

chapter A-2.1, r. 2

Updated to 1 May 2017

Regulation respecting the distribution of information and the protection of personal information

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

(chapter A-2.1, ss. 16.1, 63.2 and 155)

DIVISION I

SCOPE

1. This Regulation applies to a public body referred to in section 3 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1), except the Lieutenant-Governor, the National Assembly, persons designated by the Assembly to an office under its jurisdiction and public bodies referred to in sections 5 to 7 of the Act. It does not apply to professional orders.

O.C. 408-2008, s. 1.

DIVISION II

PERSONS RESPONSIBLE

§ 1. — *Deputy Minister or chief executive officer of a public body*

2. The Deputy Minister or the chief executive officer of a public body must

(1) oversee the implementation of the responsibilities and obligations assigned by this Regulation to the public body under his or her responsibility;

(2) set up and be responsible for a committee on access to information and the protection of personal information; that committee is to be composed of the person in charge of access to information and the protection of personal information and, where applicable, the person responsible for information security and the person responsible for document management; the function of the committee is to support the Deputy Minister or the chief executive officer of the public body in the performance of his or her duties and obligations and, for that purpose, the committee may retain the services of any other person whose expertise is necessary for the performance of its function;

(3) see that staff members and management staff or officers of the public body are made aware of and receive training on the obligations and procedures concerning access to information and the protection of personal information;

(4) include in the annual management report or report of activities a report attesting to the distribution of the documents referred to in Division III and giving an account of

(a) the nature and number of requests for access received, the time taken to process them, the provisions of the Act justifying the refusal of certain requests, the number of requests for access granted, partially granted or refused, the number of requests for access that were the subject of reasonable accommodation and the number of requests that were the subject of an application for review by the Commission d'accès à l'information; and

(b) the activities relating to access to information and the protection of personal information that were carried out within the public body.

O.C. 408-2008, s. 2.

§ 2. — *Deputy Minister under the Minister responsible*

3. The Deputy Minister working under the Minister responsible for the administration of the Act must

- (1) set up a network of persons in charge of access to documents and the protection of personal information held by public bodies;
- (2) provide the support necessary for the carrying out of the network's activities; and
- (3) see to the setting up of a training program on access to information and the protection of personal information for the persons in charge of access to documents and the protection of personal information, and ensure that a program is also available to deputy ministers, assistant and associate deputy ministers, and to chief executive officers of the Government agencies referred to in section 4 of the Act.

O.C. 408-2008, s. 3.

DIVISION III

DISTRIBUTION OF DOCUMENTS OR INFORMATION

4. A public body must distribute the following documents and information through a website, insofar as the information has been made accessible by law:

- (1) the organization chart;
- (2) the names and titles of the management staff or officers, excluding managers in categories 6 to 10 covered by Directive concerning the classification and management of senior staff positions and their holders (630) adopted by (C.T. 198195, 2002-04-30) and amended by (C.T. 200154, 2003-09-09), (C.T. 203042, 2005-11-29), (C.T. 203658, 2006-05-01), (C.T. 210771, 2011-11-08), (C.T. 211151, 2012-03-13), (C.T. 211453, 2012-05-15) and (C.T. 213307, 2013-10-29) (Recueil des politiques de gestion 2-2-2-1) or according to the necessary modifications if the Directive does not apply to the management staff or officers;
- (3) the name of the person in charge of access to documents and the protection of personal information and that person's contact information;
- (4) the document classification plan required under the second paragraph of section 16 of the Act or, as the case may be, the classification list required by the first paragraph of that section;
- (5) an inventory of its personal information files established under section 76 of the Act;
- (6) the register established under section 67.3 of the Act;
- (7) the studies, research or statistical reports produced by or for the public body, whose distribution is of interest for the purposes of public information;
- (8) the documents sent under a request for access, together with the anonymized decision of the person in charge of access to documents, except for documents containing
 - (a) personal information, unless the information is considered public information within the meaning of section 55 of the Act;
 - (b) information supplied by a third person within the meaning of section 23 or 24 of the Act; and
 - (c) information whose communication must be refused under section 28, 28.1, 29 or 29.1 of the Act;
- (9) the public registers expressly required by law for which the public body is responsible;

