

Regulations and other Acts

M.O., 2011

Minister's Order number 2011 018 of the Minister of Health and Social Services dated 22 December 2011

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

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 121796 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 T.B. 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 BOLDUC,
Minister of Health and Social Services

Regulation to amend the Regulation respecting certain terms of employment applicable to senior administrators of agencies and of public 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 8 of the Regulation respecting certain terms of employment applicable to senior administrators of agencies and of public health and social services institutions is amended by replacing, in the second paragraph, the number "16" by the number "17".

2. Section 12 of this Regulation is amended by adding, after the third paragraph, the following paragraph:

"These two notices may be replaced by identical notices published or distributed by electronic or automated means that can reach as many potential candidates as possible at a lower cost."

3. Section 24.3 of this Regulation is replaced by the following:

"**24.3.** Moving expenses payable to the senior administrator under sections 24.1 and 24.2 are the same as those prescribed in the *Directive concernant l'ensemble des conditions de travail des cadres*, adopted by the

* The last amendment to the Regulation respecting certain terms of employment applicable to senior administrators of agencies and of public health and social services institutions made by Order in Council N° 1217-96 dated September 25, 1996 (1996, G.O. 2, 5721) was made by the regulation enacted by Ministerial Order N° 2011-002 dated April 20, 2011 (2011, G.O. 2, 1503). For previous amendments, refer to the *Tableau des modifications et index sommaire*, Éditeur officiel du Québec, 2010, updated to April 1st, 2011.

Conseil du trésor on April 20, 2010 (C.T. 208914), and its amendments for the public sector, with the necessary modifications.”.

4. This Regulation is amended by replacing, in the title of section 37, the word “Reassignment” by the word “Assignment”.

5. Section 39 of this Regulation is amended by replacing, in the 6th paragraph, the number “38.2” by the number “38”.

6. Section 40.2 of this Regulation is amended:

1° by adding, after the number “5”, the words “or end-of-engagement measures provided for in Chapter 6”;

2° by adding, after the last paragraph, the following paragraph:

“This section does not apply to a senior administrator who receives a retirement pension from a pension plan managed by the *Commission administrative des régimes de retraite et d’assurance* (CARRA), other than the Pension Plan of Elected Municipal Officers (PEMO), the Retirement Plan for Mayors and Councillors of Municipalities (RPMCM) or the Pension Plan of the Members of the National Assembly (PPMNA).”.

7. Chapter 4.1 of this Regulation, including sections 87.1 to 87.61 is replaced by the following sections: 87.1 to 87.61:

“CHAPTER 4.1 PARENTAL RIGHTS PLAN

DIVISION 1 GENERAL

87.1. In this chapter, the following terms and expressions mean:

“spouse”: either of two persons who

- (a) are married or in a civil union and cohabiting;
- (b) are of opposite sex or the same sex and have been living together in a conjugal relationship and are the father and mother of the same child;
- (c) are of opposite sex or the same sex and have been living together in a conjugal relationship for at least one (1) year.

However, persons shall cease to be considered as spouses upon the dissolution of their marriage through divorce or annulment or upon dissolution of their civil union by court decision, notarized joint declaration or by annulment of the civil union or, if they are living in a conjugal relationship, upon a *de facto* separation for a period exceeding three (3) months.

“weekly salary”: salary of a senior administrator, including the lump sums paid under sections 33, 36, 37 and the last paragraph of section 106, without any additional remuneration.

87.2. Unless expressly stipulated otherwise, no provision in this chapter shall have the effect of giving a senior administrator a monetary or non-monetary benefit which the senior administrator would not have had had he or she remained at work.

87.3. Compensation for maternity leave, paternity leave or adoption leave shall be paid only as a supplement to parental insurance benefits or employment insurance benefits, as the case may be, or in the cases mentioned below, as payments during a period of absence for which the Québec Parental Insurance Plan and the Employment Insurance Plan provide no benefit.

Subject to paragraph 1° of section 87.16 and section 87.17, compensation for maternity leave, paternity leave and adoption leave, however, is paid only during the weeks the senior administrator receives or would receive, after submitting an application for benefits, benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan.

If a senior administrator shares adoption or parental benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan with his or her spouse, an allowance shall be paid only if the senior administrator actually receives a benefit under one of these plans during the maternity leave provided for in section 87.7, the paternity leave provided for in section 87.30 or the adoption leave provided for in section 87.41.

87.4. Where both parents are women, the allowances and benefits granted to the father shall be granted to the mother who did not give birth.

87.5. The employer shall not reimburse a senior administrator for amounts that may be claimed from the senior administrator by the Minister of Employment and Social Solidarity under the Act respecting parental insurance (R.S.Q., c. A-29.011) or by Human Resources and Skills Development Canada (HRSDC) under the Employment Insurance Act (L.C., 1996, ch.23).

