§ 4. — *Access or correction procedure*

Request. **94.** A request for release or correction is not receivable unless it is made in writing by a natural person who proves that he is the person concerned or the representative, heir or successor of that person, or the person having parental authority.

Addressee. The request is addressed to the person in charge of protection of personal information within the public body.

Person in charge. If the request is addressed to the person exercising the highest authority within the public body, he must transmit it with diligence to the person in charge designated by him under section 8, where such is the case.

Precision. **95.** Where a request for release is made for nominative information that is not kept in a personal information file, the request, to be receivable, must contain sufficiently specific indications to allow the person in charge to retrieve the information.

Assistance. **96.** The person in charge must lend assistance in drafting a request to any natural person who requires it.

Receipt. **97.** The person in charge must give the applicant notice of the date his request is received.

Form and content. The notice must be in writing. It must indicate the prescribed time for the processing of the request, and the effect under this Act of failure by the person in charge to respect it. It must also inform the applicant of the recourses provided by Chapter V.

Response. **98.** The person in charge must give effect to a request for release or correction promptly, and not later than twenty days after receiving it.

Extension. If the person in charge believes the request cannot be processed within the time prescribed in the first paragraph without impeding the normal course of operations of the public body, he may, before the expiry of the time limit, extend the limit by not over ten days. He must then notify the applicant thereof by mail within

Notice. the time limit provided in the first paragraph.

Response.

**99.** The person in charge must promptly give effect to a request to release the record of examinations of a personal information file, and not later than thirty days from receiving it.

Substantiation.

**100.** The person in charge must give the reasons for any denial of a request and indicate the provision of the Act on which the denial is based.

Writing.

**101.** The person in charge must render his decision in writing and send a copy thereof to the applicant. It must be accompanied with a notice informing him of the recourses provided in Chapter V and specially indicating the time limit in which they may be exercised.

Presumed denial.

**102.** On failure to reply to a request within the applicable time limit, the person responsible is deemed to have denied the request, and the failure gives rise to review proceedings as provided for in Division I of Chapter V, as in the case of a denial of a request.

## CHAPTER IV

### COMMISSION D'ACCÈS À L'INFORMATION

#### DIVISION I

##### ESTABLISHMENT AND ORGANIZATION

Establishment.

**103.** The "Commission d'accès à l'information" is hereby established.

Members.

**104.** The Commission is composed of three members including a chairman.

Appointment.

The members are appointed, on a motion of the Prime Minister, by a resolution of the National Assembly of Québec approved by not less than two-thirds of its members.

Remuneration.

The Assembly shall determine, in the same manner, the remuneration, social benefits and other conditions of employment of the members of the Commission.

Full time.

The members of the Commission hold office on a full time basis.

Term.

**105.** The term of office of the members of the Commission is not over five years.

Limit.

In no case may the members of the Commission be appointed for more than two consecutive full terms.

Con-  
tinuance.

On the expiry of their terms, however, the members remain in office until they are reappointed or replaced.

Oath.

**106.** Before entering into office, the members of the Commission must make the oath or solemn affirmation provided in Schedule B, before the President of the National Assembly of Québec.

Resigna-  
tion.

**107.** Every member of the Commission may resign at any time by giving a written notice to the President of the National Assembly of Québec.

Dismissal.

A member may be dismissed only by a resolution of the Assembly approved by not less than two-thirds of its members.

Acting  
chairman.

**108.** If the chairman of the Commission is temporarily absent or incapacitated, the President of the National Assembly of Québec may, with the consent of the Prime Minister and of the Leader of the Official Opposition in the Assembly, designate either of the other two members of the Commission to act as chairman for as long as the chairman is absent or unable to act.

Vacancy.

**109.** The President of the National Assembly of Québec may, with the consent of the Prime Minister and of the Leader of the Official Opposition in the Assembly, appoint a person to fill any vacancy on the Commission when the procedure established in section 104 cannot be followed owing to an adjournment of the Assembly or a prorogation of the session or the dissolution of the Legislature; he may also determine the remuneration and the conditions of employment of that person.