(10) a description of the services offered and programs implemented by the public body, and the related forms;

(11) the statutes, regulations, codes of ethics, directives, policies and other documents of a similar nature administered by the public body and used by it to render decisions concerning the rights of citizens;

(12) the draft regulations published in the *Gazette officielle du Québec* under section 8 of the Regulations Act (chapter R-18.1) for which the public body is responsible;

(13) the information pertaining to the contracts entered into by the public body and referred to in section 22 of the Act respecting contracting by public bodies (chapter C-65.1);

(14) a list of its financial commitments sent to the secretary of the Conseil du trésor and forwarded by the secretary to the National Assembly, in accordance with paragraph 7 of section 5 of the Directive concernant certains engagements de 25 000 \$ et plus et les règles relatives aux paiements faits sur le fonds consolidé du revenu adopted by (C.T. 128500, 1980-08-26) and amended by (C.T. 150150, 1984-04-17), (C.T. 167860, 1988-06-14), (C.T. 186210, 1994-11-01), (C.T. 189886, 1997-02-11), (C.T. 210425, 2011-07-07), (C.T. 211305, 2012-04-03) and (C.T. 212782, 2013-06-18) (Recueil des politiques de gestion 9-2-4-2);

(15) the documents produced and tabled by the public body, in accordance with the Standing Orders of the National Assembly, for the purposes of a public meeting of the National Assembly or one of its committees or subcommittees, including those included in the list established under section 58 of the Standing Orders;

(16) the total travel expenses:

(a) for the personnel of the public body;

(b) for the office staff of a minister;

(17) the information pertaining to travel expenses in Québec for each of the activities of a minister or the holder of a full-time senior position within the public body, invoiced directly to the public body or paid by that person and reimbursed by the public body, namely:

(a) for a minister:

i. the name and position of the minister who travelled;

ii. the date of travel;

iii. the city or municipality of travel;

iv. the purpose of travel;

v. the travel expenses incurred for the use of a public or a chartered means of transport;

vi. where applicable, the amount of the lump sum allowance or the lodging and meal expenses; and

vii. the amount and a description of other related expenses;

(b) for the holder of a full-time senior position:

i. the name and position of the holder of a full-time senior position who travelled;

ii. the date of travel;

iii. the city or municipality of travel;

- iv. the purpose of travel;
- v. the travel expenses incurred for the use of a public or a chartered means of transport and, as the case may be, a personal vehicle;
- vi. where applicable, the amount of the lump sum allowance or the lodging and meal expenses; and
- vii. the amount and a description of other related expenses;

(18) the information pertaining to travel expenses outside Québec for each of the activities of a minister or the holder of a full-time senior position within the public body, invoiced directly to the public body or paid by that person and reimbursed by the public body, namely:

- (a) the name and position of the person who travelled;
- (b) the date of travel;
- (c) the city or municipality of travel;
- (d) the purpose of travel;
- (e) the travel expenses incurred for the use of a public or a chartered means of transport and, as the case may be, a personal vehicle;
- (f) the name and position of the persons accompanying them, namely, the members of the personnel of the public body and the office staff, and the total travel, lodging, meal and other related expenses for these persons;
- (g) as the case may be, the amount of the lump sum allowance or the lodging and meal expenses of the Minister or the holder of a full-time senior position;
- (h) the amount and a description of other related expenses; and
- (i) when travelling outside Canada, the fees related to meeting halls and the services of a photographer or an interpreter, and the mission reports;

also indicating, where applicable, the expenses that are borne by another public body and which public body;

(19) for each executive vehicle of a minister or the holder of a full-time senior position within the public body:

- (a) the leasing costs;
- (b) the amount of the gasoline expenses;
- (c) the amount of the maintenance expenses;

(20) the information pertaining to each official expense of an executive secretary or the holder of a full-time senior position within the public body and, namely, the name and position of the person concerned, a description of each expense, the date and the cost;

