



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 124
(2005, chapter 47)

Educational Childcare Act

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Passage in principle 13 December 2005
Passage 16 December 2005
Assented to 16 December 2005

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EXPLANATORY NOTES

This bill replaces the Act respecting childcare centres and childcare services. The new provisions are mainly designed to enhance the quality of the educational childcare services provided to children, from birth until their admission to preschool education, by childcare centre and day care centre permit holders and by recognized home childcare providers. They are also designed to foster the harmonious development of childcare services, taking into account the needs of parents, particularly their need to reconcile their parental and professional responsibilities.

The bill determines the conditions under which childcare centre and day care centre permits are issued and renewed by the Minister of Families, Seniors and the Status of Women, the term of such permits and the conditions under which they can be suspended or revoked. In addition, the bill requires certain day care centre permit holders to form a parents advisory committee.

As well, the bill provides for accreditation of home childcare coordinating offices by the Minister, according to certain terms and conditions. The purpose of these coordinating offices is to grant recognition to home childcare providers in the territory assigned to them and to apply monitoring measures determined by regulation.

The bill also contains control and recovery measures. More particularly, it confers inspection and investigation powers on the Minister and authorizes the Minister to place a childcare centre, a day care centre or an accredited home childcare coordinating office under provisional administration.

The bill maintains the Government's power to set the amount of the contribution to be paid by a parent for childcare services for which the childcare provider is subsidized. It authorizes the Government to make regulations determining conditions of payment of the parental contribution for a day or half day of childcare, and cases in which full or partial exemption from the parental contribution may be granted for specific services.

In addition, the bill gives the Minister the power to grant subsidies to certain permit applicants and permit holders and to accredited home childcare coordinating offices, as well as to childcare

providers that provide childcare for which the parental contribution set by the Government is payable. Other provisions of the bill deal with the drawing-up and communication of certain documents, reports and information.

The bill contains penal provisions and provides for powers of representation and delegation. It also provides that the Minister may sign an agreement with one or more representative associations of home childcare providers, and determines representation criteria and recognition requirements applicable to such associations as well as conditions for the implementation of such an agreement.

Lastly, the bill includes consequential amendments and transitional provisions.

LEGISLATION REPLACED BY THIS BILL:

- Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2).

LEGISLATION AMENDED BY THIS BILL:

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., chapter E-12.011);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);
- Tobacco Act (R.S.Q., chapter T-0.01).

Bill 124

EDUCATIONAL CHILDCARE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

DIVISION I

SCOPE AND INTERPRETATION

1. The object of this Act is to enhance the quality of the educational services provided by childcare providers covered by this Act so as to ensure the health and safety of the children to whom childcare services are provided, particularly those with special needs or who live in a precarious socio-economic situation, foster their development and well-being and provide them with equality of opportunity.

A further object of this Act is to foster the harmonious development of childcare services, taking into account the needs of parents — particularly their need to reconcile their parental and professional responsibilities — and their right to choose their childcare provider.

2. This Act applies to childcare centres, day care centres and recognized home childcare providers and to home childcare coordinating offices accredited by the Minister.

This Act does not apply to

(1) persons who provide or offer to provide occasional organized childcare services, in a health or social services institution, in a commercial establishment, at a fair or exhibition or during a special event, to children whose parents are on site and can be reached if needed;

(2) day camp or vacation camp operators; or

(3) school boards or private educational institutions that provide childcare at school within the meaning of the Education Act (R.S.Q., chapter I-13.3) or the Act respecting private education (R.S.Q., chapter E-9.1);

(4) public bodies and community organizations that provide temporary childcare as part of their mandate to support and assist families or as part of a specific activity involving parents or children.

3. In this Act, unless otherwise required by the context,

(1) the person who has *de facto* custody of a child is considered to be a parent of the child, except if the person having parental authority objects;

(2) a person is related to another person if that other person is

(a) the person's spouse or child, the child of the person's spouse, or the person's mother, father, aunt, uncle, brother or sister or their spouse;

(b) the person's partner or the partnership in which the person is a partner;

(c) a legal person controlled by the person or by a person referred to in subparagraph *a*;

(d) a legal person in which the person holds 10% or more of all voting rights attached to issued shares or 10% or more of all issued shares; or

(e) a legal person of which the person is a director or officer.

DIVISION II

CHILDCARE SERVICES

4. Every child has a right to quality personalized educational childcare services until the end of elementary school.

Such right must be exercised taking into account the organization and resources of childcare providers and of accredited home childcare coordinating offices and their right to agree or refuse to provide childcare to a child, the rules relating to subsidies and the priority given to children from birth until their admission to preschool education.

5. In order to ensure the provision of educational childcare services, the educational program applied by a childcare provider must include activities aimed at

(1) fostering children's overall development, particularly their emotional, social, moral, cognitive, language, physical and motor development; and

(2) helping children gradually adapt to life in society and integrate a group harmoniously.

The educational program must also include promotional and preventive elements aimed at providing an environment conducive to the development of

a healthy lifestyle, healthy eating habits and behaviour that have a positive effect on the children's health and well-being.

It may also include any other element or service determined by the Minister.

6. No person may provide or offer to provide childcare to more than six children unless the person holds a childcare centre or day care centre permit or is a home childcare provider recognized by an accredited home childcare coordinating office.

CHAPTER II

CHILDCARE CENTRES AND DAY CARE CENTRES

DIVISION I

PERMITS

7. The Minister may issue a childcare centre permit to a non-profit legal person or a cooperative whose board of directors is as follows:

(1) it is made up of at least seven members;

(2) at least two thirds of its members are parents who are clients or future clients of the childcare centre;

(3) at least one of its members is from the business sector or the institutional, social, education or community sector;

(4) no more than two of its members are staff members of the centre; and

(5) none of its members is related to another.

No board member referred to in subparagraph 2 or 3 may be a staff member of the centre or a person related to a staff member of the centre.

The prohibition concerning related persons does not apply to an Aboriginal board of directors formed for the establishment or operation of a centre on Aboriginal territory.

The Government may make rules concerning the election of the members of the board of directors, its operation and the content of its internal by-laws.

8. An applicant for a childcare centre permit must also

(1) undertake to provide educational childcare in one or more facilities;

(2) be granted subsidies by the Minister;

(3) hold no other permit under this Act; and

(4) pay the fees and meet the other conditions determined by regulation.

9. A childcare centre permit holder accredited as a home childcare coordinating office must, within six months of accreditation, make the necessary changes to its board of directors so that

(1) it is made up of at least nine members;

(2) at least two thirds of its members are, in equal proportions, parents who are clients of the centre and parents whose children are provided childcare coordinated by the centre; and

(3) at least one member is a provider of home childcare coordinated by the centre.

10. The Minister may refuse to issue a childcare centre permit if the Minister judges that the permit application does not address the needs and priorities identified by the Minister considering, among other factors, the permits already issued, the permit applications and other applications for authorization under section 21 awaiting a decision, the subsidies available and the relevance of subsidizing a permit applicant on the proposed territory.

No childcare centre permit may be issued to a private education institution within the meaning of the Act respecting private education.