Ratifica-  
tion.

However, the appointment ceases to have effect at the expiry of thirty days from resumption of the Assembly unless it is ratified as provided in the second paragraph of section 104.

Chairman.

**110.** The chairman of the Commission is responsible for the administration of the Commission and the supervision of its personnel.

Secretary  
and per-  
sonnel.

**111.** The secretary and the other members of the personnel of the Commission are appointed and remunerated in accordance with the Civil Service Act.

Forfeiture.

**112.** No member of the Commission may, under pain of forfeiture of office, have a direct or indirect interest in an undertaking putting his own interest in conflict with that of the Commission.

Exception. However, forfeiture is not incurred if the interest devolves to him by succession or gift, provided he renounces or disposes of it with dispatch.

Immunity. **113.** No member of the Commission or its personnel may be prosecuted by reason of an official act performed in good faith in the exercise of his duties.

Immunity. **114.** No extraordinary recourse provided for in articles 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the Commission or any of its members acting in their official capacity.

Summary annulment. Two judges of the Court of Appeal may, on a motion, summarily annul any writ, order or injunction issued or granted contrary to this Act in relation to a document.

Head office. **115.** The head office of the Commission is located in the territory of the Communauté urbaine de Québec, at the place determined by the Government; notice of the location or any change of location of the head office must be published in the *Gazette officielle du Québec*.

Authentic document. **116.** Every document and every copy of a document emanating from the Commission is authentic if certified by a member of the Commission or by the secretary.

Fiscal year. **117.** The fiscal year of the Commission ends on 31 March each year.

Annual report. **118.** The Commission shall send to the designated Minister, not later than 30 June each year, a report of its activities for the preceding fiscal year.

Content. The report must deal, in particular, with how this Act is being observed and the means at the disposal of the Commission to enforce it.

Content. The report may contain, in addition,

(1) recommendations in view of promoting the protection of personal information, and the exercise of the right of access to documents, in particular by cultural communities and handicapped persons;

(2) proposals relating to technical standards of preservation, classification, retrieval and the method of consultation of documents;

(3) suggestions from the public on any matter within the competence of the Commission.

Tabling.

**119.** The report of activities must be tabled in the National Assembly of Québec within thirty days of its receipt, if the Assembly is in session, or, if it is not sitting, within thirty days of the opening of the next session, or of resumption.

Examination.

Within sixty days from the tabling of the report, the President of the Assembly shall convene the Standing Committee on the National Assembly to examine the report.

Information.

**120.** The Commission shall furnish the designated Minister with all the information and financial statements he may require regarding its activities.

Audit.

**121.** The books and accounts of the Commission must be audited every year by the Auditor General and also whenever the Government orders it.

## DIVISION II

### DUTIES AND POWERS

Object.

**122.** The object of the Commission is to hear, to the exclusion of every other court, the requests for review made under this Act.

Duties.

**123.** The Commission must also

(1) supervise the carrying out of this Act, and inquire into its effectiveness and degree of observance;

(2) approve agreements entered into between public bodies pursuant to section 172;

(3) give its opinion on the draft regulations submitted to it under this Act, on draft agreements on the transfer of information and disclosure of lists of names, and on draft orders authorizing the establishment of confidential files.

Powers.

**124.** The Commission may prescribe conditions applicable to a personal information file with which the public body must conform and respecting, in particular,

(1) the kind of information that may be collected and the purposes for which it may be kept;

(2) the use to which the file may be put;

(3) the security measures that must be taken to ensure the confidentiality of nominative information;

(4) the categories of persons who have access to nominative information in the discharge of their duties, the persons who are exempted from registering pursuant to paragraph 3 of section 75, and, where such is the case, the special restrictions and conditions of access;

(5) the special conditions to which the maintenance of the file may be subject, where such is the case.

