

Treasury Board

Gouvernement du Québec

T.B. 196312, 10 April 2001

An Act respecting health services and social services (R.S.Q., c. S-4.2)

Regional boards and health and social services institutions — Certain terms of employment applicable to officers

Regulation to amend the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions

CONSIDERING that the Regulation respecting accessibility to positions, remuneration, group insurance plans and employment stability measures applicable to officers of regional boards and health and social services institutions was made by Order in Council 1218-96 dated 25 September 1996;

CONSIDERING sections 159 and 205 of the Act to amend the Act respecting health services and social services and amending various legislative provisions (1998, c. 39) to the effect that the Regulation is deemed to have been made by the Minister of Health and Social Services under section 487.2 of the Act respecting health services and social services (R.S.Q., c. S-4.2);

CONSIDERING that the title of the Regulation was replaced by “Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions”, approved by C.T. 193821, dated 21 September 1999;

CONSIDERING that it is necessary to amend the Regulation;

CONSIDERING that the Minister of State for Health and Social Services and Minister of Health and Social Services, in a ministerial order, ordered that the Regulation to amend the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions be made;

CONSIDERING that, pursuant to section 487.2 of the Act respecting health services and social services (R.S.Q., c. S-4.2), such a regulation must be submitted to the Conseil du trésor for approval;

THE CONSEIL DU TRÉSOR DECIDES :

To approve the Regulation to amend the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions, attached hereto;

To request that the Regulation be published in the *Gazette officielle du Québec*.

ALAIN PARENTEAU,
Clerk of the Conseil du trésor

Regulation to amend the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions*

An Act respecting health services and social services (R.S.Q., c. S-4.2, s. 487.2)

1. The table of contents of the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions is amended:

(1) by adding the following after Division 2 of Chapter 1:

	Section
“DIVISION 2.1 ASSOCIATIONS	
§1. <i>Professional relations</i>	3.1
§2. <i>Professional contribution of senior officers</i>	3.3
§3. <i>Professional contribution of intermediate officers</i>	3.11”;

* The Regulation respecting certain terms of employment applicable to officers or regional boards and health and social services institutions, enacted by Order in Council 1218-96 dated 25 September 1996 (1996, *G.O.* 2, 4202), was last amended by the regulation approved by T.B. 194784 dated 8 May 2000 (2000, *G.O.* 2, 2949). For previous amendments, see the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2000, updated to 1 February 2000.

(2) by adding the following after Division 4 of Chapter 1:

“DIVISION 5
COMPENSATORY LEAVE 6.8

DIVISION 6
GROUP RRSP 6.11”;

(3) by adding the following after Division 2 of Chapter 2:

“DIVISION 3
OFFICER PHYSICIANS

§1. Appointment 8.1

§2. Exclusivity 8.4”;

(4) by substituting the following for Division 2 of Chapter 3:

“DIVISION 2
EVALUATION CLASSES AND SALARY CLASSES

§1. Evaluation classes 11

§2. Salary classes and annual adjustment 12”;

(5) by adding the following after Division 8 of Chapter 3:

“DIVISION 9
FLOATING HOLIDAYS AND PREMIUMS 29.1”;

(6) by adding the following after Division 3 of Chapter 4.3:

“CHAPTER 4.4
DEVELOPMENT 76.109”;

(7) by substituting the following for Division 1 of Chapter 5:

“DIVISION 1
GENERAL PROVISIONS”;

(8) by inserting the following after Subdivision 1 of Division 5 of Chapter 5:

“§1.1 Remuneration of a reinstated officer 104

§1.2 Miscellaneous provisions 105”;

(9) by substituting the following for Chapter 6:

“CHAPTER 5.1
END-OF-ENGAGEMENT MEASURES

DIVISION 1
DISMISSAL, NON-RENEWAL OF
ENGAGEMENT, TERMINATION OF
ENGAGEMENT, SUSPENSION WITHOUT
PAY, DEMOTION 129

DIVISION 2
SEVERANCE PAY 129.5

CHAPTER 6
APPEAL PROCEDURES

DIVISION 1
DISAGREEMENTS 130

DIVISION 2
DISMISSAL, NON-RENEWAL OF
ENGAGEMENT, TERMINATION OF
ENGAGEMENT, SUSPENSION
WITHOUT PAY, DEMOTION 130.6

DIVISION 3
LISTS OF ARBITRATORS, EXPERT
PHYSICIANS AND ARBITRATION FEES 130.22”.

2. Section 1 is amended by adding the following at the end:

“It also applies, with the exception of section 23 and of Subdivision 7 of Chapter 3, to the officer physicians contemplated in section 8.1.”.

3. The following is substituted for section 2:

“2. A person who, while not appointed to a position of officer with the employer, temporarily carries out the duties of an officer shall benefit from the conditions listed below:

— the professional contribution, management policies and leave for activities in the North prescribed in Chapter 1;

— the remuneration prescribed in Chapter 3, except for sections 16 to 23 inclusively;

— the collective insurance plans prescribed in Chapter 4, for the duration of the employment, if the person temporarily holds a position of officer at more than 25% of full-time for an anticipated period of at least twelve months. In all other cases, a person carrying out the duties of an officer shall be eligible only for the monetary compensation provided for in the second paragraph of section 37;

— the parental rights plan prescribed in Chapter 4.1 for the duration of the employment;

— the development measures prescribed in Chapter 4.4;

— the right of appeal prescribed in Divisions 1 and 3 of Chapter 6.

If the person contemplated in the first paragraph is a union member or unionizable non-member employed by the employer, the person shall continue to benefit from all applicable terms of employment. However, if the person holds an interim position of officer shall benefit from the remuneration prescribed in the first paragraph of section 23 if the employment conditions governing that person do not provide for reinstatement into a position of officer.”.

4. The following is substituted for section 3 :

“3. In this Regulation, unless otherwise indicated by the context :

“administrative reorganization” means an administrative operation resulting from the effect of an Act or of a decision on the part of the Minister or a concerned employer and involving the elimination of one or more positions of officer; this includes, among other things, the amalgamation of employers, the integration of one or more employers with another employer, a grouping of employers, a pooling of supervisory resources or the services of several employers, a grouping of an employer’s administrative units or the closure of an employer; (*réorganisation administrative*)

“Centre de référence des directeurs généraux et des cadres” means the organization established under section 521 of the Act; (*Centre de référence des directeurs généraux et des cadres*)

“continuous service” means the duration of the employment relationship with one or more employers in the public and parapublic sectors, including start-up institutions, as a senior administrator or officer without interruption in the employment relationship for a period of more than six months; (*service continu*)

“demotion” means the moving of an officer to a position in a lower evaluation class; (*rétrogradation*)

“dismissal” means the termination by an employer of the contractual employment of an officer, at any time and for just and sufficient cause; (*congédiement*)

“employer” means a regional board or a public or private institution covered by section 475 of the Act; (*employeur*)

“employers’ association” means the Association des centres jeunesse du Québec, the Association des CLSC et des CHSLD du Québec, the Association des établissements privés conventionnés – santé et services sociaux, the Association des établissements de la réadaptation en déficience physique du Québec, the Association des hôpitaux du Québec, the Conférence des régies régionales de la santé et des services sociaux du Québec, the Fédération québécoise des centres de réadaptation pour personnes alcooliques et autres toxicomanes, and the Fédération québécoise des centres de réadaptation pour personnes en déficience intellectuelle; (*association d’employeurs*)

“evaluation class” means a ranking unit of the classification system used for the positions of senior administrators and officers that corresponds to an evaluation point range reflecting the relative value of positions; (*classe d’évaluation*)

“home base” means the home base determined by the employer according to the following criteria :

(1) the place where the officer usually carries out his duties;

(2) the place where the officer regularly receives his instructions;

(3) the place where the officer reports his activities; (*port d’attache*)

“intermediate officer” means a person whose position is considered to involve an intermediate level of supervision based on the tasks of the position in the employer’s organization plan, and whose evaluation class is consistent with the classification terms and conditions established by the Minister; (*cadre intermédiaire*)

“non-renewal of engagement” means the termination by the employer of the contractual employment relationship with the officer at the end of an engagement, but excludes a layoff; (*non-renouvellement*)

“officer” means a person having line, staff or advisory responsibilities related to the planning, organization, direction, coordination and control functions who is appointed to a regular full-time or part-time management position; (*cadre*)

“officers’ association” means the Association des cadres supérieurs de la santé et des services sociaux, the Association des gestionnaires des établissements de santé et des services sociaux inc. and the Association des cadres de la santé et des services sociaux du Québec; (*association de cadres*)

“on reserve” means the situation of an officer who has chosen the reinstatement option following the elimination of his position in accordance with Chapter 5 on employment stability measures; (*disponibilité*)

“parapublic sector” means all public institutions as defined in section 98 of the Act respecting health services and social services, private institutions covered by section 475 of the Act, regional boards established under section 339 of the Act, school boards and general and vocational public colleges; (*secteur parapublic*)

“parental leave” means any leave prescribed in Chapter 4.1 on the parental rights plan; (*congé parental*)

“position” means a set of tasks provided for in the employer’s organization plan and classified in accordance with the evaluation system for senior administrator or officer positions established by the Minister; a position may be full-time or part-time; (*poste*)

“probation” means the period during which an employer verifies whether the officer exhibits skill and an ability to adapt in carrying out his duties; (*probation*)

“promotion” means the transfer of an officer to a position in a higher evaluation class; (*promotion*)

“public sector” means government departments or public agencies whose staff is governed by the Public Service Act (R.S.Q., c. F-3.1.1); (*secteur public*)

“recall list” means a recall list, a reserve list, a list of substitute persons or any other list that serves as such in accordance with the collective agreements in force with the employer; (*liste de rappel*)

“reinstatement” means the transfer of an officer to whom the employment stability measures apply to another position of senior administrator, officer, union member or unionizable non-member; (*replacement*)

“retirement plan” means the Government and Public Employees Retirement Plan (RREGOP) instituted pursuant to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the Teachers Pension Plan (RRE) instituted pursuant to the Act respecting the Teachers Pension Plan (R.S.Q., c. R-11) or the Civil Service Superannuation Plan (RRF) instituted pursuant to the Act respecting the Civil Service Superannuation Plan (R.S.Q., c. R-12); (*regime de retraite*)

“salary” means the portion of direct monetary compensation of an officer corresponding to the salary class established for the position, including adjustments to salary classes and salary progression; (*salaire*)

“senior administrator” means an executive director, an assistant executive director or a senior managerial advisor; (*hors-cadre*)

“senior officer” means an officer appointed by the board of directors of an employer whose position is considered to involve a higher level of supervision based on the tasks of the position in that employer’s organization plan, and whose evaluation class is consistent with the classification terms and conditions established by the Minister; (*cadre supérieur*)

“suspension without pay” means a temporary stoppage of the work loads of an officer, of the corresponding salary and of the related indemnities, premiums and allowances, as a result of a decision by the employer, for disciplinary reasons; (*suspension sans solde*)

“termination of engagement” excludes a layoff and means the severance by the employer, during the course of the engagement, of the contractual employment relationship with a person as an officer, as well as the transfer of a senior officer, without severance of the contractual employment relationship and during the course of the engagement, to a position of intermediate officer, and the transfer of an officer decided by the employer and involving a reduction of the weekly work load; (*résiliation d’engagement*)

“transfer” means the transfer of an officer to a position in the same evaluation class. (*mutation*)”.

