ACCESSPRIVACY BY OSLER

Changes Proposed by Bill 64: Private Sector

This tracked changes document shows the changes proposed by Bill 64 of the Québec National Assembly to private sector legislation; specifically:

- *Act respecting the protection of personal information in the private sector*, CQLR c P-39.1
- *Act to establish a legal framework for information technology*, CQLR c C-1.1

Note that this document was updated in June 2021 to show amendments that were proposed to and adopted by the National Assembly's Committee on Institutions.

A. Changes to the Québec *Act to establish a legal framework for information technology*

Section 45 - The creation of a database of biometric characteristics and measurements must be disclosed ~~beforehand~~ to the Commission d'accès à l'information promptly and not later than 60 days before it is brought into service.

B. Changes to the Québec *Act respecting the protection of personal information in the private sector*

DIVISION I – APPLICATION AND INTERPRETATION

1 – The object of this Act is to establish, for the exercise of the rights conferred by articles 35 to 40 of the Civil Code concerning the protection of personal information, particular rules with respect to personal information relating to other persons which a person collects, holds, uses or communicates to third persons in the course of carrying on an enterprise within the meaning of article 1525 of the Civil Code.

The Act applies to such information, whether the enterprise keeps the information itself or through the agency of a third person, whatever the nature of its medium and whatever the form in which it is accessible, whether written, graphic, taped, filmed, computerized, or other.

This Act also applies to personal information held by a professional order to the extent provided for by the Professional Code (chapter C-26), and to that held by an authorized entity to the extent provided for by the Election Act (chapter E-3.3).

This Act does not apply to journalistic, historical or genealogical material collected, held, used or communicated for the legitimate information of the public.

Divisions II and III of this Act do not apply to personal information which by law is public, nor do they apply to personal information concerning the performance of duties within an enterprise by the person concerned, such as the person's name, title and duties, as well as the address, email address and telephone number of the person's place of work.

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

2. Personal information is any information which relates to a natural person and allows that person to be identified.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

2. Personal information is any information which relates to a natural person and allows, directly or indirectly, that person to be identified.

DIVISION I.1 - RESPONSIBILITIES RELATING TO PROTECTION OF PERSONAL INFORMATION

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

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

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

These policies must be published on the enterprise's website or, if the enterprise does not have a website, made available by any other appropriate means.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

3.3. Any person carrying on an enterprise must conduct an assessment of the privacy-related factors of any information system project or electronic service delivery project involving the collection, use, communication, keeping or destruction of personal information.

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

3.3. Any person carrying on an enterprise must conduct an assessment of the privacy-related factors of any information system acquisition, development and redesign project or electronic service delivery project involving the collection, use, communication, keeping or destruction of personal information.

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

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

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

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

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

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

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

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

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

If the incident presents a risk of serious injury, the person carrying on an enterprise must promptly notify the Commission d'accès à l'information established by section 103 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1). He must also notify any person whose personal information is concerned by the

incident, failing which the Commission may order him to do so. He may also notify any person or body that could reduce the risk, by communicating to the person or body only the personal information necessary for that purpose without the consent of the person concerned. In the latter case, the person in charge of the protection of personal information must record the communication of the information.

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

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

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

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

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

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

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

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

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

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

DIVISION II – COLLECTION OF PERSONAL INFORMATION

4. Any person carrying on an enterprise who ~~may~~, for a serious and legitimate reason, ~~establish a file~~collects personal information on another person must, ~~when establishing the file, enter its object~~ determine the purposes for collecting the information before doing so.

~~The entry is part of the file.~~

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

5. Any person collecting personal information ~~to establish a file~~ on another person ~~or to record personal information in such a file~~ may collect only the information necessary for the ~~object of the file~~purposes determined before collecting it.

Such information must be collected by lawful means.