In order to provide for the implementation of an agreement between the Government and a Mohawk community, the Minister may issue a childcare centre permit to a non-profit organization that does not meet the requirements of section 7, on the condition that the organization is governed as provided for in that section.

11. The Minister may issue a day care centre permit to a person provided

(1) the person undertakes to provide educational childcare to children in a single facility;

(2) the person meets the other conditions prescribed by regulation; and

(3) the person pays the fees determined by regulation.

However, the Minister may not issue a day care centre permit to a school board or a municipality.

For the purposes of this section, a Native band council is considered a legal person.

12. A permit must state

(1) the name and address of the permit holder;

(2) the address of the permit holder's main establishment and of each of the facilities where childcare is provided;

(3) the maximum number of children in each of the facilities;

(4) the maximum number of children per age class or per age class group in each of the facilities; and

(5) the number of subsidized childcare spaces, if any, where this number differs from the number referred to in paragraph 3.

13. A permit holder may not provide childcare in a facility to more children than the number stated on the permit or provide childcare to children for periods exceeding 48 consecutive hours.

A permit holder may not provide childcare to children in age classes other than those stated on the permit or to more children in each age class or age class group than the number stated on the permit.

14. A permit holder must comply with the standards established by this Act and, if so required by regulation, file a certificate with the Minister establishing compliance with those standards.

The Government may make regulations determining the standards with respect to which a certificate is required, the form and contents of the certificate and the time when it must be filed.

15. Only the holder of a permit issued by the Minister may use a name that includes the term "childcare centre" or "day care centre".

16. Childcare services must be provided by a permit holder at the address appearing on the permit, except during outings organized for the children.

However, with the Minister's authorization, childcare services may be provided elsewhere than at that address for a specified period, provided the permit holder shows

(1) that childcare services cannot be provided in the facility whose address appears on the permit for reasons beyond the permit holder's control;

(2) that the situation is temporary; and

(3) that the alternate facility is suitable for the children's health and safety.

17. A permit holder must notify the Minister in writing, within 15 days, of a change of name or address and, in the case of a legal person, of a change of director.

A permit holder must provide, with respect to a new director, the information required by regulation.

18. A permit applicant must submit to the Minister for approval the plans of any facility in which the permit applicant proposes to provide childcare services.

The same applies if a permit holder is planning to alter a facility, add a new facility or relocate a facility permanently.

Such plans must be signed and sealed by an architect or any other professional authorized to do so.

19. The Minister must make a decision within 60 days after receiving the plans. The Minister may refuse to approve the plans if the proposed premises or alterations do not appear to comply with the standards established by regulation.

20. The permit holder must ensure that the premises and alterations comply at all times with the approved plans and the standards established by regulation.

21. The childcare centre permit holder must obtain the Minister's written authorization before increasing the number of children beyond the maximum stated on the permit, altering a facility, adding a new facility or relocating a facility permanently.

The Minister may refuse to grant the authorization requested if the Minister judges that the proposed change does not address the needs and priorities identified by the Minister considering, among other factors, the permits already issued, the permit applications and other applications for authorization under the first paragraph awaiting a decision, the subsidies available and the relevance of subsidizing the permit holder on the proposed territory.

22. A permit holder must display the permit in each facility, in a place readily visible and accessible to the public at all times.

DIVISION II

TERM AND RENEWAL OF PERMITS

23. A permit is issued or renewed for five years, or for a shorter period if the Minister considers it appropriate.

If the Minister has yet to decide the application for renewal of a permit on the date of expiry, the permit remains in force until the decision is made, but for no more than 120 days.

24. The requirements of sections 7, 8, 9 and 11 apply to the modification or renewal of a permit.

25. A permit is not transferable.

DIVISION III

REFUSAL TO ISSUE OR RENEW A PERMIT, SUSPENSION OR REVOCATION OF A PERMIT

26. The Minister may refuse to issue a permit if

(1) the applicant is unable to ensure the health, safety or well-being of the children to whom the applicant proposes to provide childcare;

(2) the applicant or a director of the applicant exhibits or has exhibited behaviour that could reasonably pose a threat for the physical or emotional safety of the children to whom the applicant proposes to provide childcare;

(3) the applicant or a director of the applicant is charged with or has been convicted of an indictable or criminal offence related to the abilities and conduct required to operate a childcare centre or a day care centre;

(4) the applicant or a director of the applicant was convicted of an offence under section 6 in the two years preceding the application;

(5) the applicant or a director of the applicant held a permit that was revoked or not renewed under paragraph 4, 5 or 6 of section 28 in the three years preceding the application; or

(6) the applicant made a false declaration or distorted a material fact in the application.

27. Police forces in Québec are required to communicate any information required by regulation that is needed to verify the existence of an impediment under paragraph 2 or 3 of section 26.

The investigation to that end must be concerned with any sexual misconduct, failure to provide necessities of life, criminal operation of a motor vehicle, violent behaviour, criminal negligence, fraud, theft, arson and drug or narcotic-related offence.

For the purpose of assessing impediments, an advisory committee composed of persons who have a marked interest in child protection or expertise and experience in that field is established by the Minister.

28. The Minister may suspend, revoke or refuse to renew a permit if

(1) the permit holder commits or authorizes, consents to or participates in the commission of an offence under this Act;

(2) the permit holder no longer meets the requirements for the issue of a permit;

(3) the permit holder fails to show that no impediment exists under paragraph 2 or 3 of section 26;

(4) the permit holder makes a false declaration or distorts a material fact in the application for the issue or renewal of the permit, or in a document or information required by the Minister;

(5) the permit holder engages in practices or tolerates a situation which could endanger the health, safety or well-being of the children to whom the permit holder provides childcare;

(6) the permit holder ceases to operate without first complying with section 30;

(7) the permit holder refuses or neglects to comply with a notice of non-compliance issued under section 65; or

(8) the permit holder refuses or neglects to pay a sum owed to the Minister.

29. Before refusing to issue or renew a permit or suspending or revoking a permit, the Minister must notify the applicant or permit holder in writing and give the applicant or permit holder at least 10 days to submit observations.

The Minister's decision, with reasons, is communicated to the applicant or permit holder in writing.

30. A permit holder who intends to cease to operate must notify the Minister in writing and comply with the conditions determined by regulation.

The permit is revoked as of the date set out in the notice.

DIVISION IV

PARENTS ADVISORY COMMITTEE

31. The day care centre permit holder must form, in each facility, a parents committee composed of five parents elected by and from among the parents who are clients of the centre, other than the permit holder, the members of the board of directors, the members of the staff and persons related to them.

However, the permit holder is not required to form a parents committee if a majority of the board members are parents who are clients of the day care centre and meet the requirements of the first paragraph.

32. The permit holder must consult the parents committee on all aspects of the childcare provided in the day care centre, including

- (1) the application of the educational program;
- (2) the acquisition and use of educational materials and equipment;
- (3) the location or change of location of the facility;
- (4) the physical layout and furnishings of the facility;
- (5) the services provided; and
- (6) the processing of complaints.