87.6. The weekly salary, weekly deferred salary and severance payments shall not be increased or decreased by the amounts received under the Québec Parental Insurance Plan or the Employment Insurance Supplemental Unemployment Benefit Plan.

DIVISION 2

MATERNITY LEAVE

87.7. A pregnant senior administrator who is eligible for the Québec Parental Insurance Plan is entitled to twenty-one (21) weeks of maternity leave which, subject to sections 87.10 or 87.11, must be consecutive.

A pregnant senior administrator who is not eligible for the Québec Parental Insurance Plan is entitled to twenty (20) weeks of maternity leave which, subject to sections 87.10 or 87.11, must be consecutive.

Maternity leave may be for a shorter duration than the durations mentioned in the two preceding paragraphs. A senior administrator who returns to work within two (2) weeks following the birth must, at the employer's request, submit a medical certificate attesting that she has sufficiently recovered to return to work.

A senior administrator who becomes pregnant while on leave without pay or partial leave without pay provided for in this chapter is also entitled to maternity leave and to the benefits provided for in sections 87.14, 87.16 and 87.17, as the case may be.

If a senior administrator's spouse dies, the remainder of the maternity leave and the rights and benefits attached thereto shall be transferred to the senior administrator.

87.8. A senior administrator is also entitled to maternity leave if her pregnancy is terminated after the beginning of the twentieth (20th) week preceding the expected date of delivery.

87.9. The distribution of maternity leave, before and after delivery, shall be decided by the senior administrator. However, this leave shall be concurrent with the period during which benefits are paid under the Act respecting parental insurance and must begin no later than the week following the start of benefit payments under the Québec Parental Insurance Plan.

For a senior administrator who is eligible for benefits under the Employment Insurance Plan, maternity leave must include the day of the delivery.

87.10. A senior administrator may suspend her maternity leave and return to work when she has sufficiently recovered from the delivery and the child is unable to

leave the health institution. The suspension shall end when the child is brought home. A senior administrator whose child is hospitalized within fifteen (15) days of birth also has this right.

Furthermore, when a senior administrator has sufficiently recovered from delivery and her child is hospitalized more than fifteen (15) days after leaving the health institution, the senior administrator may suspend her maternity leave, upon agreement with her employer, and return to work for the duration of this hospitalization.

87.11. At a senior administrator's request, maternity leave may be divided into weeks if her child is hospitalized, or if one of the situations, other than a pregnancy-related illness, provided for in sections 79.1 or 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1) occurs.

The maximum number of weeks during which the maternity leave may be suspended is equal to the number of weeks during which the child is hospitalized. For other maternity leave division options, the number of weeks of suspension is that prescribed in the Act respecting labour standards (R.S.Q., c. N-1.1) for such a situation.

During such suspension, a senior administrator is deemed to be on leave without pay and shall not receive any allowance or benefit from the employer; however, she receives the benefits provided for in section 87.56.

87.12. When a senior administrator resumes a maternity leave that was suspended or divided under section 87.10 or 87.11, the employer shall pay unto the senior administrator the allowance to which she would have been entitled had she not availed herself of the suspension or division for the number of weeks remaining under sections 87.14, 87.16 or 87.17, as the case may be, subject to section 87.3.

87.13. To obtain maternity leave, a senior administrator must give the employer a written notice at least two (2) weeks before the date of departure. The notice must be accompanied by a medical certificate or a written report signed by a midwife attesting to the pregnancy and expected date of delivery.

The time period to give notice may be shorter if a medical certificate certifies that the senior administrator must stop working earlier than expected. In case of unforeseen events, the senior administrator shall not be required to give notice, subject to submitting a medical certificate to her employer stating that she must immediately stop working.

§1. Senior administrator who is eligible for the Québec Parental Insurance Plan

87.14. A senior administrator who has accumulated twenty (20) weeks of service and is eligible for benefits under the *Québec Parental Insurance Plan* is also entitled to receive, during the twenty-one (21) weeks of her maternity leave, an allowance equal to the difference between ninety-three (93)% of her weekly salary and the amount of maternity or parental benefits she receives, or would receive under the Québec Parental Insurance Plan, after submitting an application for benefits,..

The allowance is calculated on the basis of the benefits that a senior administrator is entitled to receive under the Québec Parental Insurance Plan, without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Act respecting parental insurance.

However, if a change is made to the amount of the allowance paid under the Québec Parental Insurance Plan as the result of a change in the information provided by the employer, the employer shall correct the amount of the allowance accordingly.

