

“**134.1.2.** An officer to whom section 134.1.1 applies and who, as of the date on which this section comes into force, is receiving the 6% monetary compensation, may, notwithstanding the second paragraph of section 37.1, again be covered by management employees group insurance plans of the public and parapublic sectors in which the officer was participating on July 28, 2009, if he or she satisfies the following conditions:

a) as of the date on which this section comes into force, the officer still holds the position that he or she held on July 28, 2009 or, if the officer no longer holds that position, holds another management position with the same employer without interruption in the employment relationship between July 28, 2009 and the date on which this section comes into force;

b) the officer makes an application to the Minister of Health and Social Services no later than 45 days following the date on which this section comes into force.

The officer must enclose with the application a copy of the letter of appointment to the management position, together with a letter from the employer stating that the officer satisfies the first condition above and that, as of July 28, 2009, he or she was covered by management employees group insurance plans of the public and parapublic sectors.

If applicable, the officer shall again be covered by management employees group insurance plans of the public and parapublic sectors no later than 90 days following the date on which this section comes into force and shall no longer be entitled, as of the date on which he or she is covered again, to the monetary compensation provided for in the second paragraph of section 37.1.”

2. This Regulation comes into force on the date of its publication in the *Gazette officielle du Québec*.

1406

M.O., 2011

Order number 2011-007 of the Minister of Health and Social Services dated 30 March 2011

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

IN RESPECT OF the Regulation to amend the Regulation respecting certain terms of employment applicable to senior administrators of agencies and of public health and social services institutions

CONSIDERING the Regulation respecting the selection, remuneration, group insurance plans, employment stability measures, end of engagement measures, and procedure of appeal applicable to the executive directors of regional boards and of public health and social services institutions made by Order in Council 1217-96 dated 25 September 1996;

CONSIDERING section 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 the replacement of the title of the Regulation by “Regulation respecting certain terms of employment applicable to senior administrators of regional boards and of public health and social services institutions”, approved by C.T. 193820 dated 21 September 1999;

CONSIDERING the replacement of the words “regional boards” in the title of the Regulation by the word “agencies”, pursuant to paragraph 2 of section 309 of chapter 32 of the Statutes of 2005 which came into force on 1 January 2006;

CONSIDERING the necessity to amend the Regulation;

CONSIDERING the first paragraph of section 487.2 of the Act respecting health services and social services;

CONSIDERING the authorization obtained from the Conseil du trésor in accordance with the third paragraph of section 487.2 of the Act respecting health services and social services;

THEREFORE, the Minister of Health and Social Services hereby makes the Regulation to amend the Regulation respecting certain terms of employment applicable to senior administrators of agencies and of public health and social services institutions.

YVES BOLDOC,
Minister of Health and Social Services

Regulation to amend the Regulation respecting certain terms of employment applicable to senior administrators of agencies 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. Section 2 of the Regulation respecting certain terms of employment applicable to senior administrators of agencies and health and social services institutions is amended by:

1° inserting, in the first paragraph, commas and the words “, with the exception of section 40.2,” after the words “this Regulation”;

2° inserting, after the third paragraph, the following paragraph:

3° “Section 163 of this Regulation applies to a senior administrator of a private institution covered by section 475 of the Act respecting health services and social services.”

2. Section 4.3 of this Regulation is amended by inserting, at the end of the section, the following sentence: “This notice may be issued by the association.”

3. Section 8 of this Regulation is amended by inserting, at the end of the second paragraph, the following sentence “When the Minister authorizes the opening of the selection competition, a copy of this authorization is sent to the association.”

4. Section 40 of this Regulation is replaced by the following:

“**40.** A senior administrator, other than a senior managerial advisor, may receive an availability allowance. This allowance is granted in cases where the senior administrator is required to ensure continuity in the delivery of health services or social services in order to avoid any break in the continuity of such services.

In order for the above allowance to be paid, the following conditions must be met:

a) the establishment in which the senior administrator works offers services 24 hours a day and 7 days a week;

b) because of the obligations inherent in the position, the senior administrator must be available to work on a regular basis outside of regular work hours.