…

7. Any person ~~establishing a file on another person or recording~~collecting personal information ~~in such a file must make an entry indicating the source of any personal information collected from a third person when the third person is a~~from another person carrying on an enterprise.
~~The entry is part of~~ must, at the ~~file~~request of the person concerned, inform the latter of the source of the information.

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

8. ~~A~~Any person who collects personal information from the person concerned must, when ~~establishing a file~~the information is collected and subsequently on request, inform that person~~, inform him~~

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

~~(2) of the use which will be made~~

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

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

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

If applicable, the person concerned is informed of the name of the third person for whom the information is being collected and of the possibility that the information could be communicated outside Québec.

On request, the person concerned is also informed of the personal information ~~and~~collected from him, the categories of persons who ~~will~~ have access to ~~it~~the information within the enterprise;, the duration of the period of time the information will be kept, and the

contact information of the person in charge of the protection of personal information.
~~(3) of the place where the file will be kept and of the rights of access andrectification.~~

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

8. […]

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

[…]

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

(1) of the use of such technology; and

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

(1) of the use of such technology; and

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

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

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

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

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

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

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

In April 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

The first paragraph does not include the confidentiality parameters of a cookie.

DIVISION III - CONFIDENTIALITY OF PERSONAL INFORMATION

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

…

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

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

12. ~~Once the object of a file has been achieved, no information contained in it~~Unless the person concerned gives his consent, personal information may not be used within the enterprise except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information.

Personal information may, however, be used ~~otherwise than with~~for another purpose without the consent of the person concerned, ~~subject to the time limit prescribed by law or by a retention schedule established by government regulation.~~but only

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

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

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

In order for a purpose to be consistent within the meaning of subparagraph 1 of the second paragraph, it must have a direct and relevant connection with the purposes for which the information was collected. However, commercial or philanthropic prospection may not be considered a consistent purpose.

For the purposes of this Act, personal information is

(1) de-identified if it no longer allows the person concerned to be directly identified;

(2) sensitive if, due to its nature or the context of its use or communication, it entails a high level of reasonable expectation of privacy.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

12. ~~Once the object of a file has been achieved, no information contained in it~~Unless the person concerned gives his consent, personal information may not be used within the enterprise except for the purposes for which it was collected. Such consent must be given expressly when it concerns sensitive personal information.

Personal information may, however, be used ~~otherwise than with~~for another purpose without the consent of the person concerned, ~~subject to the time limit prescribed by law or by a retention schedule established by government regulation.~~but only

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

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

(2.1) if its use is necessary for the purposes of prevention and detection of fraud or for the evaluation and improvement of protection and security measures;

(2.2) if its use is necessary for the purpose of supplying or delivering a product or providing a service requested by the person concerned;

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

In order for a purpose to be consistent within the meaning of subparagraph 1 of the second paragraph, it must have a direct and relevant connection with the purposes for which the information was collected. However, commercial or philanthropic prospection may not be considered a consistent purpose.

For the purposes of this Act, personal information is

(1) de-identified if it no longer allows the person concerned to be directly identified;

(2) sensitive if, due to its nature, including its medical, biometric or other intimate nature, or the context of its use or communication, it entails a high level of reasonable expectation of privacy.

Every person carrying on an enterprise and using de-identified information shall take reasonable steps to limit the risk that any person will identify a natural person from de-identified information.

12.1. Any person carrying on an enterprise who uses personal information to render a decision based exclusively on an automated processing of such information must, at the time of or before the decision, inform the person concerned accordingly.

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

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

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

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

12.1. Any person carrying on an enterprise who uses personal information to render a decision based exclusively on an automated processing of such information ~~must, at the time of or before the decision, inform the person concerned accordingly~~ must inform the person concerned accordingly no later than the time at which he informs the person of the decision.

[…]

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

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

14. ~~Consent to the collection, communication or use of~~ Consent under this Act must be ~~manifest~~clear, free~~, and enlightened,~~ and ~~must~~informed and be given for specific purposes. ~~Such~~It must be requested for each such purpose, in clear and simple language and separately from any other information provided to the person concerned. If the person concerned so requests, assistance is provided to help him understand the scope of the consent requested.