33. The permit holder must, by means of a written notice, call a meeting of all the parents who are clients of the day care centre so that they may elect their representatives to the parents committee.

The meeting must be held within three months after the issue of the permit and, subsequently, every year before 15 October.

34. The parents committee chooses a chair and a secretary from among its members. The chair presides over the meetings of the committee and the secretary keeps the minutes.

The permit holder must see to it that the parents committee meets at least four times a year. Three members constitute the quorum.

If a vacancy occurs on the parents committee, the permit holder calls a meeting so that the vacancy may be filled.

35. The parents committee adopts by-laws.

The Government may, by regulation, determine rules governing the operation of a parents committee.

36. The permit holder communicates the names of the parents committee members in writing to all parents who are clients of the day care centre.

37. The permit holder must call a meeting of the parents committee in writing at least ten days in advance, by a notice informing the members of the date, time and place of the meeting and the matters on the agenda. The notice is also sent to all parents.

38. All documents relating to the parents committee must be kept by the permit holder on the premises of the facility for at least five years.

39. A member of a parents committee may not be prosecuted for any act done in good faith in the exercise of committee functions.

CHAPTER III

HOME CHILDCARE SERVICES

DIVISION I

HOME CHILDCARE COORDINATING OFFICES

§1. — *Functions of a coordinating office*

40. A home childcare coordinating office is a childcare centre permit holder accredited by the Minister to coordinate, in a specifically defined territory, the educational childcare services to be provided by the home childcare providers it has recognized, and to monitor the application of the standards established by regulation for such childcare providers.

A coordinating office may also be a non-profit legal person that has as its main purpose to act as a coordinating office and is formed by childcare centre permit holders having an establishment in the specifically defined territory. The board of directors of the legal person must be in compliance with the requirements of subparagraphs 3 and 5 of the first paragraph and the second, third and fourth paragraphs of section 7 and the requirements of section 9, with the necessary modifications. The board must be composed of at least nine members a majority of whom are parents whose children are provided home childcare coordinated by the office. Board members must also include a home childcare provider whose operation is coordinated by the office, and representatives of childcare centres that are members of the legal person.

However, if no organization meets the criteria set out in section 43 or agrees to be accredited as a coordinating office, the Minister may accredit a non-profit legal person having an establishment in the territory.

The Minister may accredit a coordinating office following an application or after solicitation.

41. Only a home childcare coordinating office accredited by the Minister may recognize a person as a home childcare provider or coordinate the home childcare services of a person it has recognized.

Only the holder of accreditation from the Minister may use a name that includes the term “home childcare coordinating office”.

42. A home childcare coordinating office has the following functions:

- (1) to grant recognition within the territory assigned to it;
- (2) to apply monitoring measures determined by regulation for the home childcare providers it has recognized;

(3) to distribute subsidized childcare spaces according to parents' childcare needs;

(4) to determine, according to the cases and conditions determined by regulation, a parent's eligibility for payment of the contribution set by the Government under section 82;

(5) to administer, according to the Minister's instructions, the granting, payment, maintenance, suspension, reduction or withdrawal of subsidies to the home childcare providers it has recognized and to manage the agreements, documents and information necessary for the administration of the subsidies;

(6) to maintain a centralized information service for home childcare services; and

(7) to foster ongoing training and development for home childcare providers and provide technical and pedagogical support on request;

(8) to deal with parents' complaints concerning the home childcare providers it has recognized.

§2. — *Terms and conditions of accreditation*

43. In granting accreditation, the Minister is to consider, among other things, the following criteria with regard to a childcare centre permit holder or a legal person:

(1) its objectives and priorities, the integrity and quality of its organization, its ability to coordinate home childcare in accordance with the geographical and cultural context, and its viability;

(2) its contribution to childcare services in terms of enrichment, complementarity and diversity;

(3) its resources;

(4) its presence in the territory defined by the Minister and its ability to collaborate with existing institutional, social, educational and community bodies; and

(5) the participation of parents, the users of the services it coordinates, in its activities.

The Minister may make accreditation subject to conditions determined by the Minister.

44. The accreditation determines the number of subsidized childcare spaces to be distributed by the coordinating office in the territory assigned to it.

45. Accreditation is granted for a renewable period of three years.

46. Notice of each accreditation, renewal or revocation is published in the *Gazette officielle du Québec*.

47. The Minister may, at the request of a coordinating office, modify its accreditation according to the criteria set out in section 43.

48. A coordinating office must obtain the Minister's authorization before changing the address of its head office, disposing of or transferring a significant asset that is necessary for its operations and was acquired by means of a subsidy, or making a change in its organization.

§3. — *Revocation of accreditation*

49. The Minister may revoke an accreditation in the following circumstances:

- (1) the accredited party requests revocation of the accreditation;
- (2) the accreditation was granted on the basis of false or misleading information;
- (3) the accredited party does not comply with the conditions determined by law;
- (4) the Minister judges that a change in the accredited party's circumstances makes revocation necessary given the criteria considered in granting the accreditation; or
- (5) the accredited party acts contrary to the rules of sound management applicable to an organization receiving subsidies out of public funds, or there has been malfeasance or breach of trust.

Unless the revocation is at the accredited party's request, the Minister must notify the accredited party in writing and give the accredited party at least 10 days to submit observations.

50. The Minister's decision, with reasons, is communicated in writing.

51. When an accreditation is revoked, the Minister assumes the coordination of services provided by the home childcare providers recognized by the former coordinating office, until a new coordinating office is accredited for the territory concerned. As of that time, the home childcare providers are deemed to have been recognized by the new coordinating office.

DIVISION II

HOME CHILDCARE PROVIDERS

52. A natural person who, in return for payment, provides childcare in a private residence

(1) to up to six children of whom not more than two are under the age of eighteen months, including the person's own children under nine years of age and any other children under nine who ordinarily live with the person and are present while the childcare is provided, or

(2) if the person is assisted by another adult, to up to six children of whom not more than four are under the age of eighteen months, including their own children under nine years of age and any other children under nine who ordinarily live with them and are present while the childcare is provided,

may be recognized as a home childcare provider by a coordinating office, according to the terms and conditions determined by regulation.

53. A natural person, other than a day care centre permit holder, who, in return for payment, provides childcare in a private residence to at least seven but no more than nine children must be recognized as a home childcare provider by a coordinating office in the manner determined by regulation and must be assisted by another adult.

The person and the adult assistant may not provide childcare to more than four children under the age of eighteen months and must, for the purpose of calculating the number of children, include any children under nine years old of their own, and any children under nine who ordinarily live with them and are present while the childcare is provided.

54. A recognized home childcare provider is committed to providing educational childcare services to children and is subject to monitoring by the coordinating office that granted its recognition.

55. Recognition of a home childcare provider is granted for a three-year period, and may be renewed, suspended or revoked under the circumstances and conditions determined by regulation.

56. A recognized home childcare provider is, with regard to the services the person provides to parents in that capacity, a provider of services within the meaning of the Civil Code.

Despite any conflicting provision, a 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 coordinating office that granted its recognition. The same applies to an adult assistant and any employees of the home childcare provider.