This allowance is paid to the senior administrator in the form of a lump sum in proportion to the time worked and according to the procedures of the employer’s pay system. The allowance is 7.0% of an executive director’s and 3.5% of an assistant executive director’s salary.”

5. This Regulation is amended by inserting, after section 40, the following sections:

“**40.1** A senior administrator, other than a senior managerial advisor, may receive a management allowance from a university establishment. This allowance is paid in the form of a lump sum and according to the procedures of the employer’s pay system.

The terms and conditions of the management allowance from a university establishment are established by the Minister. This allowance shall take effect on April 1, 2011.

40.2 A senior administrator, other than a senior administrator benefiting from the employment stability measures provided for in Chapter 5, who has reached 55 years of age and has accumulated 15 years of continuous service on or after April 1, 2011, may receive an attraction and retention allowance.

This attraction and retention allowance corresponds to 10% of the salary that is paid to the senior administrator. It is paid in the form of a lump sum in proportion to the time worked and according to the procedures of the employer’s pay system. It shall take effect on the day when the senior administrator meets the two conditions for eligibility set forth in the first paragraph. This amount is revised on April 1 of each year, taking into account changes in the salary paid to the senior administrator.

Whatever the changes in the senior administrator’s salary, the cumulative percentage of annual payments fixed at 10% per year may not, under any circumstances, exceed 100% during the senior administrator’s career in the health and social services sector and the allowance may not be paid for a period of more than ten years.

* The Regulation respecting certain terms of employment applicable to senior administrators of agencies and health and social services institutions made by Order in Council No. 1217-96 dated September 25, 1996 (1996, G.O. 2, 5721) was last amended by the Regulation enacted by Ministerial Order No. 2009-008 dated July 16, 2009 (2009, G.O. 2, 3480). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2010, updated to October 1, 2010.

To be entitled to the attraction and retention allowance, a senior administrator shall commit, in writing, starting with the first payment, not to hold a regular or temporary position, whether full-time or part-time, of senior administrator, officer, union member, unionizable non-member or fee-earning consultant in the public and parapublic sectors for a period of two years following his or her departure. If this commitment is not met, the senior administrator must reimburse all amounts received as an attraction and retention allowance.

The board of directors may, in certain special circumstances and with the approval of the Minister, release the senior administrator from the commitment prescribed in the fourth paragraph.

In the case of a senior administrator who meets the criteria of having reached 55 years of age and having accumulated 15 years of continuous service on or before March 31, 2011, the applicable provisions shall be those of section 161, instead of those set forth in the preceding paragraphs.

From April 1, 2011, the Minister shall conduct a triennial evaluation of the appropriateness of this allowance. The Minister takes the appropriate follow-up actions after consulting with the association.”

6. Section 60 of this Regulation is amended by deleting, in subsection 3, the words “or the date on which begins the 12-month period preceding the coming into effect of his pre-retirement leave as prescribed in section 123”.

7. Section 87.86 of this Regulation is amended by deleting the last paragraph.

8. Section 93 of this Regulation is amended by replacing, in the fifth paragraph, the words “parental leave” by “leave under the parental rights plan”.

9. Section 94 of this Regulation is amended by inserting at the end of the third paragraph of the following sentence “This choice is final and may not be changed later.” and by replacing, in the sixth paragraph, the words “parental leave” by “leave under the parental rights plan”.

10. The second paragraph of section 95 of this Regulation is deleted.

11. The second sentence of section 96 is replaced by the new paragraph as follows:

“The employer shall reimburse to the senior administrator the travelling and living expenses incurred by:

1° his or her participation in career transition activities with the external resource retained by the employer to provide them;

2° his or her authorized activities in search for employment.”

12. Section 98 of this Regulation is amended:

1° by replacing, in the first paragraph, the words “no more than” by “for a maximum duration of” and by deleting the words “or for a period of reinstatement which is staggered in accordance with section 102”;

2° by deleting the third paragraph;

3° by replacing, in the eighth paragraph, the words “excluded from” by “included in”;

4° by replacing, in the ninth paragraph, the words “the third paragraph of section 118.” by “the second paragraph of section 118.”