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

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

Consent not given ~~otherwise than~~ in accordance with ~~the first paragraph~~this Act is without effect

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

Consent not given ~~otherwise than~~ in accordance with ~~the first paragraph~~this Act is without effect

…

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

Before communicating personal information outside Québec, a person carrying on an enterprise must conduct an assessment of privacy-related factors. The person must, in particular, take into account

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

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

(1) the sensitivity of the information;

(2) the purposes for which it is to be used;

(3) the protection measures that would apply to it; and

(4) the legal framework applicable in the State in which the information would be communicated, including the legal framework's degree of equivalency with the personal information protection principles applicable in Québec.

~~If the person carrying on an enterprise considers that the information referred to in the first paragraph will not receive the protection afforded under subparagraphs 1 and 2, the person must refuse to communicate the information or refuse to entrust a person or a body outside Québec with the task of holding, using or communicating it on behalf of the person carrying on the enterprise.~~

The information may be communicated if the assessment establishes that it would receive protection equivalent to that afforded under this Act. The communication of the information must be the subject of a written agreement that takes into account, in particular, the results of the assessment and, if applicable, the terms agreed on to mitigate the risks identified in the assessment.

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

Before communicating personal information outside Québec, a person carrying on an enterprise must conduct an assessment of privacy-related factors. The person must, in particular, take into account

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

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

(1) the sensitivity of the information;

(2) the purposes for which it is to be used;

(3) the protection measures, including contractual ones, that would apply to it; and

(4) the legal framework applicable in the State in which the information would be communicated, ~~including the legal framework's degree of equivalency with the personal information protection principles applicable in Québec~~ including the personal information protection principles applicable in that State.

~~If the person carrying on an enterprise considers that the information referred to in the first paragraph will not receive the protection afforded under subparagraphs 1 and 2, the person must refuse to communicate the information or refuse to entrust a person or a body outside Québec with the task of holding, using or communicating it on behalf of the person carrying on the enterprise.~~

The information may be communicated if the assessment establishes that it would receive protection ~~equivalent to that afforded under this Act~~ that is adequate, in particular with respect to the generally recognized personal information protection principles. The communication of the information must be the subject of a written agreement that takes into account, in particular, the results of the assessment and, if applicable, the terms agreed on to mitigate the risks identified in the assessment.

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

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

17.1. The Minister shall publish in the Gazette officielle du Québec a list of States whose legal framework governing personal information is equivalent to the personal information protection principles applicable in Québec.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

~~17.1. The Minister shall publish in the Gazette officielle du Québec a list of States whose legal framework governing personal information is equivalent to the personal information protection principles applicable in Québec.~~

§ 2. — Communication to third persons

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

(1) to his attorney;

(2) to the Director of Criminal and Penal Prosecutions if the information is required for the purposes of the prosecution of an offence under an Act applicable in Québec;

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

(4) to a person to whom it is necessary to communicate the information under an Act applicable in Québec or under a collective agreement;

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

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

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

(7.1) to a person or body in accordance with sections 18.1, 18.2, 18.3 and 18.4

(8) to a person who ~~is authorized to~~may use the information for study, research or statistical purposes in accordance with section 21 or a person authorized pursuant to section 21.1;

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

(9.1) to a person if the information is needed for the recovery of a claim of the enterprise;

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

A person carrying on an enterprise must make an entry of every communication made under subparagraphs 6 to 9.1~~0~~ of the first paragraph. ~~The entry is part of the file.~~

The persons referred to in subparagraphs 1, 9 and 9.1 of the first paragraph who receive communication of information may communicate the information to the extent that such communication is necessary, in the performance of their duties, to achieve the purposes for which they received communication of the information.