CHAPTER IV

DOCUMENTS

57. Childcare providers and coordinating offices that receive subsidies must keep and preserve the books, accounts and registers required by the Minister, in the manner the Minister prescribes.

58. Childcare providers must keep and preserve, in accordance with the regulations, a registration card and an attendance card for each child to whom they provide childcare.

59. A coordinating office must send to the Minister, not later than 30 June of each year, an up-to-date list of the names of and contact information for each home childcare provider it has recognized, along with, in each case, the date of recognition, the number of children to whom childcare is to be provided, the number of subsidized childcare spaces assigned and the number of these spaces that have been filled.

The Minister may, during the year, require a coordinating office to send an update of the list.

CHAPTER V

REPORTS

60. The fiscal year of permit holders and coordinating offices ends on 31 March, unless another date is prescribed by another Act.

61. A permit holder or coordinating office that receives a subsidy under this Act must send to the Minister, not later than three months after the end of its fiscal year, a financial report for that fiscal year.

The report is to be audited if the subsidies received during that fiscal year total \$25,000 or more.

62. A permit holder or coordinating office that ceases to operate or whose permit or accreditation is revoked or not renewed must send to the Minister a financial report for the period that begins on the start-date of the current fiscal year and ends on the date operations cease or the permit or accreditation expires.

The report is to be audited if the subsidies received during this period total \$25,000 or more. The report must be submitted not later than three months after the cessation of operations or the notification of the Minister's decision to revoke or not to renew the permit or accreditation.

63. Permit holders and coordinating offices must send an activities report to the Minister not later than 30 June of each year.

64. The financial report and the activities report must contain the information required by the Minister.

CHAPTER VI

CONTROL MEASURES

DIVISION I

NOTICE OF NON-COMPLIANCE

65. The Minister may issue a notice ordering that corrective measures be taken by

- (1) any person that does not comply with this Act;
- (2) a permit holder or coordinating office that acts or has acted contrary to the rules of sound management applicable to an organization receiving subsidies out of public funds; or
- (3) a childcare centre permit holder or coordinating office whose financial situation must be redressed.

This written notice must specify the corrective measures to be taken and the time granted for their implementation.

DIVISION II

PROVISIONAL ADMINISTRATION

66. The Minister may designate a person to provisionally administer a childcare centre, day care centre or coordinating office

- (1) if its permit is suspended or revoked;
- (2) if the permit holder engages in practices or tolerates a situation likely to compromise the health, safety or well-being of the children to whom childcare is provided;
- (3) if the permit holder or accredited party acts contrary to the rules of sound management applicable to an organization receiving subsidies out of public funds, or if there has been malfeasance or breach of trust;
- (4) if the Minister has reasonable grounds to believe that the permit holder or accredited party is using subsidies for purposes other than those for which they were granted; or
- (5) if an investigation into the management and operations of the permit holder or accredited party is conducted under section 80.

The provisional administration must not last longer than 120 days; the Minister may grant an extension of not more than 90 days.

67. The provisional administration suspends the powers of the permit holder or accredited party.

68. A preliminary report of the provisional administrator's findings, with recommendations, is filed with the Minister as soon as possible.

The Minister sends a copy of the report to the permit holder or accredited party and gives the permit holder or accredited party at least 10 days to submit observations.

69. If the preliminary report confirms the existence of a situation described in section 66, the Minister may

(1) make retention of the permit or accreditation subject to restrictions the Minister judges appropriate, prescribe a time limit for correcting the situation and, if the time limit is not met, impose another period of provisional administration; or

(2) order the provisional administrator to continue to administer the childcare centre, day care centre or coordinating office.

70. The provisional administrator submits a final report to the Minister upon ascertaining that the situation that gave rise to the provisional administration has been, or cannot be, corrected.

The costs, fees and expenses of the provisional administration are payable by the permit holder or accredited party concerned, unless the Minister decides otherwise.

71. The provisional administrator may not be prosecuted for any act done in good faith in the exercise of his or her functions.

DIVISION III

INSPECTION

72. The Minister may authorize a person to act as an inspector for the purposes of this Act.

An inspector is an employee of the Minister. Before conducting an inspection, the inspector must identify himself or herself and, on request, show a certificate of authority signed by the Minister.

73. An inspector designated by the Minister may

(1) at any reasonable time, enter any premises where he or she has reasonable grounds to believe that activities are carried on which require a permit, recognition or accreditation under this Act, for the purpose of verifying whether the Act is being complied with;

(2) at any reasonable time, enter any premises where home childcare is provided, for the purpose of verifying whether the provisions of Chapter VII are being complied with;

(3) inspect any premises and equipment covered by this Act, and take photographs or make recordings;

(4) require that any document be communicated for examination or reproduction, if he or she has reasonable grounds to believe that it contains information relating to the application of this Act.

74. If an inspector discovers that a permit holder has failed to comply with a safety standard prescribed for a play area, play space or play equipment, he or she may issue a notice of non-compliance indicating the deficiencies observed and the time granted to correct them.

If the permit holder fails to comply with the notice, the Minister may order such work as is necessary at the permit holder's expense or prohibit access to the premises or equipment until the situation is corrected.

75. If an inspector discovers that the state of a play space or area or of play equipment constitutes a hazard for children, he or she must order its immediate evacuation.

The permit holder may submit observations to the Minister within the time specified in the evacuation order.

The Minister may suspend or cancel the inspector's decision.

76. An inspector may affix a seal to play equipment to which he or she has prohibited access.

No person may break a seal affixed by an inspector.

77. When the premises or the play equipment are no longer a hazard for children and comply with the standards prescribed by regulation, the Minister authorizes access to the premises or the equipment and the removal of any seals.

78. No person may hinder an inspector in the exercise of inspection functions, make misleading statements to an inspector or refuse to provide an inspector with the information he or she has the right to obtain under this Act.

The person in charge of the premises being inspected and any person who works there are required to assist the inspector. In addition, the person having custody, possession or control of a document referred to in paragraph 4 of section 73 must give the inspector access to the document and assistance in examining it.

79. An inspector may not be prosecuted for any act done in good faith in the exercise of inspection functions.

DIVISION IV

INVESTIGATIONS

80. The Minister or any person designated by the Minister may investigate any matter relating to the application of this Act.

In the context of an investigation, the Minister and investigators are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

An investigator must, on request, identify himself or herself and show a certificate of authority signed by the Minister.

81. An investigator may send a summons by fax machine or any other electronic means, provided the intended recipient can be so reached.

CHAPTER VII

PARENTAL CONTRIBUTION AND SUBSIDIES

DIVISION I

CONTRIBUTIONS

82. The Government may, by regulation, set the amount of the contribution to be paid by a parent for childcare services for which the childcare provider is subsidized.

In all other cases, the childcare provider sets the amount of the parental contribution for the childcare services provided.

83. The parental contribution referred to in the first paragraph of section 82 applies to childcare services according to the age group of the children and the type and duration of services as determined by regulation.

The contribution may be indexed according to the method prescribed by regulation. The indexed amount is payable as of the coming into force of the amendment.