13. Section 99 of this Regulation is replaced by the following:

“**99.** The employer shall facilitate the reinstatement of the senior administrator who has elected reinstatement, namely in determining the services required in accordance with the second paragraph of section 98.

For this purpose, the employer shall reimburse to the senior administrator the travelling and living expenses incurred by:

1° his or her participation in career transition activities with the external resource retained by the employer to provide them;

2° his or her authorized activities in search for employment.”.

14. Section 102 of this Regulation is deleted.

15. Section 103 of this Regulation is amended by replacing the words “excluded from” by “included in”.

16. Section 104 of this Regulation is deleted.

17. Section 106.1 of this Regulation is amended by:

1° deleting, in the first paragraph, the second and the third sentences;

2° inserting, after the first paragraph, the following paragraph:

“When this senior administrator’s period of reinstatement is interrupted because of a disability or a leave under the parental rights plan provided for in Chapter 4.1, it is extended for a period equal to the duration of such leaves.”.

18. Section 111 of this Regulation is amended by deleting the third sentence.

19. Section 114 of this Regulation is amended by deleting the following sentence:

“The time spent with the new employer shall be excluded from the senior administrator’s remaining reinstatement period.”.

20. Section 118 of this Regulation is amended:

1° by replacing, in the first paragraph, the sentence “However, the minimum amount of that indemnity shall be 6 months salary and the maximum shall be 24 months salary.” by “However, the maximum amount of that indemnity shall be 12 months salary.”;

2° by deleting, in the third sentence of the first paragraph, the phrase “or the date on which he changed his choice”;

3° by deleting the second paragraph.

21. Section 120 of this Regulation is amended by deleting the words “or, if such is the case, on the date on which the senior administrator changes his choice”.

22. Section 121 of this Regulation is replaced by the following:

“**121.** To be entitled to an end-of-employment indemnity, a senior administrator shall commit, in writing, not to hold a regular or temporary position, whether full-time or part-time, of senior administrator, officer, union member, unionizable non-member or fee-earning consultant in the public and parapublic sectors for a period twice as long as the duration to which corresponds the end-of-engagement received, starting from the date on which his or her position was eliminated.

The board of directors may, in certain special circumstances and with the approval of the Minister, release the senior administrator from the commitment prescribed in the first paragraph.

A senior administrator may not receive remuneration from the Régie de l’assurance maladie du Québec for a period twice as long to which corresponds the end-of-engagement, starting from the date on which his or her position was eliminated.”.

23. Section 123 of this Regulation is deleted.

24. Section 124 of this Regulation is replaced by the following:

“**124.** A senior administrator who has chosen pre-retirement leave, with in some cases an end-of-engagement indemnity at the moment of the retirement, shall commit, in writing, not to hold a regular or temporary position, whether full-time or part-time, of senior administrator, officer, union member, unionizable non-member or fee-earning consultant in the public and parapublic sectors during the 24 months following the date on which the retirement comes into force. If he does so, his or her pre-retirement leave shall come to an end.

The board of directors may, in certain special circumstances and with the approval of the Minister, release the senior administrator from the commitment prescribed in the first paragraph.

A senior administrator may not receive remuneration from the Régie de l’assurance maladie du Québec during the 24 months following the date on which the retirement comes into force.”.

25. Section 125 of this Regulation is replaced by the following:

“**125.** The pre-retirement leave shall begin on the date on which the senior administrator’s position is eliminated and shall end on the date on which his or her retirement comes into force in accordance with his retirement plan. The senior administrator shall choose the date of his or her retirement and, consequently, the duration of his pre-retirement leave.”.

26. Section 126 of this Regulation is amended by:

1° replacing the number “24” by “12”;

2° deleting the last sentence.

27. Section 130.1 of this Regulation is amended by deleting the last sentence.

28. Section 135 of this Regulation is deleted.

29. Section 138 of this Regulation is amended by replacing:

1° in the first paragraph, the words “one of the severance pays provided for in section 134 or 135” by “severance pay provided for in section 134”;

2° in the second and third paragraphs, the words “one of the severance pays provided for in sections 134 and 135” by “the severance pay provided for in section 134”.

