



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 8
(2003, chapter 13)

**An Act to amend the Act respecting
childcare centres and childcare services**

**Introduced 17 June 2003
Passage in principle 22 October 2003
Passage 17 December 2003
Assented to 18 December 2003**

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EXPLANATORY NOTES

This bill amends the Act respecting childcare centres and childcare services in order to define, in a declaratory manner, the status of home childcare providers recognized as such by a childcare centre permit holder and to provide, in the same manner, that neither the home childcare providers nor any adult assisting them or person in their employ are employees of the childcare centre permit holder.

The bill makes it possible for the Minister of Employment, Social Solidarity and Family Welfare to make agreements, following consultations, with one or more associations representative of home childcare providers and establishes criteria for determining the representativeness of such associations.

The bill also provides that after their approval by the Government, such agreements will be applicable to all home childcare providers and to all childcare centre permit holders.

Bill 8

AN ACT TO AMEND THE ACT RESPECTING CHILDCARE CENTRES AND CHILDCARE SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2) is amended by inserting the following section after section 8 :

“8.1. A recognized home childcare provider is, with respect to the services the person provides as such to parents, a provider of services within the meaning of the Civil Code.

Notwithstanding any provision inconsistent herewith, the recognized home childcare provider, when acting within the home childcare operation, is deemed not to be in the employ of or an employee of the childcare centre permit holder that has recognized the childcare provider. The same applies to the adult assisting and any person in the employ of the childcare provider.”

2. The said Act is amended by inserting the following after section 73.2 :

“CHAPTER IV.3

“CONSULTATION AND AGREEMENT

“73.3. The Minister may make an agreement with one or more associations representative of home childcare providers concerning the provision and financing of home childcare and the implementation and maintenance of programs and services that meet the needs of all home childcare providers.

Before making such an agreement, the Minister shall consult with associations representative of home childcare providers and of childcare centre permit holders that have informed the Minister of their constitution and shall submit the draft agreement to the Government for approval.

“73.4. The provisions of the agreement shall be binding on all home childcare providers, whether or not they are members of an association party to the agreement, and on all childcare centre permit holders.

“73.5. A representative association is an association consisting solely of home childcare providers and comprising at least 350 members or an alliance whose membership includes associations that consist solely of home

childcare providers and, together, represent at least 350 home childcare providers.

The same applies to an association of childcare centre permit holders that has at least 150 members, and an alliance of associations of childcare centre permit holders whose member associations, together, represent at least 150 childcare centre permit holders.

A representative association must provide the Minister, on request, with up-to-date documents establishing its constitution, and the name and address of each of its members and, in the case of an association representative of home childcare providers, the name of the childcare centre permit holder having recognized each home childcare provider.

An alliance must also provide up-to-date documents establishing its constitution, the names and addresses of its member associations of home childcare providers or childcare centre permit holders, the names and addresses of the members of each association and, in the case of associations of home childcare providers, the name of the childcare centre permit holders having recognized each home childcare provider.

Where a representative association is an alliance of associations, the representative association alone is authorized to represent each of the member associations.

For the purposes of section 73.3, a home childcare provider may not be a member of more than one representative association other than an alliance. The same applies to childcare centre permit holders.

“73.6. In no case may a childcare centre permit holder, an association of childcare centre permit holders, an alliance of such associations or a person acting in their name represent or play a role in forming or administering an association representative of home childcare providers.

“73.7. Where, during the process that is to lead to an agreement, the parties consider that it may be expedient to bring in a third party to advise them on any matter that may be covered by the agreement or to facilitate the making of the agreement, they may agree on the appointment and the terms of appointment of the third party.”

3. The provisions of section 8.1 of the Act respecting childcare centres and childcare services, enacted by section 1 of this Act, are declaratory. They apply to administrative, quasi-judicial and judicial decisions rendered before 18 December 2003.

4. This Act comes into force on 18 December 2003.