The holder of a security guard agency licence or investigation agency licence issued under the Private Security Act (chapter S-3.5) or a body having as its object the prevention, detection or repression of crime or statutory offences and a person carrying on an enterprise may, without the consent of the person concerned, communicate among themselves the information needed for conducting an inquiry for the purpose of preventing, detecting or repressing a crime or a statutory offence. The same applies in respect of information communicated among persons carrying on an enterprise, if the person who communicates or collects such information has reasonable grounds to believe that the person concerned has committed, or is about to commit, a crime or statutory offence against one or other of the persons carrying on an enterprise.

18.1. In addition to the cases referred to in section 18, a person who carries on an enterprise may also communicate personal information ~~included in a file~~ the person holds on another person, without the consent of the persons concerned, in order to prevent an act of violence, including a suicide, where there is reasonable cause to believe that there is a serious risk of death or serious bodily injury threatening a person or an identifiable group of persons and where the nature of the threat generates a sense of urgency.

The information may in such case be communicated to any person exposed to the danger or that person's representative, and to any person who can come to that person's aid.

A person carrying on an enterprise who communicates information pursuant to this section may only communicate such information as is necessary to achieve the purposes for which the information is communicated.

Where information is so communicated by a person carrying on an enterprise, the person must make an entry of the communication. ~~That entry is part of the file.~~

For the purposes of the first paragraph, "serious bodily injury" means any physical or psychological injury that is significantly detrimental to the physical integrity or the health or well-being of a person or an identifiable group of persons.

18.2. A person carrying on an enterprise may, without the consent of the person concerned, communicate personal information ~~contained in a file~~ concerning another person to an archival agency if the archival agency is a person carrying on an enterprise whose object is the acquisition, preservation and distribution of documents for their general informational value and if the information is communicated as part of the transfer or deposit of the archives of the enterprise.

A person carrying on an enterprise may also communicate personal information to any person without the consent of the person concerned if the document containing the information is more than 100 years old or if more than 30 years have elapsed since the death of the person concerned.

However, no information relating to a person's health may be communicated without the consent of the person concerned unless 100 years have elapsed since the date of the document.

Notwithstanding the first and second paragraphs, the information may be communicated for research purposes, without the consent of the person concerned, before the time specified has elapsed if the documents containing the information are not structured so as to allow retrieval by reference to a person's name or identifying code or symbol and the information cannot be retrieved by means of such a reference. The person to whom the information is communicated must preserve the confidentiality of the personal information throughout the period during which it may not be communicated without the consent of the person concerned.

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

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

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

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

Subparagraph 2 of the second paragraph does not apply if the mandatary or the person performing the contract is a public body within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) or a member of a professional order.

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

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

(1) to use the information only for concluding the commercial transaction;

(2) not to communicate the information without the consent of the person concerned, unless authorized to do so by this Act;

(3) to take the measures required to protect the confidentiality of the information; and

(4) to destroy the information if the commercial transaction is not concluded or if using the information is no longer necessary for concluding the commercial transaction.

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

For the purposes of this section, a commercial transaction involves a transfer of ownership of all or part of an enterprise.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

18.4. […]

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

~~For the purposes of this section, a commercial transaction involves a transfer of ownership of all or part of an enterprise.~~

For the purposes of this section, a commercial transaction means the alienation or lease of all or part of an enterprise or its assets, a change in its legal structure by amalgamation or otherwise, the obtaining of a loan or other form of financing by it, or a security interest taken to secure any of its obligations.

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

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

20. In the carrying on of an enterprise, authorized employees~~, mandataries~~ or agents ~~or any party to a contract for work or services~~ may have access to personal information without the consent of the person concerned only if the information is needed for the performance of their duties ~~or the carrying out of their mandates or contracts~~.

~~21.~~ The Commission d'accès à l'information, established by section 103 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1) may, on written request, grant a person authorization to receive communication of personal information for study, research or statistical purposes, without the consent of the persons concerned, if it is of the opinion that

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

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

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

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

The information may be communicated if an assessment of the privacy-related factors concludes that

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

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

(3) the objective of the study or research or of the production of statistics outweighs the impact of communicating and using the information on the privacy of the persons concerned;

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

(5) only the necessary information is communicated.