5. Chapter 1 of the Regulation is amended by inserting the following after section 3:

“DIVISION 2.1 ASSOCIATIONS

§1. Professional relations

3.1 Two professional relations advisory committees are hereby created, to discuss problems related to the interpretation and application of terms of employment, proposed modifications to the terms of employment and any other related matter.

3.2 The two committees shall be composed of representatives of the employers’ associations and of the Minister. The first shall include representatives of the Association des cadres supérieurs de la santé et des services sociaux and the second shall include representatives of the Association des gestionnaires des établissements de santé et de services sociaux inc. and of the Association des cadres de la santé et des services sociaux du Québec. A committee may be convened at the request of any party.

§2. Professional contribution of senior officers

3.3 On April 1st of each year, the employer shall provide the Association des cadres supérieurs de la santé et des services sociaux with an up-to-date list of the senior officers employed by it, indicating the following information for each such senior officer:

- surname, given name and social insurance number;
- place of work;
- position held;
- the evaluation class of that position.

The list may be an update of the list sent to the association in the previous year.

3.4 The employer shall deduct, from the salary of every senior officer employed by it, the amount of the professional contribution fixed by the Association des cadres supérieurs de la santé et des services sociaux. However, a senior officer may pay the said contribution in another way, provided he notifies the association in writing, with a copy to the employer.

3.5 The employer shall, within fifteen days after the end of each of the 13 accounting periods in the financial year, pay the amounts collected during that period to the Association des cadres supérieurs de la santé et des services sociaux, indicating, for each senior officer from whom a contribution has been collected, his surname, given name and social insurance number, the position held, the period covered by the contribution and the amount collected.

3.6 A senior officer is not required to pay the contribution prescribed in section 3.4 for a period of thirty days following the date on which he is appointed.

Before the expiry of the period stipulated in the first paragraph, a senior officer who does not intend to contribute to the association shall notify the association of his decision in writing. The officer shall send a copy of the notice to his employer.

The employer shall begin to deduct the contribution from the senior officer's salary during the first complete salary period following the period prescribed in the first paragraph, unless the senior officer has stated his intention not to contribute in accordance with the second paragraph.

3.7 The situation of existing senior officers as contributors or non-contributors on 25 April 2001 is hereby continued.

3.8 A senior officer may, at any time, decide not to pay the contribution by means of a written notice sent to the association, with a copy to the employer.

Subject to receipt of the notice prescribed in the first paragraph, the employer shall cease to deduct the contribution from the senior officer's salary in the first complete salary period following the 90th day after receipt of the notice.

3.9 A senior officer who does not pay the contribution may change his decision at any time by notifying the association in writing. He shall send a copy of the notice to the employer.

An employer who receives a copy of the notice provided for in the first paragraph shall begin to deduct the contribution from the senior officer's salary in the first complete salary period following receipt of the copy of the notice.

3.10 An employer is relieved of the obligation to deduct the contribution from the salary of a senior officer as soon as it ceases to pay that salary or an amount in lieu thereof, in particular following termination of the employment relationship, suspension without pay or leave without pay. The employer shall inform the Association des cadres supérieurs de la santé et des services sociaux that it has ceased to deduct the contribution from the senior officer's salary at the same time as it sends the amounts collected for the accounting period in which the stoppage occurred.

§3. Professional contribution of intermediate officers

3.11 On April 1 of each year, the employer shall provide every intermediate officers' association that so requests with an up-to-date list of the intermediate officers employed by it, indicating the following information for each such intermediate officer:

- surname, given name and social insurance number;
- place of work;
- position held;
- the evaluation class of that position.

The list may be an update of the list sent to all associations of intermediate officers in the previous year.

3.12 The employer shall deduct, from the salary of every intermediate officer employed by it, the amount of the professional contribution fixed by an association of intermediate officers in accordance with this subdivision,

provided the said association can prove that at least 50% of the intermediate officers employed by the employer were members of that association of intermediate officers on April 1 of the current year.

Before continuing to deduct the professional contribution, the employer shall ensure that, on February 1st of each year, at least 50% of the intermediate officers employed by it are members of the association.

An officer may pay the contribution in another way, provided he notifies the association in writing, with a copy to the employer.

3.13 An employer that does not deduct the professional contribution from the salaries of the intermediate officers employed by it, in accordance with the provisions of the first and second paragraphs of section 3.12, shall, at the request of the association of intermediate officers, collect the professional contribution required by the association from the salary of every intermediate officer who is a member of the said association of intermediate officers, provided the officer has authorized such a deduction from his salary by notifying the association in writing of his intention to contribute, and has sent a copy of the notice to the employer.

3.14 Sections 3.5 to 3.10 apply, adapted as required, to the deduction of the professional contributions of intermediate officers by the employer for payment to the appropriate association of intermediate officers, in accordance with the provisions of section 3.12 or section 3.13.”

6. The following is substituted for section 4 :

“**4.** An employer shall have management policies pertaining to the terms of employment of its officers, subject to the terms of employment established by regulation. Such policies must be approved by the board of directors.”

7. The following is substituted for section 5 :

“**5.** The management policies shall pertain in particular to the following elements :

1. fill a position of officer ;
2. performance appraisal ;
3. development ;
4. the officer’s record ;
5. annual vacation ;

6. personal leave ;

7. public holidays ;

8. leave without pay, leave for professional business and leave for public office ;

9. compensation for overtime in exceptional circumstances ;

10. an appeal from the application of the management policies.”

8. Chapter 1 is amended by inserting the following after section 5 :

“**5.1** The management policies pertaining to annual vacation, public holidays and leave without pay, as prescribed in section 5, shall comply with the following guidelines :

(1) For the purpose of calculating annual vacation and notwithstanding section 3, continuous service shall include service as a senior administrator, as an officer or as a union member or unionizable non-member, with one or more employers including start-up institutions, without interruption of the employment relationship for a period of more than six months.

(2) For the purposes of annual vacations and public holidays, a part-time officer shall receive a compensatory indemnity in addition to the salary paid on each payday. The indemnity, expressed as a percentage, shall correspond to the amounts prescribed for full-time officers.

(3) For the purposes of leave without pay, if it is consistent with the leave provided for in the collective agreements governing the health services and social services sector, measures concerning contributions to the pension plan consistent with the measures provided for in the collective agreements applied by the employer must be provided.

5.2 The employer, its officers and their representatives acknowledge that the workplace must be free of all forms of violence, and in order to achieve this, they agree to work together to avoid or obtain the cessation of violence, using all appropriate means including the preparation of a policy.

5.3 The employer, its officers and their respective representatives shall work together, using appropriate means, in order to avoid or obtain the cessation of any sexual harassment brought to their knowledge.

Sexual harassment consists in repetitive and undesired behaviour of a sexual nature, expressed in words, actions or gestures, that is of a type likely to compromise the dignity or the physical or psychological integrity of a person, or to lead, for the person, to unfavourable working conditions or dismissal.

5.4 In compliance with the Charter of Human Rights and Freedoms (R.S.Q., c. C-12), the employer, its officers and their respective representatives shall work together, using appropriate means, in order to obtain the cessation of discrimination against officers.

Discrimination exists wherever a distinction, exclusion or preference has the effect of destroying, compromising or limiting a right conferred on an officer by this Regulation or by the Act.

Notwithstanding the foregoing, a distinction, exclusion or preference based on the skills or qualities required to carry out the tasks of a position is deemed to be non-discriminatory.”

9. The following is substituted for section 6 :

“6. The employer shall consult its officers and their representatives prior to determining or modifying the management policies prescribed in sections 5, 5.1 and 5.2.”

10. Chapter 1 of the Regulation is amended by inserting the following after section 6.7:

**“DIVISION 5
COMPENSATORY LEAVE**

6.8 From 1 January 2000, compensatory paid leave shall be introduced for certain officers. The leave shall correspond to 0.83% of the number of hours paid for work as an officer during the period from 1 January to December 31 in a given year. The leave may not exceed 2 days each year.

The leave shall be used with the agreement of the employer or shall be replaced, in whole or in part, by a lump sum where it has not been used in the 12 months following the year in which it was earned. In the latter case, for each day of unused leave, the lump sum shall correspond to 0.415% of the salary or benefits received for work as an officer during the year in which the leave was earned or of the salary that the officer would have received had he not been participating in the deferred salary leave plan.

If the employee dies, the employer shall pay an amount equivalent to the days of leave earned but not used, without exceeding four days.

6.9 The leave contemplated in section 6.8 applies to an officer who participates in the Régime de retraite des employés en fonction au Centre hospitalier Côte-des-Neiges.

The leave contemplated in section 6.8 also applies to an officer who is reinstated or assigned to a position other than an officer’s position after 31 December 2000 if he participates in a pension plan other than Government and Public Employees Retirement Plan for non-unionizable employees or the Régime de retraite de l’administration supérieure (RRAS). In such a case, the leave applies from the effective date of the reinstatement or assignment, for such time as the officer continues to participate in the insurance plans provided for in Chapter 4.

6.10 The leave contemplated in section 6.8 also applies to any officer who, where applicable, participates in the Pension Plan of Peace Officers in Correctional Services (RRAPSC).

**DIVISION 6
GROUP RRSP**

6.11 Within thirty days of the request for a salary deduction, the employer shall deduct the amount indicated by the officer as a deduction for the purposes of contributing to a group registered retirement savings plan proposed by the relevant officers’ association.

The deduction may be for a specified amount or percentage from each salary payment, or a single annual amount. The employer shall also make the necessary adjustments to the income taxes deducted at source, as permitted by the tax regulations.

The employer shall cease to deduct such amounts thirty days after receiving a written notice to that effect from the officer.

6.12 The employer shall remit the contributions on a monthly basis to the body designated by the officers’ association concerned and shall attach a statement indicating the name, address, date of birth, social insurance number and amount collected for each officer.”

