



Part 2

LAWS AND REGULATIONS

25 September 2021 / Volume 153

Summary

Table of Contents
Orders in Council

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Part 2 – LAWS AND REGULATIONS

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Contents

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Table of Contents

Page

Orders in Council

1276-2021	Ordering of measures to protect the health of the population amid the COVID-19 pandemic situation	3723B
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Orders in Council

Gouvernement du Québec

O.C. 1276-2021, 24 September 2021

Ordering of measures to protect the health of the population amid the COVID-19 pandemic situation

WHEREAS the World Health Organization declared COVID-19 to be a pandemic on 11 March 2020;

WHEREAS, under section 118 of the Public Health Act (chapter S-2.2), the Government may declare a public health emergency in all or part of the territory of Québec where a serious threat to the health of the population, whether real or imminent, requires the immediate application of certain measures provided for in section 123 of the Act to protect the health of the population;

WHEREAS the pandemic constitutes a serious and real threat to the health of the population that requires the immediate application of certain measures provided for in section 123 of the Act;

WHEREAS, while the public health emergency is in effect, despite any provision to the contrary, the Government or the Minister of Health and Social Services, if the Minister has been so empowered, may, without delay and without further formality, take any of the measures provided for in subparagraphs 1 to 8 of the first paragraph of section 123 of the Act to protect the health of the population;

WHEREAS, by Order in Council 177-2020 dated 13 March 2020, the Government declared a public health emergency and took certain measures to protect the health of the population;

WHEREAS the public health emergency has consistently been renewed since that date by various Orders in Council, including by Order in Council 1251-2021 dated 22 September 2021;

WHEREAS that latter Order in Council provides that the measures set out in Orders in Council 177-2020 dated 13 March 2020, 222-2020 dated 20 March 2020, 460-2020 dated 15 April 2020, 505-2020 dated 6 May 2020, 566-2020 dated 27 May 2020, 615-2020 dated 10 June 2020, 651-2020 dated 17 June 2020, 885-2020 dated 19 August 2020, 943-2020 dated 9 September 2020, 964-2020 dated 21 September 2020, 135-2021 dated 17 February 2021 and 885-2021 dated 23 June 2021, and by Ministerial Orders 2020-004 dated 15 March 2020, 2020-007 dated 21 March

2020, 2020-008 dated 22 March 2020, 2020-014 dated 2 April 2020, 2020-015 dated 4 April 2020, 2020-016 dated 7 April 2020, 2020-017 dated 8 April 2020, 2020-019 and 2020-020 dated 10 April 2020, 2020-022 dated 15 April 2020, 2020-023 dated 17 April 2020, 2020-026 dated 20 April 2020, 2020-027 dated 22 April 2020, 2020-028 dated 25 April 2020, 2020-029 dated 26 April 2020, 2020-030 dated 29 April 2020, 2020-032 dated 5 May 2020, 2020-033 dated 7 May 2020, 2020-034 dated 9 May 2020, 2020-035 dated 10 May 2020, 2020-037 dated 14 May 2020, 2020-039 dated 22 May 2020, 2020-042 dated 4 June 2020, 2020-044 dated 12 June 2020, 2020-049 dated 4 July 2020, 2020-060 dated 28 August 2020, 2020-061 dated 1 September 2020, 2020-062 dated 4 September 2020, 2020-064 dated 17 September 2020, 2020-067 dated 19 September 2020, 2020-069 dated 22 September 2020, 2020-076 dated 5 October 2020, 2020-084 dated 27 October 2020, 2020-087 dated 4 November 2020, 2020-091 dated 13 November 2020, 2020-097 dated 1 December 2020, 2020-099 dated 3 December 2020, 2020-102 dated 9 December 2020, 2020-107 dated 23 December 2020, 2021-003 dated 21 January 2021, 2021-005 dated 28 January 2021, 2021-010 dated 5 March 2021, 2021-017 dated 26 March 2021, 2021-022 dated 7 April 2021, 2021-024 dated 9 April 2021, 2021-027 dated 16 April 2021, 2021-028 dated 17 April 2021, 2021-032 dated 30 April 2021, 2021-036 dated 15 May 2021, 2021-039 dated 28 May 2021, 2021-040 dated 5 June 2021, 2021-046 dated 16 June 2021, 2021-049 dated 1 July 2021, 2021-050 dated 2 July 2021, 2021-051 dated 6 July 2021, 2021-052 dated 7 July 2021, 2021-053 dated 10 July 2021, 2021-054 dated 16 July 2021, 2021-055 dated 30 July 2021, 2021-057 dated 4 August 2021, 2021-058 dated 13 August 2021, 2021-059 dated 18 August 2021, 2021-060 dated 24 August 2021, 2021-061 dated 31 August 2021, 2021-062 dated 3 September 2021 and 2021-063 dated 9 September 2021, except to the extent that they were amended by those Orders in Council or Orders, continue to apply until 1 October 2021 or until the Government or the Minister of Health and Social Services modifies or terminates them;