For the purposes of paragraphs *e* and *f* of section 190 and section 191 of the Consumer Protection Act (R.S.Q., chapter P-40.1), the total amount to be paid and the rate stated in the childcare services contract are revised accordingly.

84. The Government may, by regulation, determine conditions of payment of the parental contribution for a day or half day of childcare, and cases in which full or partial exemption from the contribution is granted for the services determined by the Government.

85. A parent pays the contribution or is fully or partially exempted from paying it on condition that a subsidy has been granted to the childcare provider for the childcare space requested by the parent.

86. A subsidized childcare provider may not demand payment of a contribution from a parent who has been exempted, or demand payment of a contribution other than that set by regulation for the services concerned. In addition, a subsidized childcare provider may not charge administration, registration or management fees for the services provided, or charge a fee for entering a person on a waiting list for a subsidized childcare space.

A subsidized childcare provider may not make a child's admission subject to a parent's undertaking to pay a contribution exceeding that set by regulation for the services concerned or to pay fees referred to in the first paragraph. In addition, a subsidized childcare provider may not refuse to provide childcare to a child because his or her parents refuse to pay such a contribution or such fees.

87. A parent who believes he or she has been wronged by the decision of a permit holder or home childcare coordinating office regarding the parent's eligibility for payment of the contribution set by regulation or for an exemption may apply to the Minister for a review of the decision.

The application must be made in writing within 90 days after the day on which the parent is notified of the decision, and must contain a brief summary of the grounds for the review.

The Minister may grant an extension if the parent can show that he or she was unable, for serious and valid reasons, to act sooner.

88. Within 30 days after receiving the application, the Minister sends a written decision, with reasons, to the parent and childcare provider concerned.

DIVISION II

SUBSIDIES

89. The Minister may, according to the conditions and priorities the Minister determines, grant a subsidy

(1) to a childcare centre permit applicant, for the establishment of such a centre; or

(2) to a childcare centre permit holder or a home childcare coordinating office, for funding purposes.

90. The Minister may, according to the conditions and priorities the Minister determines, subsidize childcare providers for the provision of childcare services for which the contribution payable is set by the Government. The amount of such subsidies may vary depending on whether the childcare provider is a childcare centre permit holder, day care centre permit holder or home childcare provider.

Such subsidized childcare is for children from birth to their admission to preschool, and may be offered to children in preschool or elementary school who cannot be provided childcare at school within the meaning of the Education Act and the Act respecting private education.

91. The Minister may likewise grant a subsidy to any person, partnership or association in order to facilitate or support the development or improvement of childcare services, to meet specific childcare needs or to foster experimentation or innovation in the field of childcare.

92. The Minister may, according to the conditions the Minister determines, enter into a subsidy agreement with a permit applicant or childcare provider.

93. The Minister determines the number of subsidized childcare spaces annually and allocates them to permit applicants, permit holders and home childcare coordinating offices, according to the needs and priorities the Minister determines.

Home childcare providers may not receive a subsidy for the childcare they provide, within their childcare operation, to their own children or to children who ordinarily live with them. Nor may they receive a subsidy for childcare provided to their assistants' children or to children who ordinarily live with their assistants, if the services are provided at the children's residence.

94. The Minister may reallocate childcare spaces that a permit applicant or a permit holder fails to make available, or that a coordinating office fails to distribute, within the time determined by the Minister.

Likewise, the Minister may reallocate a childcare space allocated to a permit holder if it becomes unoccupied.

A coordinating office may reallocate a childcare space allocated to a home childcare provider if it becomes unoccupied or if the services offered no longer satisfy the terms of the subsidy agreement.

95. A childcare provider that has been allocated fewer childcare spaces than the allowable maximum may only make up the difference by accepting

children who will occupy the spaces already allocated or who do not meet the conditions set out in the second paragraph of section 90.

96. A subsidy granted to a home childcare provider may be paid by the Minister to the coordinating office.

The coordinating office must remit the subsidy to the home childcare provider within 15 days following the provision of the childcare services.

97. The Minister may cancel or reduce a subsidy or suspend payment in whole or in part if the recipient

- (1) is not entitled to the subsidy;
- (2) refuses or neglects to comply with the subsidy agreement;
- (3) refuses or neglects to comply with sections 57 to 65;
- (4) refuses or neglects to pay an amount due to the Minister under this Act;
- (5) acts contrary to the rules of sound management applicable to an organization receiving subsidies out of public funds, or uses such subsidies for purposes other than those for which they were granted;
- (6) files a financial report containing a qualification or reasons for a denial of opinion, and the Minister judges that corrective measures must be taken;
- (7) contravenes section 86; or
- (8) refuses or neglects to establish or comply with a recovery plan under section 98.

If a non-compliance notice has not already been issued to the subsidy recipient, the Minister, before applying a measure provided for in the first paragraph, gives the recipient at least 10 days to submit observations.

98. In a case described in subparagraph 5 or 6 of the first paragraph of section 97, the Minister may, before cancelling, reducing or suspending a subsidy, establish, in cooperation with a permit holder or a coordinating office and within the time determined by the Minister, a recovery plan to correct the situation.

The plan may include recommendations regarding the management of human, financial or physical resources and provide for the presence, for a specified time, of a person designated by the Minister to assist in carrying out the plan.

99. The recipient of a subsidy must, for a period of six years, keep all supporting documents related to the granting and use of the subsidy, and must allow the Minister to audit such documents at any time.

100. Any subsidy received without entitlement must be repaid to the Minister by the recipient.

Any amount due is subject to interest at the rate determined under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), and may be deducted from any future subsidies.

101. When a childcare centre permit holder or a home childcare coordinating office ceases to operate, is dissolved, or has its permit or accreditation revoked, the assets it acquired out of subsidies are transferred to a non-profit legal person with similar objects designated by the Minister.

CHAPTER VIII

COMMUNICATION OF INFORMATION

102. A permit holder, a home childcare coordinating office or a recognized home childcare provider must communicate to the Minister, on request, the personal or other information needed by the Minister for the purposes of this Act, whether for studies, research or the administration of a subsidy.

In the case of a coordinating office, the information referred to in the first paragraph includes that obtained from a home childcare provider that it has recognized. A home childcare provider must likewise, on request, communicate to the coordinating office the information it needs to exercise its functions or administer a subsidy.

The information concerned may relate to the permit holder, the coordinating office or a home childcare provider, their directors or personnel, the childcare services they provide or coordinate, or the children receiving childcare and their parents.

103. In order to determine whether the objectives of the Act are being achieved, the Minister may require that parents whose child is receiving subsidized childcare communicate to the Minister, at the time determined and using the form supplied by the Minister, the documents and information prescribed by regulation concerning their employment, annual income bracket, family make-up and childcare needs.

CHAPTER IX

PROCEEDING BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

104. An applicant who is denied a permit, a permit holder whose permit is suspended, revoked or not renewed, a home childcare provider whose recognition is suspended, revoked, or not renewed, or a parent who believes he or she had been wronged by a decision under section 88 may contest the decision of the Minister or the home childcare coordinating office, as the case

may be, before the Administrative Tribunal of Québec within 60 days after being notified of the decision.