Personal  
informa-  
tion file.

**125.** The Commission may, on a written request, grant a person or an agency the authorization to receive communication of nominative information contained in a personal information file, for study, research or statistics purposes, without the consent of the persons concerned, if it is of the opinion

(1) that the intended use is not frivolous and the ends contemplated cannot be achieved unless the information is communicated in nominative form;

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

Confiden-  
tiality.

The authorization is granted for such period and on such conditions as may be fixed by the Commission. It may be revoked before the expiry of the period granted if the Commission has reason to believe that the authorized person or body does not respect the confidentiality of the information disclosed or the other conditions.

Improper  
requests.

**126.** The Commission may, on request, authorize a public body to disregard requests that are obviously improper because of their repetitious or systematic nature.

Discordant  
purposes.

The same rule applies if, in the opinion of the Commission, the requests are made for purposes not in accordance with the objects of this Act in respect of the protection of personal information.

Investiga-  
tion.

**127.** The Commission may, of its own initiative or following a complaint from a person concerned, investigate a confidential file to determine if the nominative information contained therein was entered and used in accordance with the order.

Secrecy.

The investigation is secret. Only a member of the Commission or a member of its management staff designated in writing for that purpose by the Commission may examine the nominative information entered in the file.

Order.

**128.** The Commission may, after investigating a personal information file or a confidential file and after giving the public body

responsible for the file an opportunity to submit written observations,

(1) order that nominative information be corrected or deleted from the file or that the use of the file made contrary to this Act, the order or the prescriptions of the Commission, as the case may be, be discontinued;

(2) order the public body to take the measures it considers appropriate to meet the conditions provided for by this Act or the prescriptions of the Commission;

(3) order the destruction of a personal information file established or used contrary to this Act;

(4) recommend to the Government that the order authorizing the establishment of a confidential file be amended or revoked.

Immunity. **129.** The Commission, its members and every person appointed by it to inquire into the application of this Act are vested, for that purpose, with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

Information. **130.** Every public body must, at the request of the Commission, provide it with such information as it may require on the carrying out of this Act.

Regulation. **131.** The Commission may, by regulation, make rules of proof and procedure, and provide for its internal management.

Draft. The Commission shall publish in the *Gazette officielle du Québec* the text of a draft regulation on procedure and proof with a notice stating that after a period of not less than forty-five days from publication, it will be submitted to the Government for approval.

Coming into force. The regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Index. **132.** The Commission must, at least every two years, publish and distribute in all regions of Québec, an index of all the files held by public bodies, indicating, for each,

(1) its title and the name of the public body responsible for it;

(2) the title, address and telephone number of the person in charge of protection of personal information within the public body;

(3) the kinds of nominative information contained therein;

(4) the categories of persons concerning whom nominative information is contained in the file;

(5) the purposes for which the information was collected, the use it is put to, and, as the case may be, the usual communication made of it to other public bodies;

(6) the standards applicable to the keeping of the information contained therein; and

(7) the number of the order authorizing the establishment of a confidential file, where such is the case.

Interim  
publica-  
tion.

The Commission must publicise the existence of every file that has been the subject of a declaration or that the Government has authorized to be established if it does not appear in the latest edition of the index.

Inaction.

**133.** If, within a reasonable time after making a recommendation to a public body or after making an order, the Commission considers that appropriate measures have not been taken to implement the recommendation, it may so notify the Government or, if it deems it expedient, submit a special report to the National Assembly of Québec or set out the situation in its annual report.

Examina-  
tion.

**134.** Within sixty days from the tabling of a special report, the President of the National Assembly of Québec shall convene the Standing Committee on the National Assembly to examine the report.

## CHAPTER V

### REVIEW AND APPEAL

#### DIVISION I

##### REVIEW

Applica-  
tion.