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

The information may be communicated if an assessment of the privacy-related factors concludes that

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

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

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

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

(5) only the necessary information is communicated.

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

(1) request it in writing;

(2) enclose the research protocol with the request;

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

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

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

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

In May 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

(1) request it in writing;

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

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

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

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

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

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

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

(2) may not be used for purposes other than those specified in the research protocol;

(3) may not be cross-matched with any other information file that has not been provided for in the research protocol; and

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

The agreement must also

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

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

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

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

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

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

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

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

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

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

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

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

[…]

…

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

~~(1) the communication is made pursuant to a contract that includes a stipulation prohibiting the third person from using or communicating the list or the~~who uses personal information for ~~purposes other than~~ commercial or philanthropic prospection; purposes must identify himself to the person whom he is addressing and inform that person of his right to withdraw his consent to the personal information concerning him being used for such purposes.

~~(2) prior to the communication, in cases where the list is a nominative list of~~If the person~~'s clients, members or employees, the persons~~ concerned ~~are given a valid opportunity to refuse that~~withdraws his consent regarding such use, the personal information must cease to be used ~~by a third person~~ for those purposes ~~of commercial or philanthropic prospection; and~~.

(§§3~~) the communication does not infringe upon the privacy of the persons concerned~~.
~~A nominative list is a list of names, telephone numbers, geographical addresses of natural persons or technological addresses where a natural person may receive communication of technological documents or information.~~

~~23. A~~ *Destruction or anonymization*

23. Where the purposes for which personal information was collected or used are achieved, the person carrying on an enterprise ~~may, without the consent of the persons concerned, use, for purposes of commercial or philanthropic prospection, a nominative list of his clients, members or employees.~~
~~Every person using such a list for such purposes must grant the persons concerned a valid opportunity to refuse that the information concerning them be used for such purposes.~~

~~24. Every person who, on the basis of a nominative list, engages in commercial or philanthropic prospection must identify himself and inform the person to whom he is addressing himself of the latter's right to have the personal information concerning him deleted from the list that he holds. For that purpose, the person engaging in commercial or philanthropic prospection must provide the person addressed with a geographical or technological address, depending on the means of communication used, where a request to have personal information deleted from the nominative list may be sent.~~

~~25. Any person wishing to have personal information concerning him deleted from a nominative list may, at any time, by means of a request made orally or in writing to any person holding or using the list, obtain that the information be deleted.~~

~~26. On receiving a request under section 25, the person who holds or, as the case may be, uses the nominative list must, with diligence, delete from the list any information relating to the person concerned.~~must destroy or anonymize the information, subject to any preservation period provided for by an Act.

For the purposes of this Act, information concerning a natural person is anonymized if it irreversibly no longer allows the person to be identified directly or indirectly.

Information anonymized under this Act must be anonymized according to generally accepted best practices.

…

In May 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

DIVISION IV - ACCESS BY PERSONS CONCERNED

§ 1. — General provisions

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

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

Unless doing so raises serious practical difficulties, computerized personal information collected from the applicant must, at his request, be communicated to him in a structured, commonly used technological format. The information must also be communicated, at the applicant's request, to any person or body authorized by law to collect such information ~~concerning him~~.

If the person concerned is handicapped, reasonable accommodation must be provided on request to enable the person to exercise the right of access provided for in this division.

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

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

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

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

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

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

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

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

(1) the fact that the person concerned is a public figure;

(2) the fact that the person concerned is a minor;

(3) the fact that the information is up to date and accurate;

(4) the sensitivity of the information;

(5) the context in which the information is disseminated;

(6) the time elapsed between the dissemination of the information and the request made under this section; and

(7) where the information concerns a criminal or penal procedure, the obtaining of a pardon or the application of a restriction on the accessibility of records of the courts of justice.