WHEREAS it is advisable to order certain measures to protect the health of the population;

IT IS ORDERED, therefore, on the recommendation of the Minister of Health and Social Services:

THAT, for the purposes of this Order in Council, a person be considered “adequately protected against COVID-19” if the person

(1) has received two doses of either the Moderna or Pfizer-BioNTech mRNA vaccine or two doses of the AstraZeneca/COVIDSHIELD vaccine, with an interval of no fewer than 21 days between the doses and the last dose being received at least seven days earlier;

(2) contracted COVID-19 and has received, at least seven days earlier, a dose of either vaccine described in subparagraph 1 after an interval of at least 21 days following the illness;

(3) has received the single-dose Janssen vaccine at least 14 days earlier; or

(4) contracted COVID-19 in the last six months;

THAT a person also be held to be adequately protected against COVID-19 if the person

(1) has a contraindication to vaccination against the illness certified by a health professional qualified to make such a diagnosis and entered in the vaccination registry maintained by the Minister of Health and Social Services; or

(2) has taken part in the Medicago inc. clinical trial seeking to validate the safety or efficacy of a COVID-19 vaccine candidate;

THAT, for the purposes of this Order in Council, “health and social service provider” means a person, remunerated or not, whose activities

(1) involve direct contact with persons to whom health and social services are provided; or

(2) involve direct contact with providers referred to in subparagraph 1, particularly because of common areas being shared;

THAT health and social service providers performing duties in the following environments be required to be adequately protected against COVID-19:

(1) a facility maintained by a health and social services institution;

(2) an intermediate resource;

(3) a family-type resource;

(4) a private seniors’ residence;

(5) a private health facility of

(a) nurses;

(b) nursing assistants;

(c) respiratory therapists;

(d) physicians;

(e) pharmacists;

(f) midwives;

(6) a medical imaging laboratory;

(7) premises operated by a body that has entered into an agreement under section 108 of the Act respecting health services and social services (chapter S-4.2) for the provision of certain health and social services;

THAT, for the purposes of subparagraphs 1 and 5 of the preceding paragraph, every place other than a facility maintained by a health and social services institution or a professional health facility where services are provided by such an institution or professional health facility be considered, as applicable, to be such a maintained facility or such a professional health facility, but only as regards the providers of the health or social services;

THAT, despite the foregoing, the following persons are not required to be adequately protected:

(1) an operator of an intermediate resource or a family-type resource whose principal residence is situated in such a resource, as well as the members of the operator’s family residing there;

(2) a peace officer or firefighter who, while performing duties, must enter an environment referred to in the fourth paragraph;

THAT every person providing services within the framework of the direct allowance home care mechanism – service employment paycheque, also be required to be adequately protected against COVID-19;

THAT every health and social service provider performing duties as a member of a professional order in an environment referred to in the fourth paragraph be considered to commit an act derogatory to the dignity of the profession if the person is not adequately protected against COVID-19;

THAT a health and social service provider performing duties in an environment referred to in the fourth paragraph be required to provide proof of being adequately protected against COVID-19 to the operator of the environment where the duties are performed;

THAT, at the request of his or her professional order, a professional referred to in the fourth paragraph be required to provide the professional order with proof of being adequately protected against COVID-19;

THAT every person referred to in the seventh paragraph be required, at the request of the person to whom the services are provided, to provide proof of being adequately protected against COVID-19;

THAT the proof required under the ninth paragraph be provided not later than 1 October 2021 or, that failing, as soon as possible after the time at which the proof becomes available;

THAT the operator of an environment referred to in the fourth paragraph be required to verify that every health and social service provider required to be adequately protected against COVID-19 is in fact so protected;

THAT a health and social service provider required to be adequately protected against COVID-19 who has not provided the operator of an environment referred to in the fourth paragraph with proof of protection not be able to re-enter the environment;

THAT a health and social service provider who cannot re-enter an environment pursuant to the preceding paragraph not receive, as applicable, any remuneration, benefit, fee or other form of compensation unless, at the employer's discretion, he or she has been reassigned to other duties within the provider's job title, if applicable, that do not require the person be adequately protected against COVID-19;

THAT a person referred to in the seventh paragraph who does not provide a person with proof of being adequately protected against COVID-19 in compliance with the eleventh paragraph not be able to continue to provide services to that person;