(21) the information pertaining to the expenses for each hospitality activity held in accordance with the Règles sur les réceptions et les frais d'accueil (R.R.Q., 1981, chapter A-26, r. 24), amended by (C.T. 142182, 1982-12-14), (C.T. 153400, 1984-10-30), (C.T. 161313, 1986-06-10) and (C.T. 186210, 1994-11-01) (Recueil des politiques de gestion 6-1-3-2), namely, a description of the activity, the date, the cost and the number of expected participants;

(22) the information pertaining to the expenses for each attendance, by a member of the personnel of a public body, at a training activity, a conference or a convention, namely, the name of the administrative unit to which the member of the personnel belongs, the date, place and a description of the training conference or convention, and the registration cost;

(23) the information pertaining to training contracts, namely, the name of the supplier and the amount of the contract, and, for each training activity, a description, the date and place, and the number of expected participants;

(24) the following information pertaining to publicity and promotion contracts, namely, contracts for the distribution of printed material such as advertising signs or posters, or the distribution of publicity in magazines, in newspapers, on radio, on television or on the Internet:

(a) the date of the contract;

(b) the name of the supplier;

(c) a description of the contract;

(d) the amount of the contract;

(25) the information pertaining to mobile telecommunication contracts, namely, the name of the supplier and the types of devices, and, for each type of device, the number of active cell plans in circulation, the number of cell plans in reserve, the acquisition costs and the monthly service costs;

(26) the information pertaining to each subsidy granted under the discretionary budgets of a minister, namely, the name of the beneficiary, the project concerned, the amount granted and the electoral division in which the principal residence or establishment of the beneficiary is located;

(27) the information pertaining to each lease of space occupied by the public body, namely, the address, the name of the lessor, the leased area and the annual amount of rent;

(28) a list of the annual salaries, indemnities and allowances of ministers, executive secretaries and holders of full-time senior positions within the public body.

As regards travel in Québec and outside Québec referred to in subparagraphs 17 and 18 of the first paragraph, a Government agency with a commercial purpose whose mission is to manage funds and investments, including the Caisse de dépôt et placement du Québec and Investissement Québec, is required to distribute only the following information, within 45 days following the end of each quarter, in connection with the expenses incurred during the quarter:

(a) the name and position of the holder of a full-time senior position who travelled;

(b) the total amount of transportation expenses of the holder of a full-time senior position;

(c) the total amount of meal and lodging expenses of the holder of a full-time senior position;

(d) the total amount of other expenses related to travel by the holder of a full-time senior position;

(e) the number of trips in Québec and outside Québec by the holder of a full-time senior position;

(f) where applicable, the number of companions who travelled outside Québec, and the total travel, lodging, meal and other related expenses for those persons.

A public body is not required to distribute the information referred to in subparagraphs 23 to 25 of the first paragraph in the case of a contract involving confidential or protected information within the meaning of subparagraph 3 of the first paragraph of section 13 of the Act respecting contracting by public bodies or a contract for which no waiver of professional secrecy has been obtained.

The documents or information referred to in subparagraphs 1 to 9 and 16 to 27 must be accessible directly on the website of the public body. Those referred to in the other subparagraphs may be accessible through a hyperlink to another website.

Despite the foregoing, a public body is not required to distribute the documents listed in subparagraphs 7, 14 and 15 of the first paragraph produced before 29 November 2009.

A public body is also not required to distribute the documents referred to in subparagraph 8 sent before 29 November 2009.

A public body holding a register referred to in subparagraph 9 is not required to distribute the information filed in the register before 29 November 2009.

For the purposes of this section,

“minister” means a person who is part of the Conseil exécutif within the meaning of section 4 of the Executive Power Act (chapter E-18);

“holder of a full-time senior position” means one of the following persons carrying on his or her duties on a full time basis and for whom the Government determines remuneration and other conditions of employment:

- (a) the Secretary-General of the Conseil exécutif, an associate secretary-general or a deputy secretary of the Conseil exécutif, the secretary of the Conseil du trésor, an assistant or associate secretary of the Conseil du trésor, a deputy minister or an assistant or associate deputy minister, or a person hired under contract to hold one of those positions;
- (b) a delegate-general, delegate or head of delegation;
- (c) the chief executive officer or a vice-president of a public body.