11. Section 7 is deleted.

12. Chapter 2 is amended by inserting the following after section 8:

“DIVISION 3 OFFICER PHYSICIANS

§1. *Appointment*

8.1 To hold the position of professional services director, professional and hospital services director, public health director, assistant professional services director, assistant professional and hospital services director, assistant clinical professional and hospital services director, assistant public health director or emergency medical coordinator, an officer must be a physician and must be appointed in accordance with the provisions of sections 173, 202 or 372 of the Act.

8.2 All officers contemplated in section 8.1, except for public health directors, are appointed for a term not exceeding four years. An appointment may be renewed for a further period not exceeding four years, unless the board of directors notifies the appointee in writing of its intention not to renew the appointment, at least 60 days before the date on which the term expires.

8.3 An officer contemplated in section 8.2 may leave his position 60 days after sending a written notice to that effect to board of directors.

§2. *Exclusivity*

8.4 Subject to the rules and standards established by the board of directors pursuant to section 234 of the Act and to the agreements entered into by the minister and the Fédération des médecins spécialistes du Québec or the Fédération des médecins omnipraticiens du Québec, an officer contemplated in section 8.2 whose services have been engaged on a full-time basis may, with the authorization of the institution’s board of directors, dispense medical services outside the periods for which his services have been engaged, after fulfilling the requirements of his position. Such authorization shall be the subject of a resolution of the board of directors, and may include other conditions.

The board of directors of an institution shall not authorize an officer contemplated in the first paragraph, whose services have been engaged on a full-time basis, to dispense medical services in the institution unless the institution has a shortage of physicians.

An officer contemplated in the first paragraph whose services have been engaged on a part-time basis may dispense medical services in the institution in which he holds a position of officer outside the periods for which his services have been engaged, after fulfilling the requirements of his position and with the authorization

of the institution’s board of directors. Such authorization shall be the subject of a resolution of the board of directors, and may include other conditions.”.

13. The following is substituted for section 10:

“**10.** In general, no remuneration or compensation shall be paid to an officer for the overtime occasionally required in carrying out his regular duties.

An officer who is required by his employer or by circumstances to work overtime beyond his regular working hours shall receive, in the form of leave, compensation equal to the number of overtime hours worked.

An officer who agrees to replace another officer or non-officer outside his regular working hours shall be paid according to the provisions that apply to the position of the person he replaces.”.

14. The following is substituted for Division 2 of Chapter 3:

“DIVISION 2 EVALUATION CLASSES AND SALARY CLASSES

§1. *Evaluation classes*

11. The evaluation class of a position of senior officer consistent with a standard position is determined by the executive director of the institution, in accordance with the evaluation system and with the classification and evaluation conditions for officer and senior administrator positions established by the Minister.

If the senior officer considers that the conditions set out in the first paragraph have not been complied with, he may, within 10 days following receipt of the evaluation class of his position, ask the Minister to make a ruling. The Minister shall determine the evaluation class of the position or shall order a third party to determine the evaluation class. There is no appeal from the decision made by the Minister or the third party.

11.1 The evaluation class of a position of senior officer that is consistent with a standard position must be confirmed by the Minister where the result of the evaluation of the position determined in accordance with the first paragraph of section 11 is Class 23 or higher or Class C or higher if the position evaluated is an officer’s position contemplated in section 8.1

11.2 The evaluation class of a position of senior officer that is not consistent with a standard position shall be determined in a draft evaluation forwarded by the

executive director of the institution to the senior officer together with the data relating to the application of the factors and sub-factors used to determine the evaluation class of the position.

Within 30 days following the transmission of the draft evaluation, the senior officer may make representations to the executive director. He may be accompanied by a representative. On or before the expiry of the 30 days, the draft evaluation and the representations of the senior officer, if any, shall be presented to the Minister by the executive director. The Minister shall then determine the evaluation class of the position. The decision shall be binding upon the senior officer and the executive director and there shall be no appeal from the decision.

11.3 The evaluation class for a position of intermediate officer consistent with a standard position shall be determined by the executive director of the institution or of the regional board, if the employer is a regional board. The evaluation class shall be determined in accordance with the evaluation system and with the classification conditions for officer and senior administrator positions prescribed by the Minister.

If intermediate officer considers that the conditions set out in the first paragraph have not been complied with, he may, within 10 days following receipt of the evaluation class of his position, ask the Minister to make a ruling. The Minister shall determine the evaluation class of the position or shall order a third party to determine the evaluation class. There is no appeal from the decision made by the Minister or the third party.

11.4 The evaluation class of a position of intermediate officer that is not consistent with a standard position shall be determined in a draft evaluation. The draft evaluation shall be forwarded to the intermediate officer by the executive director of the institution or of the regional board, if the employer is a regional board. The data relating to the application of the factors and sub-factors used to determine the evaluation class of the position shall be forwarded at the same time as the draft evaluation.

Within 30 days following the transmission of the draft evaluation, the intermediate officer may make representations to the executive director. He may be accompanied by a representative. If the intermediate officer accepts the draft evaluation, the executive director shall make the evaluation class effective for that position in the manner set out in section 17.1.

At the expiry of the 30 days, if an agreement has not been reached by the executive director and the interme-

diat officer, the draft evaluation and the representations of the intermediate officer, if any, shall be presented to the Minister by the executive director. The Minister shall then determine the evaluation class of the position. The decision shall be binding upon the senior officer and the executive director and there shall be no appeal from the decision.

11.5 The evaluation class of a position of officer physician contemplated in section 8.1, or for a position of senior officer in a regional board, shall be determined by the Minister.

§2. Salary classes and annual adjustment

12. The salary classes adjusted by 1.5% on January 1, 1999 and by 2.5% on January 1, 2000, January 1, 2001 and January 1, 2002 correspond to the evaluation classes established in accordance with sections 11 and 11.1. The adjusted salary classes are shown in Appendix I.

For part-time officers, the salary determined in the first paragraph is reduced proportionally to the hours of the position.

12.1 For officers contemplated in section 8.1, a salary rate corresponding to the evaluation classes established in accordance with section 11.4 shall be adjusted by 1% on January 1, 1998, and on April 1, 1998. The adjustment rates for the salary classes established in section 12 are also applicable. The adjusted salary classes are shown in Appendix A. The salary rate of an officer contemplated in section 8.1 is reduced, when the officer holds a part-time position, proportionally to the time for which his services are engaged by the employer, without such services being less than 20% of full time.

12.2 The salary rate of an officer contemplated in section 8.1 who holds a specialist certificate issued by the Collège des médecins du Québec and who carries out his duties in one of the territories covered by Ministerial Order 92-01 dated 17 January 1992, establishing the list of territories with insufficient numbers of health professionals, shall be increased by 20%. It shall be increased by 40% if the officer performs his duties in a remote territory included in geographical sectors III, IV and V of regional disparities, as defined in the collective agreements in force in the health services and social services sector.

The 20% increase in the salary rate of an officer contemplated in the first paragraph shall be replaced by a 40% increase after three years of continuous services if the officer performs his duties in the regions Abitibi-Témiscamingue, Côte-Nord or Gaspésie-Îles-de-la-Madeleine.

12.3 The 20% and 40% increases established pursuant to section 12.2 shall be paid, up to a maximum of \$210,000 per calendar year, to an officer holding a specialist certificate issued by the Collège des médecins du Québec who also dispenses medical services in accordance with section 8.4. The amount includes both the increased salary of the officer and the remuneration for medical acts.

12.4 The salary rate of an officer contemplated in section 8.1 who is a general physician and who carries out his duties as officer in one of the territories covered by Ministerial Order 92-01 dated 17 January 1992 establishing the list of territories with insufficient numbers of health professionals, shall be increased by 15%.

The salary rate of an officer contemplated in the first paragraph shall be increased by 25% after four years of continuous service and by 30% after seven years of continuous services, except if the officer carries out his duties in the municipalities of Alma, Rimouski or Rimouski-Est, or in the regional county municipalities of Antoine-Labelle, Kamouraska or Rivière-du-Loup, excluding the municipalities of Saint-Cyprien, Saint-Hubert, Saint-François-Xavier-de-Viger and Saint-Paul-de-la-Croix.

If an officer contemplated in the first paragraph carries out his duties in a remote territory included in geographical sectors III, IV and V of regional disparities, as defined in the collective agreements in force in the health services and social services sector, the increase in the salary rate shall be 25%, and 30% after four years of continuous service.

12.5 For the purposes of sections 12.2 and 12.3, continuous service in the case of an officer physician means, notwithstanding section 3, the consecutive years in which he carries out his duties as an officer or the continuous years in which, as a physician, his main continuous is carried out in one of the territories with insufficient numbers of health professionals covered by Ministerial Order 92-01 dated 17 January 1992.”

15. The following is substituted for section 13:

“**13.** At the time the salary classes are adjusted, the salary of an officer shall be increased, where applicable, by a rate equal to the rate of adjustment of the salary classes as determined pursuant to section 12 or 12.1. The increase shall not have the effect of taking the officer’s salary above the maximum for the salary class of the position he holds.

In the case of an officer contemplated in section 24, the salary adjustment shall take into account the salary adjustment paid pursuant to section 24.4 for the current year.”

16. The following is substituted for section 14:

“**14.** A salary increase shall be granted to an officer on April 1 of each year, unless his performance for the year ending on March 31 is judged to be unsatisfactory. The employer’s evaluation, with reasons, shall be sent to the officer in writing during the reference period. There is no appeal from the evaluation.

The salary increase shall be 4% of the officer’s salary on March 31, provided such increase does not take the officer’s salary above the maximum for the salary class of the position he holds.

An officer available for reinstatement who carries out the activities stipulated in the reinstatement plan shall be entitled to a salary increase as though he had worked for the employer on a full-time basis.

An officer whose position has been eliminated and who has elected for pre-retirement leave shall not receive a salary increase.

The salary increase of an officer who has held his position for less than one year on the date on which the salary increase applies, or who has changed employers during the reference period, shall be established according to the time actually worked in that position or in another officer or senior administrator position with the same employer or another employer during the year preceding April 1.

An officer who has not worked for the whole of the year preceding April 1 because he is disabled, on leave without pay, on leave with deferred pay or on phased retirement, shall be eligible for the salary increase according to the time actually worked during that year. However, for the purposes of computing the percentage of salary increase, a disabled officer is considered to have been at work for the first six months of disability.

For an officer holding a part-time position on April 1 who has worked for less than 50% of the time in the reference period, the salary increase shall be equal to 2% of his salary on March 31.”

17. The following is substituted for section 15:

“**15.** Where a person accedes to a position of officer from a position of union member or unionizable non-

member, or from outside the health and social services sector, that person shall receive as a salary the higher of the following two amounts :

— the minimum for the salary class to which the person accedes ; or

— 110% of the annual salary the person received before the appointment, taking into account the parameters established in the second, third and fourth paragraphs ; however, this amount, subject to section 24, shall not exceed the maximum for the salary class of the position to which the person accedes.