30. Section 139 of this Regulation is amended by deleting the words “or the severance pay provided for in section 135”.

31. Section 141 of this Regulation is amended by:

1° replacing, in the first sentence of the first paragraph, the words “under sections 134 or 135” by “under section 134”;

2° by deleting, in the last sentence of the first paragraph, the words “or 135”.

32. This Regulation is amended by inserting, after section 160, the following sections:

“**161.** A senior administrator, other than a senior administrator benefiting from the employment stability measures provided for in Chapter 5, who has reached 55 years of age and has accumulated 15 years of continuous service on or before March 31, 2011 may receive an attraction and retention allowance.

This attraction and retention allowance corresponds to 20% of the salary that is paid to the senior administrator. It is paid in the form of a lump sum in proportion to the time worked and according to the procedures of the employer’s pay system. It shall take effect on the date on which this Regulation comes into force. This amount is revised on April 1 of each year, taking into account changes in the salary paid to the senior administrator.

Whatever the changes in the senior administrator’s salary, the cumulative percentage of annual payments fixed at 20% per year may not, under any circumstances, exceed 100% during and at the end of the senior administrator’s career in the health and social services sector, and the allowance may not be paid for a period of more than five years.

In the event that the employment relationship is terminated before the senior administrator has reached the percentage of 100%, that is, before the end of the five-year period that starts on the day on which the senior administrator becomes eligible for the attraction and retention allowance, the senior administrator shall receive, at the time of the termination of the employment relationship, the difference between the cumulative percentages of 20% already received and 100%. The percentage that

corresponds to this difference shall be applied to the senior administrator’s annual salary when employment is terminated.

To be entitled to the attraction and retention allowance, a senior administrator shall commit, in writing, starting with the first payment, not to hold a regular or temporary position, whether full-time or part-time, of senior administrator, officer, union member, unionizable non-member or fee-earning consultant in the public and parapublic sectors for a period of two years following his or her departure. If this commitment is not met, the senior administrator must reimburse all amounts received as an attraction and retention allowance.

The board of directors may, in certain special circumstances and with the approval of the Minister, release the senior administrator from the commitment prescribed in the fifth paragraph.

A senior administrator who does not meet the criteria of having reached 55 years of age and having accumulated 15 years of continuous service on or before March 31, 2011 may not benefit from the provisions of this section. However, he or she remains subject to the provisions of section 40.2.

162. Upon the coming into force of this Regulation, these amendments shall be considered to be an integral part of the senior administrator’s employment contract, and they replace the provisions of this contract that relate to severance pay.

However, the provisions governing employment stability measures and severance pay that applied before this Regulation came into force shall continue to apply to a senior administrator who was already covered by employment stability measures or to a senior administrator who was receiving severance pay or who was covered by a severance agreement that included payment of severance pay.

163. The rules for integrating senior administrators into a new classification plan are established by the Minister after consulting with the association.

However, a senior administrator who, on the date the classification plan comes into force, believes that his or her salary was not determined according to the rules established by the Minister may address a notice of misunderstanding to his or her employer in accordance with Chapter 7 of the Regulation”.

33. The table in Schedule 1 of this Regulation is replaced by the following:

Salary Classes				
2010-2011		2011-2012		
Minimum	Maximum	Minimum	Maximum	
HC1	\$62,580	\$86,117	\$63,050	\$86,763
HC2	\$70,125	\$96,499	\$70,651	\$97,223
HC3	\$78,577	\$108,133	\$79,167	\$108,944
HC4	\$86,158	\$118,566	\$86,805	\$119,456
HC5	\$96,543	\$132,860	\$97,267	\$133,857
HC6	\$108,185	\$148,877	\$108,996	\$149,993
HC7	\$119,740	\$164,774	\$120,638	\$166,010
HC8	\$129,944	\$178,784	\$130,918	\$180,125
HC9	\$137,769	\$189,567	\$138,802	\$190,989
HC10	\$146,090	\$201,021	\$147,186	\$202,529

34. This Regulation comes into force at the time the Minister enacts.

1408