Sections 30, 32 and 34 apply, with the necessary modifications, to a request made under this section.

In June 2021, the following highlighted amendment was adopted in the National Assembly's Committee:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

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

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

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

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

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

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

(1) the fact that the person concerned is a public figure;

(2) ~~the fact that the person concerned is a minor~~ the fact that the information concerns the person while the person is a minor;

(3) the fact that the information is up to date and accurate;

(4) the sensitivity of the information;

(5) the context in which the information is disseminated;

(6) the time elapsed between the dissemination of the information and the request made under this section; and

(7) where the information concerns a criminal or penal procedure, the obtaining of a pardon or the application of a restriction on the accessibility of records of the courts of justice.

Sections 30, 32 and 34 apply, with the necessary modifications, to a request made under this section.

Where the person in charge of the protection of personal information grants the request, that person shall certify in the written response under section 32 that the personal information has ceased to be disseminated or that the hyperlink has been de-indexed or re-indexed.

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

30. No request for access or rectification may be considered unless it is made in writing by a person who proves that he is the person concerned or the representative, heir or successor of that person, the liquidator of the succession, a beneficiary of life insurance or of a death benefit or the person having parental authority even if the minor child is ~~dead~~deceased, or the spouse or a close relative of the deceased person in accordance with section 40.1.

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

This section does not limit the communication of personal information to the person concerned or the rectification of that information as a result of a service to be provided to the person.

…

32. The person ~~holding a file that is~~in charge of the ~~subject~~protection of ~~a~~personal information must reply in writing to the request for access or rectification ~~by the person concerned must respond to that request with diligence~~, promptly and not later than 30 days after the date ~~of receipt of~~ the request is received.

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

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

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

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

34. ~~A~~The person ~~who refuses to grant a request for access or rectification from a person concerned must inform the latter~~in charge of the protection of personal information must give the reasons for any refusal to grant a request and indicate the provision of ~~his~~law on which the refusal ~~in writing, giving reasons, and inform the person concerned of the recourses open to him~~is based, the remedies available to the applicant under this Act and the time limit for exercising them. If the applicant so requests, the person in charge must also help him understand the refusal.

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

…

§ 2. — Restrictions on access

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

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

41. ~~A~~Subject to section 40.1 a person carrying on an enterprise ~~who holds a file on another person~~ must refuse to communicate personal information to the liquidator of the succession, to a beneficiary of life insurance or of a death benefit, or to the heir or successor of the person to whom the information relates, unless the information affects their interests or rights as liquidator, beneficiary, heir or successor.

…

DIVISION V – RECOURSE

§ 1. — Examination of disagreements

42. Any interested person may submit an application to the Commission d'accès à l'information for the examination of a disagreement relating to the application of a legislative provision concerning access to or the rectification of personal information, or concerning the application of section 2~~5~~8.1.

…

46. A person carrying on an enterprise who holds personal information on others may request authorization from the Commission to disregard applications that are obviously improper by reason of their number or their repetitious or systematic nature or applications that, in the opinion of the Commission, are not consistent with the object of this Act. The person may also request the Commission to limit the scope of the applicant's request or extend the time limit within which he must reply.

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

…

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

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

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

…

§ 2. — Decision by the Commission

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

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

~~…~~

58. A decision ~~by~~of the Commission ~~becomes executory as a judgment of the Superior Court and has all the effects~~prescribing a particular course of ~~such~~action to a ~~judgment from the date of~~party is enforceable 30 days after its ~~homologation~~receipt by the ~~Superior Court~~parties. ~~Homologation of the decision is obtained by the filing, by the Commission or one of the parties, of a true~~

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

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

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

…

§ 3. — Appeal and contestation

61. A person directly interested may bring an appeal from a final decision of the Commission before a judge of the Court of Québec on a question of law or jurisdiction or, with leave of a judge of that Court, from an interlocutory decision which cannot be remedied by the final decision.