For the purpose of determining the appointee's new salary, his regular annual salary at the time of the appointment shall be used as a basis, with the addition, where applicable, of any responsibility bonuses, supplements and additional remuneration related to post-school education received by the person. The employer shall also take into account the experience of the person at the time of the appointment, by granting the pay increase that the person would have received, proportionally to the time elapsed between the date of the last pay increase and the time of the appointment.

If the person appointed is already employed by an employer and his employment title as a union member or unionizable non-member before his appointment does not take into account his academic training, the employer shall place the person at the salary step corresponding to his experience and education in the appropriate salary scale for employees who are union members or unionizable non-members in the sector on the date of the appointment, provided that the ensuing salary is higher than the salary the person was receiving before the appointment. Otherwise, the salary the person was receiving at the time of the appointment is used as a basis for establishing the new salary.

For the purpose of determining the salary of an appointee person who was not employed by a regional board or health services and social services sector institution, the employer shall place the person at the salary step corresponding to his experience and education in the appropriate salary scale for employees who are union members or unionizable non-members in the sector on the date of the appointment.

If there is no appropriate salary scale for the purposes of the third and fourth paragraphs, the employer shall determine the person's salary from within the salary class for the position to which the person is appointed.

15.1 The salary of a person who accedes to a position of senior officer is fixed by the board of directors from

within the salary class for the position to which the person is appointed.

For officer physicians contemplated in section 8.1, the board of directors shall apply the salary rate corresponding to the evaluation classes applicable to the positions of the officer physicians.”.

18. Subdivision 2 of Division 4 of Chapter 3 is amended by inserting the following after section 17 :

“**17.1** The date on which a modification to an evaluation class for a position of officer comes into force shall be fixed according to one or other of the following criteria :

1. the date established by the Minister, if the modification is the result of a change made to the classification and evaluation system and conditions for senior administrator and officer positions ;

2. the date on which the officer is appointed, if the modification is the result of an administrative reorganization ;

3. the date of the event, if the modification is the result of a change made by the employer to the duties of the position of officer ;

4. the date of the request for a modification made by the officer following changes in his responsibilities.

Notwithstanding the foregoing, the results of the updating of the evaluation class for a position of intermediate officer consistent with a standard position shall come into force on March 31 if the classification of the position is established according to a factual or verifiable variable confirmed in the annual statistical reports produced by the employer.”.

19. The following is substituted for section 18 :

“**18.** The salary of a promoted intermediate officer shall be the higher of the following two amounts :

— the minimum for the salary class of the position to which he accedes ;

— 110% of the salary he was receiving before the promotion ; however, this amount, subject to section 24, shall not exceed the maximum point for the salary class of the position to which he accedes.

18.1 The salary of a promoted senior officer is fixed by the board of directors within the senior salary class.”.

20. The following is substituted for the heading preceding section 21 :

“REASSIGNMENT TO A NON-OFFICER POSITION”.

21. The following is substituted for section 21 :

“21. An officer reassigned to a position of union member or unionizable non-member shall receive a salary corresponding to the classification established by the employer in compliance with the salary provisions applicable to the position.

If the salary the officer was receiving before the reassignment is higher than the salary established pursuant to the first paragraph, the former salary is maintained provided it falls within the salary scale for the new position and does not exceed the maximum of the scale; in this latter case, the salary shall be reduced to the maximum of the scale.

If the salary of the officer is reduced following the reassignment:

— for the first three years following the reassignment, the officer shall receive, in the form of lump sum payments, the full difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled;

— for the fourth year following the reassignment, the officer shall receive, in the form of a lump sum payment, two-thirds of the difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled in that fourth year;

— for the fifth year following the reassignment, the officer shall receive, in the form of a lump sum payment, one-third of the difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled in that fifth year.”.

22. The following is substituted for section 22 :

“22. An officer who agrees, temporarily and in addition to his regular position, to hold another full-time or part-time position of officer or senior administrator with the same employer or another employer shall receive lump sum remuneration, provided however that the positions held in plurality are separate positions in the employer’s organization plan. The lump sum remuneration shall be established by the employer in question, taking into account the extent and similarity of the tasks and the difference between the evaluation class of the second position and that of the regular position held by the officer. It may vary between 14% and 24% of the officer’s salary.

The officer may not hold a second position that falls under his own direct or indirect authority.

The plurality of positions may be held by more than one officer. In such a case, the total amount of the remuneration contemplated in the first paragraph shall not, under any circumstances, exceed 24% of the maximum for the salary scale of the second position.

There is no appeal from the lump sum remuneration established for a plurality of positions held by one or more officers. The same applies where the plurality is divided among several officers.

The plurality of positions may last for a period ranging from two to 18 months. However, where an officer replaces a senior administrator or officer on disability leave or parental leave, the replacement may be for the duration of the period of absence.”.

23. The following is substituted for section 23 :

“23. An officer holds an interim position when he agrees to hold a position temporarily for his employer in an operational hierarchical line where it is necessary for the position to be held continuously. The salary class for such a position shall be higher than that for his regular position. The officer cannot simultaneously hold his own position during that period. For the interim period, the officer shall receive a lump sum payment representing the difference between his salary and the higher of the following two amounts:

— 110% of his salary, not exceeding the maximum for the salary class of the interim position;

— the minimum for the salary class of the interim position.

An officer may hold an interim position for a period ranging from two to 18 months. However, where he is replacing a senior administrator or officer on disability leave or parental leave, the replacement may be for the duration of the period of absence.”.

24. The following is substituted for section 23.1 :

“23.1 The terms and conditions of the performance premium are established annually by the Minister, taking into account the parameters fixed by the Conseil du trésor.”.

25. The following is substituted for section 26 :

“26. The compensations, bonuses and allowances prescribed in this division and in Division 9 do not form part of the officer’s salary.”.

26. The following is substituted for section 27:

“27. An employer who demands that an officer be available outside his work schedule shall pay a lump sum compensation to the officer corresponding to one hour of work at the regular rate per shift of availability or, where applicable, a proportion of this amount per shift of availability.

An officer who is required to work during the period of availability shall be paid or compensated in accordance with the provisions of section 10.”.

27. The following is inserted after section 29 of Chapter 3:

“§9. *Floating holidays and premiums*

29.1 An officer who, on a regular basis, directly supervises a large group of employees working in psychiatry, secure custody, intensive supervision or the assessment of information shall receive the same holidays and premiums as those employees. The terms and conditions of the collective agreements in the health and social services sector for such holidays and premiums shall apply, adapted as required, to the officer.”.

28. The following is substituted for subparagraphs 1 and 2 of the definition of the term “salary” in section 30:

“(1) remuneration paid for annual vacations, floating holidays and statutory holidays;

(2) the lump sum resulting from the application of sections 17, 20 and 21 and sections 104.1 to 104.3;”.

29. The following is substituted for section 31:

“31. For the purpose of calculating the benefits payable under this chapter, the salary of an officer holding a part-time position of officer is computed on the basis of the officer’s average salary for the 12 weeks preceding the event giving entitlement to a benefit and for which no disability period, annual vacation, leave without pay or parental leave has been authorized.”.

30. The following is substituted for section 32:

“32. An officer reassigned to a position of union member or unionizable non-member may, on the date of the reassignment and provided he has held a position of officer or senior administrator for at least 12 months, conserve his group insurance plans.”.

31. Section 34.2 of the Regulation is amended:

(1) by inserting the following after the first paragraph:

“An officer who is suspended without pay shall maintain his participation in the group insurance plans in accordance with the conditions for maintenance stipulated in the second, fourth and fifth paragraphs of section 33.”;

(2) by substituting the following for the last paragraph:

“Following an arbitrator’s decision in his favour, the officer is entitled to be reimbursed for the contribution normally paid by the officer for the plans in which he maintained his participation and, where applicable, to be reimbursed for the premium he paid to maintain his participation in the survivor’s pension plan, retroactively to the date of his dismissal, non-renewal of engagement or termination of engagement.

If, pursuant to sections 130.12 and 130.14, the decision orders the reintegration of the officer in his position, and if a disability has begun since the date of the date of the dismissal, non-renewal of engagement or termination of engagement, the disability shall then be recognized and the officer shall pay his premiums for the long-term salary insurance plans retroactively to that same date.”.

32. The following is substituted for section 37:

“37. An officer who holds a regular position of officer at 25% or less of full-time is not eligible for the group insurance plans provided for in this chapter, unless he is appointed temporarily, in addition to his regular position, to a position of officer at more than 25% of full-time with the same employer, for an anticipated period of at least 12 months. In such a case he shall be eligible for the insurance plans for all his work over the duration of his employment.

An officer who is not eligible for the group insurance plans shall receive a compensatory lump sum equivalent to 6% of the salary he receives for all his work.”.

33. The following is substituted for the part of section 40 preceding paragraph 1:

“40. Subject to sections 32 and 34.2, the an officer’s adherence to the uniform insurance plan ends on the earlier of the following dates:”.

34. The following is substituted for section 46:

“46. For the duration of the disability period that falls within the first 104 weeks, short-term salary insurance plan benefits shall be paid to the officer by the employer upon presentation of vouchers establishing the disability.

The officer shall immediately notify the employer if he cannot be present at work because of a disability, and shall agree to submit to any medical examination to be performed by the employer's physician. The cost of such an examination shall be borne by the employer.

An officer who has been disabled for a period of at least five months shall also allow the employer or the employer's representative, the insurer or any other consulting firm to disclose the vouchers establishing the disability for the purpose of assessing the possibility of offering him a position in accordance with the provisions of this chapter.”.

35. The following is inserted after section 46:

“**46.1** If the employer decides to interrupt payment of the short-term salary insurance plan benefit to an intermediate officer following a medical opinion issued by the employer's physician in accordance with the provisions of the second paragraph of section 46, he shall notify the intermediate officer in writing. The intermediate officer then has ten days from receipt of the notice in which to express his disagreement, also in writing.

The intermediate officer or employer can then, within five days, request that the employer's physician and the intermediate officer's physician reconcile their opinions. The two physicians have 15 days from the date of the request of the employer or the intermediate officer to produce a written report. If they fail to agree or if the 15-day deadline has expired, the intermediate officer and the employer have seven days to agree on the choice of an expert physician from a list of names drawn up under section 130.22 or, if both agree, whose name does not appear on the list. If the parties fail to agree on the choice of an expert physician, either may ask the Minister in writing to designate an expert physician from the list. The Minister shall appoint the expert physician within 10 days after receiving the request. The expert physician appointed shall perform his duties in accordance with a procedure and time limits that may differ from those prescribed in Division 1 of Chapter 6, provided his decision is made not later than 15 days after his appointment.