**135.** Every person whose request has been denied, in whole or in part, by the person in charge of access to documents or of protection of personal information may apply to the Commission for a review of the decision.

Object.

Every person who has made a request under this Act may apply to the Commission for a review of any decision of the person in charge concerning the time prescribed for processing the request, the mode of access to a document or information, the application of section 9 or the fee payable.

Time limit.

The application must be made within thirty days of the date of the decision or of the time granted by this Act to the person in charge for processing a request. However, the Commission may, for any serious cause, release the applicant from a failure to observe the time limit.

Third person.

**136.** A third person who has submitted observations in accordance with section 49 may, within fifteen days after the mailing of the notice informing him of the decision to grant access, in whole or in part, to a document, apply to the Commission for a review of the decision.

Suspension.

Except in the case contemplated in section 26, the application suspends the carrying out of the decision of the person in charge until the decision of the Commission on the application is executory.

Form and content.

**137.** The application for review must be made in writing; it may state briefly the reasons for which the decision should be reviewed.

Notice.

Notice of the application is given to the public body by the Commission.

Third person.

Where the application for review deals with the refusal to release information provided by a third person, the Commission must so notify the third person concerned.

Assistance.

**138.** The members of the personnel of the Commission must lend assistance in drafting an application for review to every applicant concerned who requires it.

Hearing.

**139.** A member of the Commission may, on behalf of the Commission, hear and decide alone an application for review.

Observations.

**140.** On receiving an application for review, the Commission must give the parties an opportunity to submit their observations.

Competence.

**141.** The Commission has all the powers necessary for the exercise of its jurisdiction; it may make every order it considers appropriate to protect the rights of the parties, and decide on every matter of fact or of law.

Competence.

It may, in particular, order a public body to release a document or part of a document, refrain from doing so, correct, complete, clarify, update or delete any nominative information, or discontinue the use or the release of nominative information.

Competence.

**142.** The Commission may, in deciding an application for review, fix such conditions as it may deem advisable to facilitate the exercise of a right conferred by this Act.

Notice of  
decision.

**143.** A copy of the decision of the Commission is sent to the parties by registered or certified mail or by any other means providing evidence of the date of receipt.

Prescribed  
action.

**144.** Every decision of the Commission prescribing a particular course of action to a public body is executory fifteen days after its receipt by the parties, unless an appeal is brought under section 147.

Prohibited  
action.

Every decision prohibiting a course of action to a public body is executory from its delivery to the public body.

Postpone-  
ment  
order.

**145.** Where it considers it necessary in the public interest, the Government may, by order, require a public body to postpone, for such period as it indicates, the execution of a decision of the Commission ordering the release of a document or information.

Stay.

During that period, no request for access to the document or information contemplated in the order may be received.

Stay.

No proceedings in appeal from the decision of the Commission may be brought or continued during that period.

Interrup-  
tion.

Furthermore, the time limit for appeal from the decision of the Commission is interrupted during the postponement, counting from the making of the order.

Tabling.

The order is tabled in the National Assembly of Québec within fifteen days following the making of the order if the Assembly is in session or, if it is not sitting, within fifteen days of the opening of the next session or of resumption.

Question of  
fact.

**146.** Every decision of the Commission on a question of fact within its competence is final.

## DIVISION II

### APPEAL

Provincial  
Court.

**147.** A person directly interested may bring an appeal from a decision of the Commission before three judges of the Provincial Court on any question of law or jurisdiction.

Leave.

In no case may an appeal be brought except with leave of a judge of the Provincial Court. The judge shall grant leave if in his opinion the question ought to be examined in appeal.

Jurisdic-  
tion.

**148.** The jurisdiction conferred by this division on one or more judges of the Provincial Court is exercised by only the judges of that Court that are appointed by the chief judge and the senior associate chief judge, within the limits of their respective territorial jurisdictions.

Motion for  
leave.