105. A home childcare coordinating office whose decision is contested is a party to the proceeding within the meaning of section 101 of the Act respecting administrative justice (R.S.Q., chapter J-3) and must, among other things, send the documents and information referred to in the first paragraph of section 114 of that Act to the secretary of the Tribunal within 30 days after receiving a copy of the motion.

CHAPTER X

REGULATIONS

106. The Government may, by regulation, for part or all of Québec,

(1) determine the content of an application for the issuance or renewal of a permit, the qualifications required of the applicant, the conditions to be met, the information and documents to be provided and the fees to be paid;

(2) define classes according to the age of the children and the childcare services provided by the permit holder;

(3) set the maximum number of children permitted in a childcare provider's premises or play space, according to the dimensions and lay-out of the premises or play space, the age of the children and the services to be provided;

(4) establish the standards of hygiene, salubrity and safety to be met by childcare providers;

(5) establish standards for the lay-out, equipment, furnishing, maintenance, heating and lighting of premises where childcare is provided, require that there be a play space, delimit areas within that space for specific uses and establish standards for the lay-out, equipment, maintenance and safety of the play space or play areas;

(6) establish rules for the election of the directors of a legal person or cooperative holding a childcare centre permit and for the operation of its board of directors, and determine the content of its by-laws;

(7) establish the requirements to be met by the staff members of a coordinating office or the holder of a childcare or day care centre permit according to the responsibilities and the type of job held, in particular with regard to safety and moral character, and determine which of the impediments or criminal or indictable offences referred to in paragraphs 2 and 3 of section 26 are to be retained;

(8) establish qualification standards, including standards of equivalency with regard to training and experience acquired outside Québec, and other requirements to be met by persons working for a childcare provider;

(9) establish qualification standards, including standards of equivalency with regard to training and experience acquired outside Québec, and other requirements to be met by a person responsible for managing a childcare centre, day care centre or home childcare coordinating office, and define the duties of this person;

(10) establish qualification standards, including standards of equivalency with regard to training and experience acquired outside Québec, and other requirements to be met by a person responsible for granting recognition to home childcare providers, and define the duties of this person;

(11) identify the records that must be kept by a permit holder or a home childcare coordinating office as well as the information and documents these records must contain, and define rules for their preservation;

(12) determine the information and documents that a childcare provider or home childcare coordinating office must update and communicate;

(13) set the ratio of staff to children to be respected by a childcare provider;

(14) determine the formalities to be followed when registering and admitting children and when taking them on an outing;

(15) determine the content of registration cards and attendance cards, and establish standards for their preservation, consultation and reproduction;

(16) determine the standards with respect to which a permit holder must file a certificate, the form and contents of the certificate and the time it must be filed;

(17) determine the information and documents to be provided by a permit holder upon changing one of its directors;

(18) determine the information and documents needed to verify the existence of an impediment that a police force in Québec is required to communicate to the Minister;

(19) determine the conditions to be met by a permit holder or home childcare coordinating office that ceases to operate;

(20) determine rules governing the operation of the parents committee of a day care centre;

(21) determine the requirements to be met by a person seeking recognition as a home childcare provider or renewal of such recognition;

(22) determine terms and conditions for recognition of a home childcare provider;

(23) determine the monitoring measures to be applied to a home childcare provider and the situations that can lead to non-renewal, suspension or revocation of recognition;

(24) determine the information and documents a home childcare provider must communicate to the coordinating office that granted its recognition;

(25) set the parental contribution for the services determined by the Government and prescribe how it is to be calculated and when it is to be indexed;

(26) determine the terms and conditions for payment of the parental contribution set by the Government and define the cases in which a parent may be fully or partially exempted from paying that contribution for all or some services, as specified;

(27) determine the persons, other than the parent, from whom payment of the parental contribution set by the Government may be required;

(28) determine the age class and the type and duration of childcare services to which the parental contribution set by the Government applies;

(29) determine the documents and information that parents whose child is receiving subsidized childcare must communicate to the Minister concerning their employment, annual income bracket, family make-up and childcare needs; and

(30) determine, from among the provisions of a regulation made under this section, those whose infringement constitutes an offence punishable under section 117.

107. The Minister may, by regulation, for part or all of Québec,

(1) determine elements and services to be included in the educational program of a childcare provider; and

(2) determine conditions under which accreditation is to be granted by the Minister.

108. In an exceptional case and if the Minister considers it warranted and in the public interest, the Minister may authorize the application of a measure that departs from a standard established by or under this Act other than a standard established under any of paragraphs 13, 14, 16 and 21 to 30 of section 106.

However, before the Minister may authorize the application of a measure that departs from a standard established under paragraph 3, 4, 5, 8, 9 or 15 of section 106, the permit holder or applicant must prove to the Minister that the

proposed measure is appropriate and would, to the same degree, ensure the health and safety and foster the development and well-being of the children.

CHAPTER XI

PENAL PROVISIONS

109. A person that contravenes section 6, 15, 41 or 53, the second paragraph of section 76, section 78 or section 99 or allows access to a play space, play area or play equipment access to which has been prohibited or the evacuation of which has been ordered under section 74 or 75 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

110. A permit holder that contravenes section 13, 14, 16, 17, 20, 22, 25 or 30 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

111. A day care centre permit holder that contravenes section 31 or 33, the second paragraph of section 34, section 37 or 38 is guilty of an offence and is liable to a fine of \$250 to \$1,000.

112. An accredited home childcare coordinating office that contravenes section 48 or 59 is guilty of an offence and is liable to a fine of \$250 to \$1,000.

113. A childcare provider or an accredited home childcare coordinating office receiving a subsidy under this Act that fails to keep, or records false or inaccurate information in, the books, accounts and registers referred to in section 57 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

114. A childcare provider that fails to keep, or enters false or misleading information on, the registration card or attendance card referred to in section 58 is guilty of an offence and is liable to a fine of \$250 to \$1,000.

115. A permit holder or an accredited home childcare coordinating office receiving a subsidy under this Act that fails to produce within the time prescribed, or records false or inaccurate information in, the report referred to in section 61, 62 or 63 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

116. A childcare provider that contravenes section 86 or 95 is guilty of an offence and is liable to a fine of \$500 to \$5,000.

117. A person that contravenes a regulatory provision made under paragraph 30 of section 106 is guilty of an offence and is liable to a fine of \$250 to \$1,000.

118. If a legal person contravenes any of sections 109 to 117, any director or representative of the legal person who authorized, permitted or consented to

the commission of the offence is party to the offence and is liable to the fines provided for in those sections.

119. In the case of a second or subsequent conviction, the fines provided for in sections 109 to 117 are doubled.

120. If, in a facility, activities requiring a permit or recognition under section 6 are carried on without a permit, the Minister may, after notifying the parents of the children to whom childcare is provided, have the children evacuated and close the facility immediately, before proceedings are instituted under section 109.