The expert physician may base his decision on the documents forwarded to him, and may meet and examine the senior administrator if he considers it relevant. His decision is final, without appeal and binding on the employer and the intermediate officer.

The costs of the parties and the fees and honorarium of the expert physician shall be paid in accordance with the provisions of section 130.24 for cases covered by

Division 1 of Chapter 6. The intermediate officer shall be on leave without pay for the duration of the procedures described in the first and second paragraphs until a final decision is made by the expert physician.

This procedure differs from the arbitration procedure used to establish invalidity after 104 weeks, as stipulated in section 65, and must in no case be confused with that procedure.”.

36. The following is substituted for subparagraph 2 of the second paragraph of section 51:

“2. additional plans:

(a) deleted;

(b) a mandatory long-term salary insurance plan;

(c) an optional additional life insurance plan.”.

37. The following is substituted for the first paragraph of section 52:

“**52.** The cost of the mandatory basic plans shall be shared between the Government and all the participants in the plans, according to the terms of the agreement between the Québec government and the associations representing participants in the group insurance plans for management employees in the public and parapublic sectors, for the duration of the agreement.”.

38. The following is inserted after section 57:

“**57.1** An officer already considered to be disabled who is forced to be absent from work for a second time due to a disability resulting from the same disease or accident, before the end of the first 104 weeks of disability but after successfully undergoing rehabilitation, is considered to have suffered a recurrence of the disability.

In such a case, the officer shall continue to receive a benefit equal to 90% of the salary to which he would have been entitled had he been at work in his position, up to 104 weeks from the beginning of the disability, and the provision set out in the second paragraph of section 57 shall apply

57.2 Where a new disability begins before the end of the first 104 weeks of the first period of disability but after the officer has successfully undergone rehabilitation, the officer is considered to be disabled in the position he occupied at the beginning of the new period of disability. However, he shall continue to receive a benefit equal to 90% of the salary to which he would have been entitled had he been at work in the position he occupied at the

beginning of the first period of disability, up to 104 weeks from the beginning of the first period of disability, and the provision set out in the second paragraph of section 57 shall apply.

At the end of the first 104 weeks of the first period of disability, an officer whose rehabilitation takes place in a position related to his rehabilitation plan shall be reassigned to that position in accordance with the first paragraph of section 62.

The provisions of Division 5 apply from the date of the reassignment up to 104 weeks from the beginning of the new period of disability, for the salary of the position to which the officer is reassigned.”.

39. The following is substituted for section 60:

“60. An officer shall accumulate vacation time during the time he works in a position related to his rehabilitation plan.”.

40. The following is substituted for the first paragraph of section 62:

“62. The officer shall be reassigned by an employer to a position related to his rehabilitation plan at the end of the 104th week of disability or, where applicable, at the end of his rehabilitation if the rehabilitation ends after the 104th week, and he shall receive the salary of that position from the date of the reassignment, and shall be governed, subject to section 32, by the provisions applicable to that position.”.

41. The first subparagraph of section 63 is replaced by the following:

“– four representatives designated jointly by the Association des directeurs généraux des services de santé et des services sociaux du Québec, the Association des cadres supérieurs de la santé et des services sociaux, the Association des gestionnaires des établissements de santé et de services sociaux inc. and the Association des cadres de la santé et des services sociaux du Québec;”.

42. The following is substituted for section 68:

“68. An officer who does not satisfy the definition of disability after the first 104 weeks following the beginning of the disability must accept a position offered to him by an employer in his administrative region or by an employer in another administrative region located less than 50 kilometres by road from his home base and his residence, except during the period where he has submitted his disagreement to the insurer or to a medical arbitration court, or if the position does not involve a

weekly work load that is less than that of the position he held at the beginning of his disability.

An officer reassigned to another position in accordance with the first paragraph shall receive the salary for that position and is governed, subject to section 32, by the provisions applicable to that position.

Premiums and contributions to the group insurance plans and retirement plans shall be established on the basis of the new salary.

If the officer refuses the position offered, the employer may terminate his employment 15 days after sending him a notice of intention. A copy of the notice shall be sent to the sectorial committee mentioned in section 63. During this period, the employer shall allow the sectorial committee to make any intervention that may be necessary pursuant to section 64.”.

43. The following is substituted for section 69:

“69. During the waiting period for a position, where the employer and the officer agree with the insurer’s decision, or from the date on which the decision of the Tribunal d’arbitrage medical is rendered to the effect that the officer does not satisfy the definition of disability, the officer shall receive a salary equal to the benefit, and premiums and contributions to the insurance and retirement plans shall be established on the basis of that salary. During that period, the employer may temporarily use the services of the officer for duties that take into account the officer’s training and experience. The officer shall accumulate vacation time and continuous service during the time worked.”.

44. The following is substituted for section 74:

“74. The sick leave days accumulated by a union member or by a unionizable non-member who is appointed as an officer after 31 December 1973 are governed by the provisions applicable to the group of employees of which he was or could have been a part before his appointment as an officer.”.

45. Subparagraph 2 of section 75 is replaced by the following:

“(2) for the purposes of making up the difference between the salary insurance benefit and the officer’s net salary:

In this case, the disabled officer may use his sick-leave fund to make up the difference between the short-term salary insurance benefit provided for in section 43 and the net salary he would be receiving if he were not

on disability leave; the net salary corresponds to the gross salary that he would be receiving if he were at work, less federal and provincial income taxes and contributions to the Q.P.P., the employment insurance plan and the retirement plan;

Days or parts of days used in accordance with the second paragraph shall be subtracted from the sick-leave fund;”.

46. The following is substituted for the second paragraph of section 76.13:

“Compensation for maternity leave shall be based on the salary of an officer including the lump sums paid pursuant to sections 17, 20 and 21 and sections 104.1 to 104.3, without any additional remuneration.”.

47. The following is substituted for section 76.17:

“**76.17** The weekly salary of a part-time officer is the average weekly salary of the last 20 weeks preceding the maternity leave for which no leave without pay was authorized. If, during that period, the officer received benefits representing a percentage of her salary, it is the salary used to calculate the benefits that shall determine the compensation for maternity leave. These provisions constitute one of the provisions expressly referred to in section 76.1.”.

48. The following is substituted for section 76.28:

“**76.28** A full-time officer who has accumulated 20 weeks of service with her employer or with one of the employers referred to in section 76.30 is entitled to compensation equal to 93% of her weekly salary for twelve weeks if she is not eligible for employment insurance benefits because she has not held insurable employment for at least 700 hours during the period of reference prescribed by the employment insurance plan.”.

49. The following is substituted for the first paragraph of section 76.29:

“**76.29** A part-time officer who has accumulated 20 weeks of service with her employer or with one of the employers referred to in section 76.30 is entitled to compensation equal to 95% of her weekly salary for twelve weeks. If she is exempt from pension plan and employment insurance contributions, the compensation rate is 93%.”.

50. The following is substituted for section 76.45:

“**76.45** Upon the birth of his child, an officer is entitled to a paid paternity leave not exceeding five working

days. The leave may be interrupted, but shall be taken between the date of delivery and the fifteenth day following the date of the mother’s or the child’s return home. One of those five days may be taken for the child’s baptism or registration. An officer is also entitled to paternity leave if his child is stillborn and the delivery takes place after the beginning of the twentieth week preceding the expected delivery date.”.

51. The following is substituted for section 76.61:

“**76.61** Leave without pay or partial leave without pay of a maximum duration of one year shall be granted to an officer if his minor child or the minor child of his spouse is sick or handicapped or has social or emotional problems and requires the officer’s presence. During the leave, the officer may continue to participate in the group insurance plans according to the provisions set out in Chapter 4.

An officer may be absent without pay for five days per year to fulfil obligations relating to the care, health or education of his minor child or the minor child of his spouse, in cases where his presence is required due to unforeseeable circumstances or circumstances beyond his control. He must have taken all reasonable steps within his power to assume these obligations otherwise and to limit the duration of the leave. The leave may be divided into days. A day may also be divided if the employer consents thereto. The officer must advise his employer of his absence as soon as possible.”.

52. The following is substituted for the second and third paragraphs of section 76.72:

“It includes the lump sum related to a change of position leading to a salary decrease pursuant to sections 17, 20 and 21 and sections 104.1 to 104.3.

It does not include the additional remuneration for plurality of positions or interim or the compensation, bonuses and allowances provided for in Divisions 5, 6, 8 and 9 of Chapter 3.”.

53. The following is substituted for the first paragraph of section 76.73:

“**76.73** During the period of leave, an officer is not entitled to any compensation, premium or allowance provided for in Division 8 or 9 of Chapter 3. During the period of work, he is entitled to all such compensation, premiums and allowances.”.

54. The following is substituted for the first paragraph of section 76.104:

76.104 During an officer's progressive pre-retirement, the contribution of the employer and that of the officer to the group insurance plans shall be maintained based on the time worked by the officer before the agreement comes into effect. The same rule applies to health and accident insurance plans, but based on an officer's normal full-time schedule."

55. The following is inserted after section 76.108:

“CHAPTER 4.4 DEVELOPMENT

76.109 The employer shall promote the maintenance and development of its officers' skills.

76.110 Every officer shall prepare an annual development plan and submit it to his employer for approval.

76.111 The development plan shall provide for activities designed to support the officer in the achievement of the organization's objectives and his own career goals. In particular, it may provide for a continuous training program, participation in a reference group, leave with or without pay, a service loan to another employer or a practical training period in another workplace. Where necessary, the officer and the employer shall agree on conditions for the granting of leave and for the officer's return to work.

76.112 The employer shall set aside financial resources every year to cover the activities provided for in the officer's development plan."

56. The following is substituted for Division 1 of Chapter 5:

“DIVISION 1 GENERAL PROVISIONS

77. This chapter applies to an officer who has completed his probation period with an employer and who, following an administrative reorganization, is transferred to a position with another employer or whose position is eliminated.

77.1 There is no appeal from a decision by the employer to implement an administrative reorganization."

57. The following is substituted for section 85:

“85. Within 12 months following the date of appointment of an officer in accordance with sections 83 and 84, an employer who observes that the transferred officer is incapable of carrying out the duties of his new

position shall notify the officer in writing, 30 days in advance, that he will be placed on reserve. The employer shall send a copy of the notice to the appropriate officers' association. The officer shall choose one of the options prescribed in the second paragraph of section 94. In such a case, the time spent with the new employer, in the new position of officer, shall be excluded from the officer's reinstatement period. There shall be no appeal from the decision made by the employer."