**149.** The motion for leave to appeal must be filed in the office of the Provincial Court, at Montréal or at Québec, within thirty days from the decision, after notice to the parties and the Commission.

Costs.

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

Notice of  
appeal.

**150.** The appeal is brought by filing with the Commission a notice to that effect served on the parties, within ten days from the date of the decision giving leave for the appeal.

Filing.

The filing of the notice takes the place of service on the Commission.

Transmis-  
sion.

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

Duplicates.

The secretary shall send four duplicates of the decision appealed from, and every other relevant document, to the office of the Court, in place of the joint record.

Procedure.

**152.** The appeal is governed by articles 491 to 524 of the Code of Civil Procedure, *mutatis mutandis*. However, the parties are required to file only four duplicates of their statement of claims.

Rules of  
practice.

**153.** The Provincial Court may, in the manner provided in article 47 of the Code of Civil Procedure, make the rules of practice judged necessary for the carrying out of this division.

Final deci-  
sion.

**154.** The decision of the three judges of the Provincial Court is final.

## CHAPTER VI

### REGULATIONS

Regula-  
tions.

**155.** The Government may make regulations

(1) prescribing fees for the transcription, reproduction or transmission of documents or nominative information, and the terms and conditions of payment of the fees;

(2) providing for total or partial exemption from the payment of fees under this Act;

(3) defining what constitutes a document produced by or for another public body, for the purposes of section 48;

(4) prescribing the rules according to which the collection of nominative information must be made;

(5) fixing appropriate security standards to ensure the confidentiality of the information entered in a personal information file;

(6) prescribing the particulars to be given by the public bodies to the Commission in relation to their personal information files.

Categories. The Government, in exercising its power to make regulations, may establish categories of persons, public bodies, information, documents and files.

Draft. **156.** After obtaining the opinion of the Commission, the designated minister shall publish in the *Gazette officielle du Québec* the text of every draft regulation with a notice indicating that after a period of not less than forty-five days following the publication, the text will be submitted to the Government for adoption.

Coming into force. **157.** A regulation made under section 155 comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

## CHAPTER VII

### SANCTIONS

#### DIVISION I

##### PENAL PROVISIONS

Offence and penalty. **158.** Every person who knowingly denies or impedes access to a document or information to which access is not to be denied under this Act is guilty of an offence and is liable, in addition to costs, to a fine of \$100 to \$500, and, for every subsequent offence within two years, to a fine of \$250 to \$1 000.

Offence and penalty. **159.** Every person who knowingly gives access to a document or to information which, under this Act, is not to be disclosed or to which, according to law, a public body denies access, is guilty of an offence and is liable, in addition to costs, to a fine of \$200 to \$1 000, and, for every subsequent offence within two years, to a fine of \$500 to \$2 500.

Offence and penalty. **160.** Every person who impedes the progress of an inquiry or examination of a request or application by the Commission by knowingly providing it with false or inaccurate information, or otherwise, is guilty of an offence and is liable, in addition to costs, to the fine established in section 159.

Offence  
and  
penalty.

**161.** Every person who impedes the progress of an inquiry or examination of a request or application by the Commission by knowingly omitting to provide it with the information it requires is guilty of an offence and is liable, in addition to costs, to a fine of \$50 for each day or part of a day during which the offence continues.

Offence  
and  
penalty.

**162.** Every person who contravenes this Act, the regulations of the government, or an order of the Commission, is guilty of an offence and is liable to the fine prescribed in section 158.

Error or  
omission.

**163.** An error or omission made in good faith does not constitute an offence within the meaning of this Act.

Prosecu-  
tion.

**164.** Proceedings under this division are instituted by the Commission or by a person generally or specially authorized by it for that purpose.

Summary  
proceed-  
ings.

The Summary Convictions Act (R.S.Q., chapter P-15) applies to proceedings instituted under this division.

Fines.

**165.** Fines collected under this Act form part of the consolidated revenue fund and, consequently, are to be remitted to the Minister of Finance.