O.C. 408-2008, s. 4; O.C. 107-2015, s. 1.

5. A public body must promptly distribute a document or information referred to in section 4 through a section reserved for that purpose and accessible from the home page of its website and leave it there for as long as it is up-to-date or until it acquires the status of a semi-active document according to its retention schedule.

The documents referred to in subparagraph 8 must be distributed within 5 business days following the date on which they are sent to the applicant.

The documents or information referred to in subparagraphs 16 to 26 must be distributed within 45 days following the end of each quarter, in connexion with the expenses incurred during the quarter.

The information referred to in subparagraph 27 must be distributed within 45 days following the end of each fiscal year of the public body, in connexion with the expenses incurred during the fiscal year.

The document referred to in subparagraph 28 must be distributed within 45 days following the end of each fiscal year of the Government, in connexion with the salaries, indemnities and allowances relating to the fiscal year.

O.C. 408-2008, s. 5; O.C. 107-2015, s. 2.

6. A public body that makes reasoned decisions in the exercise of adjudicative functions must send the decisions to the Société québécoise d'information juridique, which must distribute them, in accordance with the by-law made under section 21 of the Act respecting the Société québécoise d'information juridique (chapter S-20), through its website on which the decisions of the courts, administrative tribunals and other bodies are published.

Despite the foregoing, a public body is not required to send the decisions made before 29 November 2009.

O.C. 408-2008, s. 6.

DIVISION IV

MEASURES TO PROTECT PERSONAL INFORMATION

§ 1. — *Information or electronic service system*

7. A public body must inform the committee referred to in section 2 of projects to acquire, develop or overhaul an information or electronic service system that collects, uses, keeps, releases or destroys personal information.

The committee is to suggest, from among those projects, those that must be monitored by special measures to protect personal information. The measures include

- (1) the appointment of a person in charge of the implementation of the measures to protect personal information, for each project;
- (2) the assessment, at the project's preliminary study stage, of the risks of a breach in the protection of personal information;
- (3) measures to protect personal information for the time required to carry out the project and measures to preserve that protection during the use, maintenance, modification or evolution of the information or electronic service system;
- (4) a description of the requirements regarding the protection of personal information set out in the specifications or the contract pertaining to the project, unless the contract is performed by another public body;
- (5) a description of the responsibilities of the persons taking part in the project as regards the protection of personal information; and
- (6) the holding of training activities on the protection of personal information intended for those persons taking part in the project.

O.C. 408-2008, s. 7.

§ 2. — *Survey*

8. A public body must consult the committee referred to in section 2 on the special measures pertaining to a survey involving the collection or use of personal information to be complied with to protect personal information.

Those measures must examine

- (1) the need to conduct the survey; and
- (2) the ethical aspect of the survey with regard to the sensitivity of the personal information collected and the purposes for which it is to be used.

O.C. 408-2008, s. 8.

§ 3. — *Video-surveillance*

9. A public body must consult the committee referred to in section 2 on the special measures pertaining to video-surveillance technology to be complied with to protect personal information.

Those measures must examine

- (1) the need to use that technology; and
- (2) whether the use of that technology is consistent with the right to privacy.

O.C. 408-2008, s. 9.

DIVISION V
FINAL

10. *(Omitted).*

O.C. 408-2008, s. 10.

TRANSITIONAL

2015

(OC. 107-2015) SECTION 3. . For the purposes of the fourth paragraph of section 5 replaced by section 2 of this Order in council, a public body whose fiscal year ended on 31 December 2014 must distribute the information referred to in subparagraph 27 of the first paragraph of section 4 amended by section 1 of this Order in council, not later than 15 May 2015.

REFERENCES

O.C. 408-2008, 2008 G.O. 2, 1315

O.C. 107-2015, 2015 G.O. 2, 291