58. The following is substituted for section 88:

“88. Within 12 months following the date of appointment of an officer to a new available position of officer, where the new employer observes that the transferred officer is incapable of carrying out the duties of his new position, it shall notify the officer in writing, 30 days in advance, that he will be placed on reserve. The employer shall send a copy of the notice to the appropriate officers' association. The officer shall choose one of the options prescribed in the second paragraph of section 94. In such a case, the time spent with the new employer, in the new position of officer, shall be excluded from the officer's reinstatement period. There shall be no appeal from the decision made by the employer."

59. Section 93 of the Regulation is amended:

(1) by substituting the following for the first and second paragraphs:

“93. During the period preceding the elimination of the position or positions, the employer shall consult with the officers concerned on the measures to be taken to reorganize the employer's staff, including adaptation, training, promotion, transfer, demotion, substitution of an officer affected by the operation by an officer not affected by the operation, with the same employer or another employer, and departure from the sector. The employer shall also consult with the officers and their representatives on the adaptation measures required for the proposed reorganization.

During this period, the employer shall reinstate an officer in a position of officer or senior administrator that corresponds to his training and experience and that involves a weekly work load at least equal to that of the position previously occupied by the officer, taking into account the normal requirements of the position to be filled and of the reinstatement plan where it is available. The officer shall accept the offered position. If the officer refuses the position, the employer may lay him off."

(2) by substituting the following for the fifth paragraph:

“Reinstatement under the second or fourth paragraph of an officer who is disabled, on parental leave, on leave without pay or on deferred salary leave shall come into force only on the date on which the period of disability or leave ends.”.

60. The following is substituted for the fourth and fifth paragraphs of section 94:

“An officer who has failed to communicate his choice to his employer by the date on which his position is eliminated is deemed to have chosen reinstatement in the sector.

The employer shall inform the regional board concerned of the choice made by the officer in accordance with the second and fourth paragraphs.

The choice of an officer who is disabled, on parental leave, on leave without pay or on deferred salary leave shall be made and come into force on the date on which the period of disability or leave ends. An officer whose position is eliminated during a period of disability shall continue to receive his salary insurance benefits as long as he is disabled.”.

61. Section 95 of the Regulation is amended:

(1) by substituting the following for the second paragraph:

“During the reinstatement period, with the authorization of his employer and, where applicable, of the other employer, an officer whose position has been abolished may replace an officer whose position has not been abolished, either with his employer or with another employer. In such a case, the officer whose position has not been abolished and who agrees to replace an officer whose position has been abolished shall benefit from the remaining portion of the reinstatement period.

During the reinstatement period, the employer shall maintain the officer’s salary and, subject to section 34.1, all his terms of employment as an officer, provided the officer does not refuse, without valid reason, to provide the services required by the employer in duties that take into account the officer’s training and experience and his reinstatement plan, if any. A part-time officer shall receive a salary proportional to the hours actually worked in the twelve months preceding the date on which his position is abolished. The salary paid to the officer cannot be less than the salary paid for the regular work load prescribed for his position.”;

(2) by substituting the following for the seventh paragraph:

“Any period during which the services of the officer are loaned to another employer in the public and parapublic sectors shall be excluded from the reinstatement period for a period not exceeding 36 months, for the equivalent in time of the portion of the service loan period that is at the expense of the other employer.”.

62. The following is substituted for subparagraph 2 of section 97:

“2. within six months from the date on which his position is eliminated, prepare his reinstatement plan, with the help of the Centre de référence if necessary, and submit it for approval to his employer, which shall convey its decision to the officer within 30 days following receipt of the reinstatement plan; the officer may modify his reinstatement plan, with the employer’s agreement. If the employer fails to convey its response by the end of this period, the plan is automatically accepted, unless the employer notifies the officer that it is impossible to make a decision, and that the period will have to be extended to no more than 60 days. The notice shall be given in writing and shall include reasons for the extension;”.

63. The following is substituted for section 102:

“**102.** An officer who has chosen reinstatement within the sector may change his initial choice and elect for departure from the sector as stipulated in Division 6 of this chapter. In such a case, the stipulated end-of-engagement indemnity and amount for pre-retirement leave shall not be reduced if the change of choice is made before the officer has received 12 months of salary from his original employer since the date on which he was placed on reserve. If the change of choice is made after such time, the end-of-engagement indemnity and amount for pre-retirement leave shall be reduced proportionally to the salary received over and above the 12-month period.

The change of choice shall be conveyed to the regional board concerned by the officer’s employer.”.

64. The following is added at the end of section 103:

“An employer who puts an end to the employment stability measures of an officer pursuant to the first paragraph shall inform the regional board concerned.”.

65. The following is substituted for section 104:

“**§1.1 Remuneration of a reinstated officer**

104. An officer who is reinstated pursuant to sections 93, 108 and 110 is governed by the terms of employment

prescribed for his new position, subject to section 32. His salary shall be established in accordance with the salary provisions applicable to the position in which he is reinstated.

104.1 An officer whose salary is reduced following reinstatement in a position in a lower salary class or with a lower salary scale, with no reduction in his weekly work load, shall receive the full difference between the salary he was receiving on the date of reinstatement and the salary paid to him in his new position, in the form of lump sum payments, up to the end of the three-year period following the date on which his position was eliminated. If the officer's reinstatement period is interrupted by disability, a service loan, parental leave, leave without pay or a trial period following reinstatement, as provided for in sections 95 and 100, and the staggered reinstatement period provided for in section 99, the end of the three-year period following the date on which his position is eliminated shall be postponed accordingly, up to a maximum of six years after the date of elimination of the position. However, in the case of a disabled officer, the end of the period shall be postponed by a period equal to the period of disability.

During the period contemplated in the first paragraph, the total of the officer's salary and lump sum payment shall not be less than the salary he would have received if he had remained in the reinstated position. For the first year following that period, the lump sum paid to the reinstated officer shall equal two-thirds of the difference between the salary he would have received at the end of the three-year period had he not been reinstated, and the salary for the position in which he was reinstated. The same applies for the second year following the three-year period, except that the lump sum shall equal one-third of the difference.

104.2 An officer who, in the first 18 months of reinstatement, obtains or is reinstated in a position involving a weekly work load that is less than that of his original position, shall receive the salary of the new position proportionally to the worked in that position.

If the salary of an officer contemplated in the first paragraph is reduced because the officer is reinstated in position in a lower salary class or having a lower salary scale, the difference in salary attributable to that reduction shall be paid to the officer proportionally to the number of hours worked in the new position, in accordance with the terms and conditions set out in section 104.1.

104.3 A reinstated officer who has not obtained a position pursuant to section 108 or section 110 after a reinstatement period of 18 months may obtain or be reinstated in a position involving a weekly work load

that is less than that of the position he previously held. The reinstatement may be with his employer or with another employer, in a position of officer, union member or unionizable non-member, on the following conditions :

(1) An agreement is entered into by the officer and his employer if the reinstatement takes place with the original employer, or by the officer, his employer and the new employer if the reinstatement takes place with another employer. The agreement shall stipulate that the officer, for the remaining portion of his reinstatement period, shall not refuse without valid reason to provide the services requested by his original employer or his new employer, on the conditions stipulated in the third paragraph of section 95, for a number of hours corresponding to the number of hours in his original position, less the number of hours in his new position ;

(2) an officer who is reinstated with his original employer is required to apply for every position of officer, union member or unionizable non-member corresponding to his training and experience and involving a weekly work load that is at least equal to that of his original position. The officer must accept the position offered if it is a position of officer or, if it is a position of union member or unionizable non-member, he must accept it if reinstatement into such a position was provided for in his initial reinstatement plan, in accordance with subparagraph 2 of section 97.

An officer reinstated in this way shall receive, in the form of lump sum payments, the full difference between the salary he was receiving on the date of reinstatement and the salary paid to him in his new position. The lump sum payments shall be made in accordance with the terms and conditions set out in section 104.1.

104.4 An officer contemplated in section 104.3 who, after a period of 18 months of reinstatement, obtains or is reinstated to a position with a lower weekly work load than his original position, with or without a reduction in his salary class, and who elects not to enter into an agreement in accordance with subparagraphs 1 and 2, shall benefit from the terms and conditions set out in section 104.2.”

66. The following is substituted for section 105 :

“**§1.2 Miscellaneous provisions**

105. An officer who is reinstated in a position of union member or unionizable non-member :

(1) may continue to benefit from the group insurance plans in accordance with section 32 ;

(2) shall maintain his sick-leave fund and may use it according to the provisions of Division 8 of Chapter 4;

(3) deleted;

(4) shall continue to be entitled, for a period of 24 months, to the services of the Centre de référence.”.

67. The following is substituted for section 108:

“**108.** The employer shall reinstate an officer who has chosen reinstatement in a position of officer, senior administrator, union member or unionizable non-member that corresponds to his training and experience and involves a weekly work load at least equal to that of the position he previously held, taking into account the normal requirements of the position to be filled and his reinstatement plan if available. The officer must accept the position offered if it is a position of officer, or if it is a position of union member or unionizable non-member, he must accept it if reinstatement into such a position is provided for in his reinstatement plan.

The employer shall inform the appropriate regional board of the reinstatement of an officer whose position had been abolished, and of the conditions of the reinstatement.”.

68. The following is substituted for section 110:

“**110.** An officer who has chosen the reinstatement option may find himself a job with another employer in a position of officer, senior administrator, union member or unionizable non-member that corresponds to his training and experience and involves a weekly work load at least equal to that of the position he previously held, taking into account the normal requirements of the position to be filled and his reinstatement plan if available. The officer must accept the position offered if it is a position of officer, or if it is a position of union member or unionizable non-member, he must accept it if reinstatement into such a position is provided for in his reinstatement plan.

The original employer of the officer who finds another job shall inform the appropriate regional board of the officer’s reinstatement and of the conditions applicable thereto.”.

69. The following is substituted for section 111:

“**111.** An officer who is reinstated with another employer shall be subject to a trial period not exceeding twelve months. During the trial period, he shall maintain his employment relationship with his original employer.

An officer who is reinstated into a position of union member or unionizable non-member shall maintain his employment relationship with his original employer until he acquires job security in his new position or, where applicable, in another position of union member or unionizable non-member.”.

70. The following is substituted for section 114:

“**114.** An officer who, during his reinstatement period, is reinstated with another employer located more than 150 kilometres from the head office of his original employer, from his home base and from his residence, shall receive a mobility allowance from his original employer equivalent to three months of the salary he was receiving on the date of reinstatement. The officer shall ask for payment of this bonus at the end of his trial period.”.