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

…

63. The appeal is brought by filing with the Court of Québec a notice to that effect specifying the questions of law or jurisdiction which ought to be examined in appeal.

The notice of appeal is filed at the office of the Court of Québec within 30 days after the ~~date the parties receive~~notification of the final decision.

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

64. The filing of the notice of appeal or of the application for leave to appeal from an interlocutory decision suspends the execution of the decision of the Commission until the decision of the Court of Québec is rendered. If it is an appeal from a decision ordering a person to cease or refrain from doing something, the filing of the notice or of the application does not suspend execution of the decision.

The filing of the proceeding to contest an order issued by the Commission's oversight division does not suspend the execution of the order.

In May 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

64. The filing of the notice of appeal or of the application for leave to appeal from an interlocutory decision suspends the execution of the decision of the Commission until the decision of the Court of Québec is rendered. If it is an appeal from a decision ordering a person to cease or refrain from doing something, the filing of the notice or of the application does not suspend execution of the decision.

The filing of the proceeding to contest an order issued by the Commission's oversight division does not suspend the execution of the order.

However, on a motion heard and determined to be urgent, a judge of the Court of Québec may order otherwise by reason of the urgency or the risk of serious and irreparable harm.

65. The notice of appeal must be served on the parties and the Commission within 10 days after its filing at the office of the Court of Québec.

The secretary of the Commission shall send a copy of the decision appealed from and the accompanying documents to the office of the Court to serve as a joint record.

The contestation of an order issued by the Commission's oversight division must be served on the Commission and, if applicable, on the other parties, within 10 days after its filing at the office of the Court of Québec. The secretary of the Commission shall send a copy of the contested ~~decision~~order and the accompanying documents ~~related to the contestation~~ to the office of the Court to serve as a joint record.

…

67. The appeal is governed by articles 351 to 390 of the Code of Civil Procedure (chapter C-25.01), adapted as required. The parties are not required, however, to file a statement of their claims.

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

…

DIVISION VI - PERSONAL INFORMATION AGENTS

71. Every personal information agent must establish and apply a method of operation that ensures that the information communicated by him is up to date and accurate, and that it is communicated in accordance with this Act.

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

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

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

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

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

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

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

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

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

…

74. The Commission shall keep a current register of personal information agents containing ~~the~~, for each agent, the agent's name, address and email address, and the title and contact information ~~filed under section 72 and any relevant decisions rendered by~~of the ~~Commission~~person in ~~respect~~charge of ~~registered agents~~the protection of personal information.

75. The register shall be available for public consultation during the regular business hours of the Commission. It may also be consulted on the Commission's website.

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

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

…

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

79. Every personal information agent must~~, not later than 60 days after 1 January 1994 and every two years thereafter,~~ inform the public~~, by means of a notice published in a newspaper having general circulation in each region of Québec in which he does business, of~~

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

(2) of the rights of ~~consultation~~access and rectification that ~~may be exercised according to law, by~~the persons ~~to whom the information relates,~~concerned may exercise under this Act in respect of the ~~files he~~personal information the agent holds; and

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

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

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

79.1. Despite section 23, a personal information agent may not keep personal information collected more than seven years earlier.

In May 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

79.1. Despite section 23, a personal information agent may not keep personal information collected more than seven years earlier.

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

…

DIVISION VII - APPLICATION OF THIS ACT

§ 1. — General provisions

80. The functions and powers provided for in ~~sections 21 and~~section 21.1, Division VI and this division are exercised by the chair and the members assigned to the oversight division.

80.1. A member of the Commission may act alone on behalf of the Commission to exercise the functions and powers conferred on it by sections ~~21,~~ 21.1, 72, 80.2, 81, 81.2, 81.3, 83, 84, 92 and 95.

The chair of the Commission may delegate to a member of the personnel of the Commission all or part of the functions and powers conferred on the Commission by sections 21.1, ~~21~~80.~~1~~2 and 95.