## DIVISION II

### REDRESS IN CERTAIN CASES

Superior  
Court.

**166.** A natural person wronged by a decision of a public body concerning him may, if he has no other redress, apply to the Superior Court to nullify the decision if it is based on nominative information which is inaccurate or which has been collected, kept or released in contravention of this Act.

Decision.

The court shall nullify the decision if it is established that the inaccuracy of the information or the contravention of the Act or regulation was not caused by a deliberate act of the person concerned. However, the public body may have the application rejected if it establishes that its decision would have been maintained even if the information had been rectified in due time.

Compensa-  
tion.

**167.** Except on proof of a fortuitous event or irresistible force, a public body that keeps personal information is bound to compensate for the prejudice resulting from the unlawful infringement of a right established by Chapter III.

Exemplary  
damages.

In addition, where the infringement is intentional or results from gross neglect, the court shall also award exemplary damages of not less than \$200.

## CHAPTER VIII

## GENERAL PROVISIONS

Precedence.

**168.** The provisions of this Act prevail over any contrary provision of a subsequent general law or special Act unless the latter Act expressly states that it applies notwithstanding this Act.

Inconsistent legislation.

**169.** Subject to section 170, every provision of any general law or special Act that is inconsistent with the provisions of Chapter II respecting access to documents held by public bodies or the provisions of Chapter III respecting the protection of personal information ceases to have effect on *(insert here the date occurring three years after the coming into force of this section)*.

Inconsistent regulations.

The same applies to every provision of a regulation that is inconsistent with the provisions of this Act or of a government regulation passed under this Act.

Exception.

**170.** The legislative provisions mentioned in Schedule A continue to have effect.

Exception.

**171.** Notwithstanding sections 168 and 169, this Act does not limit

(1) the exercise of a person's right of access to a document resulting from the carrying out of another Act or of a practice established before the coming into force of this Act, unless the exercise of the right interferes with the protection of personal information;

(2) the protection of personal information or the exercise of the right of access of a person to nominative information concerning him, resulting from the application of another Act or a practice established before the coming into force of this Act;

(3) the release of documents or information required by the summons, warrant or order of any body empowered to enjoin their release.

Transfer by agreement.

**172.** The obligations imposed by this Act on a public body may be assumed by another public body in accordance with an agreement approved by the Commission.

Reference to Commission.

**173.** The Public Protector and the Commission des droits de la personne, on receiving a complaint in relation to a matter within the competence of the Commission, must transfer the file to the latter, thereby referring the case to the Commission *pleno jure*.

Responsible minister.

**174.** The Government shall designate the minister responsible for the carrying out of this Act.

## CHAPTER IX

## TRANSITIONAL AND FINAL PROVISIONS

R.S.Q.,  
c. E-18,  
Div. II.1,  
ss. 11.1-  
11.4,  
added.

**175.** The Executive Power Act (R.S.Q., chapter E-18) is amended by inserting, after section 11, the following division:

## “DIVISION II.1

## “PUBLICATION OF ORDERS

Time limit.

**“11.1** Government orders must be published in the *Gazette officielle du Québec* not later than thirty days after being made.

Defer-  
ment.

The Government may defer their publication for any grounds of public interest set forth in the orders.

Substitu-  
tion of in-  
dications.

**“11.2** The Government may, in cases prescribed by regulation, substitute for the complete text of the order a notice indicating the title of the order, the date on which it was made, its number and the number of pages it contains. The title must be sufficiently descriptive to allow the exercise of the right of access.

Draft reg-  
ulation.

**“11.3** After obtaining the advice of the Commission d'accès à l'information, the secretary-general of the Conseil exécutif shall publish in the *Gazette officielle du Québec*, the text of a draft regulation contemplated in section 11.2, with notice that at the expiry of not less than forty-five days after the publication, the text will be submitted to the Government for approval.