71. The following is substituted for the first paragraph of section 116:

“**116.** An officer who has chosen an end-of-engagement indemnity shall receive an indemnity equivalent to four months of salary per year of continuous service, including service as a union member or unionizable non-member, with one or several employers in the public or parapublic sectors. However, the minimum amount of the indemnity shall be six months’ salary and the maximum shall be 24 months’ salary. The indemnity is calculated on the basis of the salary the officer was receiving on the date on which his position was eliminated or the date on which he changed his choice. A part-time officer shall receive an indemnity proportional to the hours worked in the last twelve months preceding the date on which his position was eliminated. However, the indemnity cannot be less than the salary paid for the regular work load prescribed for his position.”.

72. The following is substituted for section 120:

“**120.** The end-of-engagement indemnity shall be paid in the following ways and in the following order:

(1) A retirement allowance corresponding to the maximum amount that may be transferred into a retirement instrument under the applicable tax legislation, and taking into account any sick days that qualify under this heading. The allowance is payable no later than 30 days after the officer’s departure;

(2) A mandatory contribution by the employer to the officer’s retirement plan, to compensate for the actuarial reduction applicable to the officer when he becomes eligible for his retirement pension with such a reduction. If the employer’s contribution does not compensate fully

for the actuarial reduction, the officer may use the amount of the retirement allowance described in subparagraph 1 as full or partial compensation. Such compensation is valid as long as the retirement plan provides therefor;

(3) An additional retirement allowance, for the amount by which the end-of-engagement indemnity exceeds both the transferable retirement allowance and the employer's contribution, payable to the officer in two equal instalments, the first in the 30 days following the officer's departure and the second on 15 January of the following year. However, the employer may agree with the officer to pay the whole of the additional retirement allowance no later than 30 days following his departure."

73. The following is substituted for the first paragraph of section 124:

"**124.** The total amount to be paid, that is the sum of the salary paid during his pre-retirement leave and the amount paid in end-of-engagement indemnity, at the time of his retirement, to the officer who has chosen departure from the sector, shall be equivalent to 24 months of the salary he was receiving on the date on which his position was eliminated, adjusted if applicable. A part-time officer shall benefit from the same conditions proportionally to the hours worked during the 12 months preceding the date on which his position is eliminated. However, the amount paid cannot be less than the salary paid for the regular work load prescribed for that position. If an officer chooses pre-retirement leave and retirement, after spending time in reinstatement, the total amount paid shall be reduced in accordance with section 102."

74. The following is substituted for section 128.1:

"**128.1** An officer to whom this subdivision applies shall not participate in the short-term salary insurance plan as prescribed in subparagraph 3 of section 49, or in the mandatory basic long-term salary insurance plan or the additional mandatory long-term salary insurance plan. In the 12 months preceding the pre-retirement leave, a disabled officer shall receive the salary to which he would have been entitled had he been at work."

75. The following is substituted for Chapter 6:

"CHAPTER 5.1 END-OF-ENGAGEMENT MEASURES

DIVISION 1

DISMISSAL, NON-RENEWAL OF ENGAGEMENT, TERMINATION OF ENGAGEMENT, SUSPENSION WITHOUT PAY, DEMOTION

129. The decision to dismiss, not to renew the engagement of or to terminate the engagement of an

officer, to suspend him without pay or to demote him must be made by the board of directors in the case of a senior officer or by the executive director in the case of an intermediate officer.

129.1 At least 15 days before the date of the meeting, the employer shall notify the senior officer, in writing, that the subject of the senior officer's dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion has been entered on the agenda of a meeting of the board of directors for consideration.

At the same time as the written notice mentioned in the first paragraph, the employer shall provide the senior officer with a written copy of his evaluation together with the reasons for his dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion.

The senior officer may express his views and make representations through the Association des cadres supérieurs de la santé et des services sociaux, at the meeting of the board of directors.

129.2 In the case of an intermediate officer, the employer shall notify the officer in writing that it intends to recommend the officer's dismissal, non-renewal of employment, termination of engagement, suspension without pay or demotion. A period of 15 days must elapse between the notice and the decision of the executive director to dismiss the intermediate officer, not to renew his engagement or terminate his engagement.

Upon receipt of the notice mentioned in the first paragraph, the intermediate officer may ask his employer, in writing, to provide a copy of his evaluation together with the reasons justifying the notice. The employer shall provide the officer with this information in writing within five days of receipt of the request.

During the period stipulated in the first paragraph, the intermediate officer may express his views and make representations to the executive director, through his association.

129.3 The decision to dismiss an officer, not to renew his engagement, to terminate his employment, to suspend him without pay or to demote him, made pursuant to section 129, shall be communicated to the officer in a written notice.

129.4 The notice concerning the decision not to renew the engagement of an officer or to terminate his engagement must be sent to the officer at least 60 days before the end of his employment.

In the case of a dismissal, the date of the end of his employment shall be the date on which the officer receives the notice sent pursuant to section 129.3.

DIVISION 2 SEVERANCE PAY

129.5 To terminate an engagement, an employer may pay severance pay to an officer who has completed his probation period, provided the officer has renounced all right of recourse in writing.

129.6 The severance pay shall be equal to one month of salary per year of continuous service as an officer or senior administrator with one or several employers. In no case shall it exceed 12 months of salary.

A part-time officer shall receive the severance pay established in the first paragraph proportionally to the hours worked in the last 12 months preceding his departure. However, the amount paid shall not be less than the regular work load prescribed for his position.

Severance pay shall be paid monthly by the employer or in accordance with the conditions of the payroll system, from the date of the officer's departure. It shall cease when the officer obtains another position in the public or parapublic sector with a monthly salary equal to or in excess of the severance pay for the same period. It shall also cease when the officer begins to receive remuneration from the Régie de l'assurance-maladie du Québec that is equal to or in excess of the severance pay for the same period.

129.7 Where an officer obtains employment in the public or parapublic sector before he has received all the severance pay stipulated in section 129.6, and is paid a salary that is less than the salary he was receiving on the date of his departure, the original employer, upon presentation of vouchers, shall periodically pay him the difference between the two salaries, up to the total amount of severance pay, or until the officer's new salary is equal to or in excess of the salary he was receiving on the date of his departure.

Where an officer receives remuneration from the Régie de l'assurance-maladie du Québec before he has received all the severance pay stipulated in section 129.6, and where the said remuneration is less than the salary he was receiving on the date of his departure, the original employer, upon presentation of vouchers, shall periodically pay him the difference between his salary and the remuneration, up to the total amount of severance pay or until his new remuneration is equal to or in excess of the salary he was receiving on the date of his departure, whichever occurs first.

129.8 The severance pay shall be the subject of a resolution by the employer's board of directors.

129.9 An officer who receives severance pay may choose to replace it with paid leave. The duration of the leave shall be the number of months obtained by applying the first paragraph of section 129.6. The paid leave shall cease if the officer obtains another position in the public or parapublic sector. In such a case, sections 129.6 and 129.7 shall apply.

During the paid leave, the officer shall maintain his status as an officer. Vacation time accumulated during the leave is deemed to have been taken. The officer shall not benefit from the salary insurance plans. If the officer becomes disabled during this period, he shall continue to receive the salary corresponding to the severance pay to which he would have been entitled, until such severance pay runs out or until he obtains another position.

CHAPTER 6 APPEAL PROCEDURES

DIVISION 1 DISAGREEMENTS

130. Any disagreement between an officer and his employer resulting from the interpretation or application of the provisions of this Regulation, except for those of Chapter 5.1 concerning end-of-engagement measures, shall be submitted to an arbitrator.

130.1 The officer shall submit a written notice of disagreement to his immediate superior within 30 days of becoming aware of the fact and within six months of the occurrence of the fact giving rise to the disagreement.

The employer and the officer shall meet within 30 days of receipt of the notice of disagreement, to discuss the disagreement and, if possible, to reach an agreement. At the meeting, the officer may be accompanied by a representative of his association.

If the disagreement persists at the end of the 30-day period, the officer shall, in the next 20 days, notify his employer in writing that he intends to submit the disagreement to an arbitrator.

130.2 The request for arbitration must contain full information about the officer's position, the name of his representative, unless he has elected to represent himself, the nature of the disagreement and all related documentation. A copy of the request for arbitration shall be sent to the Minister.

The employer shall provide the officer with copies of the documents required to present the request for arbitration and to ensure his defence, subject to the obligations and powers conferred on public bodies by the Act respecting Access to documents held by public bodies and the Protection of personal information. A request for arbitration shall not be invalid for the sole reason that it does not contain all the necessary information.

Within 10 days following receipt of the request for arbitration, the employer shall provide the officer's representative with the name of its own representative, in writing. The name shall be given to the officer if he has no representative.

At the end of this period, the parties have 15 days to agree upon the choice of an arbitrator from the list drawn up in accordance with section 130.22.

If the parties are unable to agree on the choice of an arbitrator, or if the arbitrators whose names appear on the list are not available, one of the parties shall ask the Minister, in writing, to appoint an arbitrator. The request shall contain a copy of the request for arbitration originally made by the officer, together with the name of the officer's representative and the name of the employer's representative.

Within 30 days following receipt of the request, the Minister shall appoint an arbitrator from the list prepared in accordance with section 130.22 to hear the disagreement, and shall inform the parties in writing.

130.3 The arbitrator shall determine the procedure for the hearing, taking into account the established principles of natural justice and the exercise of the powers stipulated in Division III of Chapter IV of the Labour Code (R.S.Q., c. C-27), subject to the provisions of this chapter.

Notwithstanding section 100.6 of the Labour Code, the Minister cannot be assigned to appear as a witness.

The arbitrator shall notify the parties at least 10 days before the date of the first hearing.

If the duly summoned representative of a party is not present, the arbitrator may nevertheless proceed with the hearing.

The arbitrator shall ensure that the request for arbitration was made within the prescribed time frame, shall check that the steps taken by the employer in the decision-making process were in conformity with the law and this Regulation, and shall judge the admissibility and nature of the disagreement.

The arbitrator shall receive the observations of the parties and take the disagreement under advisement. Where applicable, each party shall send a written copy of its observations to the other party.

130.4 The arbitrator shall analyze the disagreement and decide whether or not the employer's decision is consistent with the Act and this Regulation.

The arbitrator must render his decision in writing, giving reasons, and sign it, within 30 days following the date of the end of the hearings. This period may be extended with the prior agreement in writing of the parties. The decision shall not be invalid solely by reason of being made after the stipulated period.

The arbitrator shall send a copy of his decision to the parties and to the Minister.

An officer who withdraws his disagreement, in particular when an agreement is reached before the arbitrator renders a decision, shall inform his employer and the arbitrator in writing.

If the arbitrator considers that the employer's decision is consistent with the Act and with this Regulation, he shall maintain it.