§ 1.1. — Inspection

…

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

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

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

The demotion, suspension, dismissal or transfer of a person or any other disciplinary measure or measure that adversely affects a person's employment or conditions of employment is presumed to be a reprisal.

81.2. The Commission may, by a formal demand notified by registered mail or personal service, require any person, whether subject to this Act or not, to file by registered mail or personal service, within a reasonable time specified in the demand, any information or documents to verify compliance with this Act or the regulations.

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

In May 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

81.2. ~~The Commission may, by a formal demand notified by registered mail or personal service, require any person, whether subject to this Act or not, to file by registered mail or personal service, within a reasonable time specified in the demand, any information or documents to verify compliance with this Act or the regulations.~~

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

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

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

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

…

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

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

In May 2021, the Quebec Government set out new proposed amendments to Bill 64 to be considered by the National Assembly's Committee on Institutions. The proposed amendments are highlighted below:

Note: The amended text has been translated from the original French version and constitute an unofficial English translation.

83. The inquiries of the Commission are non-adversarial investigations. Following an inquiry relating to the collection, retention or communication of personal information by a person carrying on an enterprise, the Commission may, after giving the person an opportunity to present his observations, recommend or order the application of such remedial measures as are appropriate to ensure the protection of the personal information within the reasonable time limit the Commission specifies.

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

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

…

86. ~~Any~~An order issued by the Commission ~~following an inquiry~~'s oversight division becomes ~~executory~~enforceable in the same manner as a decision ~~under sections 56 and~~referred to in section 58.

87. ~~Any~~A person ~~having a direct interest~~directly interested may ~~appeal from~~contest an order issued ~~following an inquiry~~by the Commission's oversight division.

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

88. Not later than 14 June 20~~11~~26, and, subsequently, every five years, the Commission must report to the Government on the application of this Act and of Division V.1 of Chapter IV of the Professional Code (chapter C-26), as well as on any other subject the Minister may submit to it.

The report must also include any audit findings and recommendations that the Auditor General considers it appropriate to forward to the Commission under the Auditor General Act (chapter V-5.01) and that the Auditor General states are to be reproduced in the report.

The Minister shall table the report in the National Assembly within 15 days of receiving it or, if the Assembly is not sitting, within 15 days of resumption.

…

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

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

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

(3) ~~establish retention schedules~~determine the content and terms of the notices provided for in section 3.5;

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

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

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

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

§4.1. — Monetary administrative penalties

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

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

(2) collects, communicates, uses or destroys personal information in contravention of the provisions of this Act;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91. ~~Every person~~Anyone who

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

~~However, for a contravention of section 17, the fine is $5,000 to $50,000 and, for a subsequent offence, $10,000 to $100,000.~~

92. ~~Any~~

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

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

(4) is a personal information agent ~~who~~and contravenes any ~~provision~~ of section~~s~~ 70, 70.1, 71, 72, 78~~ or~~, 79 ~~of this Act is liable to a fine of $6,000 to $12,000 and, for a subsequent offence, to a fine of $10,000 to $20,000.~~and 79~~2~~.1~~. Any person who hampers~~,

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

(6) contravenes section 81.1,

(7) refuses or neglects to comply, within the specified time, with a demand made under section 81.2, or

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

commits an offence and is liable ~~to a fine~~ to a fine of $5,000 to $50,000 in the case of a natural person and, in all other cases, of $15,000 to $~~1~~25,000,000 ~~and~~, ~~for a subsequent offence, to a fine of $2,000 to $20,000~~or, if greater, the amount corresponding to 4% of worldwide turnover for the preceding fiscal year.

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

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

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

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

§6. — Damages

93.1. Unless the injury results from superior force, a person carrying on an enterprise who keeps personal information is bound to compensate for the injury resulting from the unlawful infringement of a right conferred by this Act or by articles 35 to 40 of the Civil Code.

In addition, where the infringement is intentional or results from a gross fault, the court shall also award punitive damages of at least $1,000.