THAT the measures set out in the ninth, twelfth, thirteenth, fourteenth and fifteenth paragraphs apply, with the necessary modifications, to health and social service providers performing duties within the framework of the activities carried on by domestic help social economy enterprises, Corporation d'urgences-santé, holders of ambulance service permits, Héma-Québec,

Institut national de santé publique du Québec and the Ministère des Transports, but in the latter case, only for the Service aérien gouvernemental, even if the providers are in an environment other than those referred to in the fourth paragraph, and to those entities;

THAT the operator of an intermediary resource or a family-type resource under an agreement entered into with a health and social services institution provide the institution with an attestation indicating that the health and social service providers required to be adequately protected against COVID-19 are in fact so protected;

THAT, if the operator of an intermediary resource or a family-type resource does not provide the attestation required by the preceding paragraph, the health and social services institution with which the agreement has been entered into cease to compensate the resource and may move the users taken in charge to another living environment;

THAT a health and social services institution may send the Minister a list of health and social service providers performing duties in the facilities it maintains for the purpose of ensuring that they are adequately protected;

THAT a professional order of a professional referred to in the fourth paragraph may send the Minister a list of health and social service providers who are members of the order for the purpose of ensuring that they are adequately protected;

THAT the president or, if absent, the executive director or secretary of the professional order of every professional referred to in the fourth paragraph

(1) suspend the right to practise of any professional who is not adequately protected against COVID-19 or restrict that right so that the professional may not practise in an environment referred to in the fourth paragraph, by correspondence or by a telecommunication channel, including telehealth; and

(2) inform the Minister of Health and Social Services of any suspension or restriction of a right to practise under the preceding subparagraph;

THAT the Collège des médecins du Québec and the Ordre des pharmaciens du Québec inform the Régie de l'assurance maladie du Québec of any suspension or restriction of a right to practise under subparagraph 1 of the twenty-second paragraph;

THAT no person, partnership or body may impose a penalty or claim an indemnity or other redress on grounds that a person, owing to the application of this Order in Council, denied a person access to a place, terminated a contract or turned to another person, partnership or body to replace the person;

THAT Order in Council 1173-2021 dated 1 September 2021 be amended

(1) by replacing “28 days” in subparagraph 1 of the first paragraph by “21 days”;

(2) by inserting the following after the fourth paragraph:

“THAT every member of the public 13 years of age or older be required to be adequately protected against COVID-19, to provide protection status by producing an identity document and the QR code received for that purpose from the government of Québec, and to permit verification of that status by means of the *VaxiCode Verif* application, so that he or she may be admitted to the following places:

(1) a facility maintained by a health and social services institution;

(2) an intermediate resource;

(3) a family-type resource;

(4) a private seniors’ residence;

THAT, despite the preceding paragraph, the following persons not be required to be adequately protected, to provide protection status or to produce an identity document to be admitted to the places referred to in that paragraph:

(1) a person accessing one of those places to receive health or social services;

(2) a person accompanying

(a) a child under 14 years of age;

(b) a person giving birth;

(c) a person incapable of giving consent to the care required for his or her state of health; or

(d) a person who, because of his or her state of health or for safety or security reasons, requires assistance that the operator of the place is unable to provide;

(3) a person visiting a relative in palliative care;

(4) a relative or a tutor of a child placed in a rehabilitation centre for young persons with adjustment problems as well as any person having a visiting right ordered by a decision rendered by the Court of Québec;”;

(3) in the fifth paragraph,

(a) by inserting “or fifth” after “described in the third”;

(b) by replacing “under the third and fourth paragraphs” by “under the third, fourth and sixth paragraphs”;

(4) by replacing “pursuant to the third and the preceding paragraph” in the sixth paragraph by “pursuant to the third, fifth and seventh paragraphs”;

(5) in the seventh paragraph,

(a) by inserting “or fifth” after “described in the third”;

(b) by replacing “under the third and fourth paragraphs” by “under the third, fourth and sixth paragraphs”;

(6) by replacing “eighth” in the tenth paragraph by “tenth”;

(7) by replacing “and seventh” in the eleventh paragraph by “, seventh and ninth”;

THAT the first, second, third, fourth, fifth, sixth and seventh paragraphs of Ministerial Order 2021-024 dated 9 April 2021, amended by Ministerial Orders 2021-028 dated 17 April 2021 and 2021-032 dated 30 April 2021, be revoked;

THAT the Minister of Health and Social Services be empowered to order any modification or clarification of the measures provided for in this Order in Council;

THAT the measures set out in the fourth, fifth, sixth, seventh, eighth, thirteenth, fourteenth, fifteenth, sixteenth, nineteenth, twenty-second, twenty-third, twenty-fourth, twenty-fifth and twenty-sixth paragraphs take effect on 15 October 2021.

YVES OUELLET
Clerk of the Conseil exécutif

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