If the arbitrator considers that the employer's decision is not consistent with the provisions of the Act and of this Regulation, he shall render his decision by exercising the powers stipulated in the first paragraph of section 130.3.

In no case shall the arbitrator's decision have the effect of amending, adding to or subtracting from the provisions of the Act and of this Regulation.

130.5 The decision of the arbitrator is final and enforceable, and shall be binding upon the officer and the employer.

DIVISION 2 **DISMISSAL, NON-RENEWAL OF ENGAGEMENT, TERMINATION OF ENGAGEMENT, SUSPENSION WITHOUT PAY, DEMOTION**

130.6 An officer who has completed his probation period with an employer, or an officer on parental leave or disability leave, shall make a written complaint to his employer in the case of dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion, if he believes the decision was not made in accordance with the provisions of sections 129 to 129.5, or if he contests the validity of the decision. However, there is no appeal from the layoff of an officer following termination of the employment relationship

as a result of a decision made by the employer pursuant to Chapter 5.

The complaint must reach the employer or be mailed no later than 45 days after receipt of the notice stipulated in 129.4 or the date of the end of employment, whichever is later. The officer shall also send a copy of the complaint within the same period to the officers' association of which he is a member.

An arbitrator shall be appointed in accordance with the procedure stipulated in section 130.2. The arbitrator shall proceed in accordance with section 130.3.

130.7 The arbitrator shall decide the validity of the employer's decision and its just and sufficient nature. He shall render his decision with 30 days following the date of the end of the hearings. This period may be extended with the prior written agreement of the representatives or, if not, with the prior written agreement of the officer and the employer. The decision shall not be invalid solely because it was made after this period.

130.8 The arbitrator shall render the decision in writing, giving reasons, and shall sign it.

130.9 The arbitrator shall send a copy of his decision to the officer, the employer, their representatives and the Minister.

130.10 The decision is enforceable and cannot be appealed. It shall be binding upon the officer and the employer.

The decision of the arbitrator shall be homologated by the Superior Court at the request of the officer or of the employer, at the expense of the employer.

130.11 Following a complaint submitted by an officer, the arbitrator shall decide to maintain the decision of the employer if he considers it to be justified. In the case of a suspension without pay, an arbitrator who maintains the employer's decision may change the duration of the suspension.

130.12 Following a complaint submitted by an officer concerning a dismissal, non-renewal of engagement or termination of engagement with severance of the contractual employment relationship, the arbitrator, if he considers the employer's decision to be unjustified, shall establish compensation for the loss of salary suffered by the officer. When calculating the amount of the compensation, the arbitrator shall take into account any salary or benefit received by the officer since the date on which his employment terminated.

He shall also order the employer and the officer to agree on a solution to dispose of the dispute, within 30 days following the date of his decision. The agreement may provide for:

(1) reintegration of the officer in his position or in another position corresponding to his training and work experience, taking into account the requirements of the position to be filled;

(2) damages, which may be for an amount equal to three to 12 months of salary for the officer. In such a case the officer shall benefit from the reinstatement services available to officers who have elected for reinstatement in accordance with section 94, for a period of 36 months;

(3) the application of the employment stability measures prescribed for administrative reorganizations, in accordance with Chapter 5.

A copy of the agreement shall be sent to the arbitrator and to the Minister, not later than five days after the end of the period mentioned in the second paragraph.

130.13 If no agreement has been reached at the end of the period mentioned in the second paragraph of section 130.13, the employer and the officer shall submit to the arbitrator, within 10 days following the end of that period, their positions and arguments concerning the reinstatement of the officer, the damages described in subparagraph 2 of the second paragraph of section 130.12 and the application to the officer of the employment stability measures for administrative reorganizations.

130.14 After studying the arguments of the employer and the officer, the arbitrator shall order the employer to apply one of the following measures:

(1) reintegration of the officer from the date of the order mentioned in the second paragraph of section 130.12. The employer must then reintegrate the officer in his position or in any other position corresponding to his training and work experience, taking into account the requirements of the position to be filled;

(2) payment to the officer of damages calculated by the arbitrator, taking into account the prejudice suffered by the officer. The amount of the damages shall be equal to between three and 12 months of salary for the officer. In addition, the officer, for reinstatement purposes, shall benefit from the reinstatement services available to officers who have elected for reinstatement in accordance with section 94, for a period of 36 months from the date of the arbitrator's order contemplated in this section;

(3) the application of the employment stability measures stipulated for administrative reorganizations, in accordance with Chapter 5.

130.15 Following a complaint submitted by a senior officer who has been transferred to a position of intermediate officer without elimination of the position originally occupied by him, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to reintegrate the officer into his position, with compensation for the loss of salary suffered.

130.16 Following a complaint submitted by an officer whose weekly work load has been reduced, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to apply the following measure: maintenance of the officer's weekly work load with compensation for the loss of salary suffered, from the date on which the benefit was reduced.

130.17 Following a complaint submitted by an officer who has been suspended without pay or demoted, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to apply the following measure: reintegration of the officer into his position, with compensation for the loss of salary suffered.

130.18 The compensations and damages payable to an officer as a result of an arbitrator's decision shall be paid in their entirety by the employer concerned, within 30 days following the arbitrator's decision.

130.19 An officer who withdraws his complaint shall notify his employer in writing and shall send a copy of the notice to the arbitrator and to his association.

130.20 Where an agreement is reached before the arbitrator renders his decision, it shall be the subject of a resolution by the employer's board of directors. Copies of the resolution and of the agreement must be sent to the arbitrator within 15 days following the adoption of the resolution. The agreement must contain a clause withdrawing the complaint and a renunciation by the officer of all other recourses. The benefits granted under such an agreement shall in no case be equivalent to less than 3 months or more than 12 months of salary for the officer.

130.21 An officer who submits a complaint for dismissal, non-renewal of engagement or termination of engagement shall maintain his participation in the collective insurance plans, in accordance with section 34.2.

DIVISION 3

LISTS OF ARBITRATORS, EXPERT PHYSICIANS AND ARBITRATION FEES

130.22 Two lists containing the names of arbitrators, one for senior officers and one for intermediate officers, shall be drawn up by the Minister with the employers' associations and officers' associations concerned. The list established for intermediate officers shall contain a list of expert physicians for the purposes of the medical arbitration procedure provided for in section 46.1.

The signatories of the list for senior officers shall be the Minister, the employers' associations and the Association des cadres supérieurs de la santé et des services sociaux.

The signatories of the list for intermediate officers shall be the Minister, the employers' associations, the Association des gestionnaires des établissements de santé et de services sociaux inc. and the Association des cadres de la santé et des services sociaux du Québec.

130.23 The lists provided for in section 130.22 may be updated on April 1 of each year, at the request of one of the signatories. All the signatories concerned must consent to the modifications.

130.24 Each party shall pay its own expenses. In cases covered by Division 1 of this chapter, the arbitrator's fees and expenses shall be paid by the losing party or the party that withdraws. Where an agreement is reached before the arbitrator renders his decision, the agreement must provide for the arbitrator's fees and expenses to be divided between the parties. It must contain a clause withdrawing the complaint and a renunciation of any other recourse by the officer. Where the arbitrator considers his decision to be divided, he shall establish the proportion of his fees and expenses to be paid by each of the parties. In cases covered by Division 2 of this chapter, the arbitrator's fees and expenses shall be paid by the employer."

76. Section 131 is amended.

(1) by substituting the following for paragraph 1:

"(1) the Regulation respecting certain conditions of employment of officers of regional councils and of health and social services establishments, made by Order in Council 988-91 dated 10 July 1991 and amended by Order in Council 1180-92 dated 12 August 1992, except to the extent that they apply to the territory of the Cree Board of Health and Social Services of James Bay;"

(2) by inserting the following after paragraph 4:

“(4) the Regulation respecting the appointment and remuneration of directors of professional services and directors of public health, made by Order in Council 1094-94 dated 13 July 1994;”;

(3) by substituting the following for paragraph 5:

“(5) the Regulation respecting the dismissal, non-renewal of employment, termination of employment, suspension without pay, demotion and severance pay of officers of regional boards and health and social services institutions made by Order in Council 1843-94 dated 21 December 1994;”.

77. The following is inserted after section 133.2:

“**133.3.** Sections 12.2 to 12.5 have effect from 1 July 2000, section 27 has effect from 1 January 2001 and section 37 has effect from 1 July 2001.”.

78. The following is inserted after section 133.3:

“**133.4** On the conditions set out below, the employer shall pay certain officers a lump sum corresponding to 0.83% of the salary or benefits received during the period extending from 1 October 1995 to 31 December 1999.

The lump sum, calculated proportionally to the period of participation in the insurance plans applicable pursuant to Chapter 4 shall be paid to the following persons:

(1) officers employed on 31 December 1999 who continue to participate in the Civil Service Superannuation Plan (RRF) or the Teachers Pension Plan (RRE) after that date without availing themselves of the right to transfer to the Government and Public Employees Retirement Plan with regard to non-unionizable employees, pursuant to the provisions of that plan;

(2) officers reinstated or reassigned to a non-officer position who, during the reference period, did not participate in the Government and Public Employees Retirement Plan with regard to non-unionizable employees but who maintained their participation in the insurance plans applicable pursuant to Chapter 4;

(3) officers contemplated in subparagraph 2 who resign, retire or die during the reference period;

(4) officers who, on 1 January 2000, participate, where applicable, in the Pension Plan of Peace Officers in Correctional Services (RRAPSC) or the Régime de

retraite des employés en fonction au Centre hospitalier Côte-des-Neiges, and officers who, during the reference period, participated in one of those pension plans but have resigned, retired or died.

Notwithstanding the first paragraph, the salary taken into consideration for officers who participated in a deferred salary leave plan during the reference period is the salary they would have received had they not participated in the plan.”.

79. The following is inserted after section 134:

“**134.** The expression “régimes d’assurance collective” is substituted for the expression “régimes collectifs d’assurance” wherever the latter expression occurs in the French version of this Regulation.”.

80. The following is substituted for the title of Appendix A:

“SALARY CLASSES OF OFFICER PHYSICIANS”.

81. The expression “work load” is substituted for the expression “work benefit” wherever the latter expression occurs in the English version of the Regulation respecting certain terms of employment applicable to officers of regional boards and health and social services institutions, approved by T.B. 194784 dated 8 May 2000, and in all amendments thereto.

82. This Regulation shall come into force on the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

T.B. 196313, 10 April 2001

An Act respecting health services and social services (R.S.Q., c. S-4-2)

Regional boards and health and social services institutions

— **Certain terms of employment applicable to senior administrators**

— **Amendments**

Regulation to amend the Regulation respecting certain terms of employment applicable to senior administrators of regional boards and health and social services institutions