CHAPTER XII

MISCELLANEOUS PROVISIONS

DIVISION I

REPRESENTATION AND DELEGATION

121. The Minister may designate regional representatives and determine their functions.

The Minister may also authorize, in writing, a person, government department or body or a public institution within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) to exercise some or all of the powers conferred on the Minister by this Act.

A person, government department, body or public institution so authorized may not be prosecuted for any act done in good faith in the exercise of those functions.

DIVISION II

PILOT PROJECTS

122. The Minister may establish a pilot project for the purpose of experimenting or innovating in the field of childcare services, or for the purpose of studying, improving or defining childcare standards.

The Minister may also authorize a person, partnership or association to provide childcare services within such a pilot project according to standards that depart from those established by or under this Act.

123. The Minister may issue directives establishing the standards applicable to a pilot project.

The Minister may, at any time, make changes or put an end to a pilot project after advising the person, partnership or association concerned.

124. The maximum duration of a pilot project is three years.

DIVISION III

AGREEMENT WITH REPRESENTATIVE ASSOCIATION

§1. — Agreement

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

Before making such an agreement, the Minister consults with all representative associations of home childcare providers and with all home childcare coordinating offices, and submits the draft agreement to the Government for approval.

126. If, during the process that is to lead to an agreement, the parties wish 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 terms of appointment of a third party.

127. The agreement is binding on all home childcare providers, whether or not they are members of an association that is party to the agreement, and on all home childcare coordinating offices.

§2. — Representative association

128. A representative association is

(1) an association whose membership consists solely of home childcare providers and comprising at least 350 members; or

(2) an alliance of associations whose membership consists solely of home childcare providers and which, together, comprise at least 350 members.

129. For the purposes of section 125, a home childcare provider belonging to a representative association may not be a member of another representative association other than an alliance referred to in paragraph 2 of section 128.

130. A representative association that is an alliance of associations has exclusive authority to represent each of the member associations.

131. In no case may a home childcare coordinating office or a person acting in its name represent or play a role in forming or administering a representative association of home childcare providers.

132. A representative association must, on request, communicate to the Minister up-to-date documents showing its constitution, the name and address of each home childcare provider that is a member of the association and the names of the home childcare coordinating offices having recognized each of them.

An alliance must also communicate up-to-date documents showing its constitution, the name and address of each association it represents, and the name and address of each home childcare provider that is a member of such an association, as well as the names of the home childcare coordinating offices having recognized each of them.

DIVISION IV

RECOGNITION OF EQUIVALENCY

133. In the exercise of ministerial responsibilities, the Minister may take the necessary measures, in collaboration with the government departments concerned or the competent bodies, to facilitate the recognition in Québec of training and experience acquired outside Québec and the awarding of an equivalency.

DIVISION V

LAND USE PLANNING AND DEVELOPMENT

134. Despite any existing zoning by-laws, the council of a local municipality may, by by-law and subject to the conditions imposed by the council, authorize the granting of permits for the use of land or the construction, alteration or occupation of buildings for the purposes of a childcare centre or day care centre within the meaning of this Act.

No municipal by-law made under a general law or special Act may operate to prevent

(1) the opening or maintenance of a home childcare operation for the sole reason that it is a home childcare operation;

(2) the maintenance of a day care centre operated by a person holding a permit authorizing the operation of a reception centre belonging to the class of day care centres that was issued by the Minister of Health and Social Services before 29 November 1979; or

(3) the maintenance of a childcare centre operated by a person holding a day care centre permit issued by the Office des services de garde à l'enfance before 1 September 1997.

The second paragraph overrides any general law or special Act and any municipal by-law made under a general law or special Act.

DIVISION VI

MINISTER RESPONSIBLE

135. The Minister of Families, Seniors and the Status of Women is responsible for the administration of this Act.

CHAPTER XIII

AMENDING PROVISIONS

CITIES AND TOWNS ACT

136. Section 29 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) of a childcare centre or day care centre within the meaning of the Educational Childcare Act (2005, chapter 47), for the purpose of setting up the childcare centre or day care centre in the immovables.”

MUNICIPAL CODE OF QUÉBEC

137. Article 7 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) of a childcare centre or day care centre within the meaning of the Educational Childcare Act (2005, chapter 47), for the purpose of setting up the childcare centre or day care centre in the immovables.”

ACT TO FACILITATE THE ESTABLISHMENT OF A PENSION PLAN FOR EMPLOYEES WORKING IN CHILDCARE SERVICES

138. Section 1 of the Act to facilitate the establishment of a pension plan for employees working in childcare services (R.S.Q., chapter E-12.011) is amended by replacing “under the Act respecting childcare centres and childcare services (chapter C-8.2), of holders of a day care centre permit issued thereunder who have entered into an agreement under section 39.1 of that Act with the Minister and of associations representing such permit holders” by “under the Educational Childcare Act (2005, chapter 47), of holders of a day care centre

permit so issued receiving a subsidy under section 90 of that Act and of associations representing those permit holders”.

139. Section 2 of the Act is amended by replacing “the holder of a child care centre permit under the Act respecting childcare centres and childcare services (chapter C-8.2)” in the second paragraph by “a home childcare coordinating office under the Educational Childcare Act (2005, chapter 47)”.

ACT RESPECTING MUNICIPAL TAXATION

140. Section 204 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by replacing subparagraph *c* of paragraph 14 by the following subparagraph:

“(c) an immovable that is included in a unit of assessment entered on the roll in the name of a cooperative or a non-profit organization holding a childcare centre or day care centre permit or accredited as a home childcare coordinating office under the Educational Childcare Act (2005, chapter 47), and that is used chiefly for the carrying on of functions proper to a childcare centre, day care centre or coordinating office;”.

141. Section 236 of the Act is amended by replacing subparagraph *g* of paragraph 1 by the following subparagraph:

“(g) a cooperative or non-profit organization under a childcare centre or day care centre permit or an accredited home childcare coordinating office pursuant to the Educational Childcare Act (2005, chapter 47);”.

EDUCATION ACT FOR CREE, INUIT AND NASKAPI NATIVE PERSONS

142. Section 255.2 of the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14) is amended

(1) by striking out “in accordance with the Act respecting childcare centres and childcare services (chapter C-8.2) and the regulations” in the first paragraph;

(2) by striking out “or another person determined by regulation under the said Act” in the second paragraph;

(3) by striking out the third and fourth paragraphs.

ACT RESPECTING ADMINISTRATIVE JUSTICE

143. Schedule I to the Act respecting administrative justice (R.S.Q., chapter J-3), amended by section 306 of chapter 1, section 158 of chapter 15, section 14 of chapter 16 and section 27 of chapter 17 of the statutes of 2005, is again amended

(1) by striking out paragraph 4 of section 1;

(2) by replacing paragraph 8 of section 3 by the following paragraph:

“(8) proceedings under section 104 of the Educational Childcare Act (2005, chapter 47);”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

144. Section 114 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is replaced by the following section:

“**114.** A public institution may

(1) operate a day care centre in accordance with the Educational Childcare Act (2005, chapter 47) or a stop over centre under section 153 of that Act;

(2) if it has been designated by the Minister of Families, Seniors and the Status of Women under section 121 of that Act to be the Minister’s regional representative, act in that capacity and exercise the related functions;

(3) exercise any power that Minister authorizes it to exercise under that Act;

(4) make an agreement with that Minister under section 10 of the Act respecting the Ministère de la Famille et de l’Enfance (chapter M-17.2).”