Coming  
into force.

**“11.4** Regulations passed under section 11.2 come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

Denial of  
access.

**176.** For two years following the coming into force of those provisions of this Act which grant to a person the right of access to a document, a public body may deny access to any document dated more than two years prior to such coming into force.

Delay.

**177.** Notwithstanding Division III of Chapter III, a public body which, at the time when that division becomes effective in its regard, is in possession of nominative information, has twelve months to set up a personal information file or a confidential file in accordance with this Act.

Inconsis-  
tencies.

**178.** The Commission, before (*insert here the date occurring one year before the date mentioned in section 169*), must examine the provisions of the Acts and regulations referred to in section 169

and, after hearing the representations made by the persons concerned, make recommendations to the Government on the advisability of maintaining their application or of amending them.

Quinquennial report.

**179.** The Commission, not later than (*insert here the date occurring five years after the date of the coming into force of this Act*), and, subsequently, every five years, must report to the Government on the implementation of this Act, the advisability of maintaining it in force and, as the case may be, of amending it.

Tabling.

The report must be tabled within the next fifteen days in the National Assembly of Québec if it is sitting or, if not, in the office of its President.

Examination.

Within one year from the tabling of the report, the President shall convene the Standing Committee on the National Assembly to examine the advisability of maintaining in force or, as the case may be, of amending, this Act, and to hear the representations of the persons and bodies concerned.

Sums required.

**180.** The sums required for the carrying out of this Act are taken, for the fiscal year 1982-1983, out of the consolidated revenue fund and, for subsequent years, out of the sums granted annually for that purpose by the Legislature.

Coming into force.

**181.** Within twelve months from the date of the coming into force of this Act, the Government must set up a timetable of the coming into force and effective dates of the provisions of this Act.

Tabling.

Within fifteen days of its adoption, the timetable must be tabled in the National Assembly of Québec if it is sitting or, if not, in the office of its President.

Exception.

**182.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming into force.

**183.** This Act comes into force on 1 October 1982, except sections 9 to 102, 122 to 130, 132 to 173 and 175 to 178, which will come into force on the dates fixed by Government proclamation and will have effect, as regards the bodies subject to this Act, to such extent as indicated by the proclamations.

## SCHEDULE A

*(section 170)*LEGISLATIVE PROVISIONS STILL HAVING EFFECT  
NOTWITHSTANDING SECTION 169

TITLE	PROVISIONS
The Act respecting the Bureau de la statistique (R.S.Q., chapter B-8)	Sections 16 to 18
Cities and Towns Act (R.S.Q., chapter C-19)	Sections 120 to 148.3
Referendum Act (R.S.Q., chapter C-64.1)	Sections 16 to 18 and Division 1.1 of Appendix 2
Education Act (R.S.Q., chapter I-14)	Sections 86 to 101 and 624 to 626
The Act respecting electoral lists (R.S.Q., chapter L-4.1)	In its entirety
The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)	Sections 69 to 71
The Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1)	Sections 67 to 75
Municipal Code	Articles 243 to 244 <i>c</i> and 257 to 257 <i>i</i>
Charter of the city of Montréal (1959-1960, chapter 102)	Articles 206 to 229
Charter of the city of Québec (1929, chapter 95)	Sections 40 to 44

## SCHEDULE B

*(section 106)*OATH OR SOLEMN AFFIRMATION OF ALLEGIANCE,  
OF OFFICE AND OF DISCRETION

I, A.B., swear (*or* solemnly declare) that I will act with loyalty and true allegiance to the established authority and that I will fulfil the duties of my office with honesty, and that I will not accept any sum of money or consideration of any kind in carrying out the duties of my office, apart from my salary and any allowance that is given to me by law or by an order of the Government. In addition, I swear (*or* solemnly declare) that I will neither disclose nor make known anything whatsoever that I have learned in the exercise of my office, unless I have been duly authorized to do so.

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