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

145. Section 1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5) is amended by replacing “day care establishments contemplated in the Act respecting childcare centres and childcare services (chapter C-8.2)” in subparagraph *k* of the first paragraph by “childcare providers within the meaning of the Educational Childcare Act (2005, chapter 47)”.

146. Section 135.1 of the Act is replaced by the following section:

“**135.1.** A public institution may

(a) operate a day care centre in accordance with the Educational Childcare Act (2005, chapter 47);

(b) if it has been designated by the Minister of Families, Seniors and the Status of Women under section 121 of that Act to be the Minister’s regional representative, act in that capacity and exercise the related functions;

(c) exercise any power that Minister authorizes it to exercise under that Act;

(d) make an agreement with that Minister under section 10 of the Act respecting the Ministère de la Famille et de l'Enfance (chapter M-17.2).”

TOBACCO ACT

147. Section 2 of the Tobacco Act (R.S.Q., chapter T-0.01), amended by section 3 of chapter 29 of the statutes of 2005, is again amended by replacing paragraph 4 by the following paragraph:

“(4) facilities operated by a childcare centre or day care centre within the meaning of the Educational Childcare Act (2005, chapter 47) and private residences where home childcare within the meaning of that Act is provided, during the hours when childcare is provided;”

148. Section 2.1 of the Act, enacted by section 4 of chapter 29 of the statutes of 2005, is amended by replacing “, day care centres, stop over centres and nursery schools within the meaning of the Act respecting childcare centres and childcare services” in paragraph 3 by “and day care centres within the meaning of the Educational Childcare Act (2005, chapter 47)”.

149. Section 17 of the Act, amended by section 21 of chapter 29 of the statutes of 2005, is again amended by replacing “other childcare service” in paragraph 3 by “day care centre”.

CHAPTER XIV

MISCELLANEOUS AND TRANSITIONAL PROVISIONS

150. This Act replaces the Act respecting childcare centres and childcare services (R.S.Q., chapter C-8.2).

151. A regulation made under the Act respecting childcare centres and childcare services remains in force until it is replaced or repealed by a regulation made under this Act.

152. Rights and obligations relating to home childcare services conferred on childcare centre permit holders by the Regulation respecting childcare centres, made by Order in Council 1069-97 (1997, G.O. 2, 4368), and the Regulation respecting reduced contributions, made by Order in Council 1071-97 (1997, G.O. 2, 4393), are conferred on accredited home childcare coordinating offices, with the necessary modifications.

153. Section 6 does not apply to a person operating a nursery school that establishes that the person was operating that nursery school on 25 October 2005.

“Nursery school” means an establishment that provides educational childcare in a facility where seven or more children from two to five years of age are received, in a stable group, on a regular basis for periods not exceeding four hours a day and are offered activities conducted over a fixed period.

154. A legal person or cooperative that holds a childcare centre permit on 1 June 2006 has until 1 June 2007 to bring the composition of its board of directors into compliance with the requirements of section 7.

155. Despite the second paragraph of section 11, a school board that holds a day care centre permit on 1 June 2006 may obtain a permit renewal from the Minister on the conditions prescribed by law.

156. Section 12 applies to a permit in force on 1 June 2006 only as of its renewal unless the permit holder requests a modification of the permit before its renewal.

157. Section 15 does not apply to a person, partnership or association which, on 14 May 1997, was using a name that includes the term “childcare centre” and appears in the declaration of registration filed under the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45). The person, partnership or association may continue to use that name, provided that it is not used in such a manner as to lead to the belief that the centre is a childcare centre within the meaning of this Act.

158. The Minister may accredit, as a home childcare coordinating office, a legal person that holds a childcare centre permit on 16 December 2005 and that has been dispensed from providing childcare in a facility under section 73.1.1 of the Act respecting childcare centres and childcare services if it undertakes to bring its board of directors into compliance with the requirements of subparagraphs 3 and 5 of the first paragraph and the second, third and fourth paragraphs of section 7 and the requirements of section 9, with the necessary modifications, within six months after it is accredited.

However, the parent members of the board of directors must be parents whose children are provided childcare coordinated by the office.

159. A childcare centre permit holder that coordinates home childcare services on 16 December 2005 must communicate to the Minister, in the manner and according to the conditions determined by the Minister and not later than 20 January 2006, the names of and contact information for each home childcare provider the centre has recognized, the date of recognition and the number of subsidized childcare spaces granted.

160. A childcare centre permit holder that has not been accredited by the Minister as a home childcare coordinating office and operates a childcare centre in a territory assigned to a coordinating office must, without delay at the Minister’s request, communicate to the coordinating office the names and

addresses of the persons the centre has recognized as home childcare providers, as well as the records drawn up concerning those persons in accordance with the Act respecting childcare centres and childcare services and the regulations.

Such persons are deemed to be recognized by the coordinating office as of 1 June 2006 unless they notify the coordinating office of their intention to give up the recognition.

161. A person who, on 1 June 2006, is a recognized home childcare provider must undergo an assessment not later than 31 March 2007 for the renewal of the person's recognition by the competent accredited coordinating office in accordance with section 55.

162. Section 59 applies with respect to the year 2006 from 30 September 2006.

163. Sections 61 and 63 apply to coordinating offices from the fiscal year 2006-2007.

164. The second paragraph of section 97 does not apply to a childcare centre permit holder whose subsidies have been cancelled or reduced because the permit holder no longer coordinates home childcare services.

165. Any case pending on 1 June 2006 before the Administrative Tribunal of Québec concerning the suspension or revocation of the recognition of a home childcare provider by a childcare centre permit holder is continued, without continuance of suit, by the territorially competent home childcare coordinating office. The same applies to any application for judicial review of a decision rendered by the Tribunal in such a matter pending on that date.

The childcare centre permit holder must, without delay, send the coordinating office a copy of the file prepared for that purpose. The coordinating office notifies the tribunal or court concerned.

However, the childcare centre permit holder may remain a party to the proceedings if it proves its interest.

166. A regulation made under this Act before 1 September 2006 may have a shorter publication period than that provided for in section 11 of the Regulations Act (R.S.Q., chapter R-18.1), but not shorter than 20 days. Furthermore, such a regulation is not subject to the requirement of section 17 of that Act as regards its date of coming into force.

167. The Government may, by a regulation made before 1 April 2007, enact any other transitional provision or measure needed to carry out this Act.

A regulation made under this section is not subject to the publication requirement set out in section 8 of the Regulations Act or to the date of coming into force set out in section 17 of that Act.

Such a regulation may, if it so provides, apply from any date not prior to 16 December 2005.

168. This Act comes into force on 16 December 2005, except sections 1 to 39, the first paragraph of section 41, sections 52 to 93, 95 to 157 and 161 to 165, which come into force on 1 June 2006.