A senior administrator who works for more than one employer shall receive an allowance equal to the difference between ninety-three (93)% of the weekly salary paid by the employer and the percentage of benefits paid under the Québec Parental Insurance Plan that represents the weekly salary paid by the employer proportionate to the sum of the weekly salaries paid by all the employers. For that purpose, the senior administrator shall submit to each employer a statement of the weekly salary paid by each employer, along with the amount of benefits paid to her under the Act respecting parental insurance.

87.15. The employer may not use the maternity leave compensation that it pays to the senior administrator to offset the reduction in Québec Parental Insurance Plan benefits attributable to the salary earned with another employer.

Notwithstanding the preceding paragraph, the employer shall offset such a reduction if the senior administrator shows that the salary earned is a regular salary, by means of a letter to that effect from the employer paying it. If the senior administrator shows that only a portion of this salary is regular, the compensation shall be limited to that portion.

An employer paying a regular salary as prescribed in the preceding paragraph must provide such a letter at the request of the senior administrator.

The total amounts that a senior administrator receives during her maternity leave in benefits under the Québec Parental Insurance Plan, allowances and salary, may not exceed ninety-three (93)% of the weekly salary paid by her employer or, as the case may be, employers.

§2. Senior administrator who is eligible for the Employment Insurance Plan

87.16. A senior administrator who has accumulated twenty (20) weeks of service and who is eligible for the Employment Insurance Plan but is not eligible for the Québec Parental Insurance Plan is entitled to receive:

1° for each week of the waiting period prescribed under the Employment Insurance Plan, an allowance equal to ninety-three (93)% of her weekly salary;

2° for each week following the period mentioned in paragraph 1°, compensation equal to the difference between ninety-three (93)% of her weekly salary and the maternity or parental benefit under the Employment Insurance Plan that she receives or could receive after submitting an application for benefits, up to the end of the twentieth (20th) week of her maternity leave.

The allowance is calculated on the basis of the employment insurance benefits that a senior administrator is entitled to receive, without taking into account the amounts subtracted from those benefits for repayment of benefits, interest, penalties and other amounts recoverable under the Employment Insurance Plan.

However, if a change is made to the amount of the benefit paid under the Employment Insurance Plan as the result of a change in the information provided by the employer, the employer shall correct the amount of the allowance accordingly.

A senior administrator who works for more than one employer shall receive an allowance from each of her employers. In such a case, the allowance is equal to the difference between ninety-three (93)% of the weekly salary paid by the employer and the percentage of the employment insurance benefit that represents the weekly salary that it pays proportionate to the weekly salaries paid by all the employers. For that purpose, the senior administrator shall submit to each of her employers a statement of the weekly salary paid by each employer, along with the amount of the benefits payable to her under the Employment Insurance Act.

Moreover, if Human Resources and Skills Development Canada (HRSDC) reduces the number of weeks of employment insurance benefits to which a senior administrator would have otherwise been entitled had she not

received employment insurance benefits before her maternity leave, the senior administrator shall continue to receive, for a period equivalent to the weeks subtracted by HRSDC, the allowance provided for in this paragraph as if she had received employment insurance benefits during that period.

Section 87.15 applies, with the necessary changes.

§3. Senior administrator who is ineligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan

87.17. A senior administrator who is ineligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan is also excluded from any allowance provided for in sections 87.14 and 87.16.

However, a full-time senior administrator who has accumulated twenty (20) weeks of service, as defined in paragraph 3° of section 87.18, is entitled to an allowance equal to ninety-three (93)% of her weekly salary for twelve (12) weeks, if she does not receive benefits under a parental rights plan established by another province or a territory.

A part-time senior administrator who has accumulated twenty (20) weeks of service is entitled to compensation equal to ninety-five (95)% of her weekly salary for twelve (12) weeks, if she does not receive benefits under a parental rights plan established by another province or a territory.

If a part-time senior administrator is exempt from contributing to pension plans and to the Québec Parental Insurance Plan, the compensation rate is set at ninety-three (93)% of her weekly salary.

§4. Special provisions

87.18. In the cases provided for by sections 87.14, 87.16 and 87.17:

1° no compensation may be paid during a vacation period during which a senior administrator receives her salary.

2° unless the salary is paid on a weekly basis, the allowance shall be paid at two (2)-week intervals, the first payment being due, in the case of a senior administrator eligible for benefits under the Québec Parental Insurance Plan or the Employment Insurance Plan, only fifteen (15) days after the employer obtains proof that she is receiving benefits under one of those plans. For the purposes

of this paragraph, a statement of benefits, a payment stub or information provided, by means of an official statement, by the Ministry of Employment and Social Solidarity or by Human Resources and Skills Development Canada (HRSDC) shall be accepted as proof.

3° service shall be calculated with all employers of the public and parapublic sectors (public service, education, health and social services), health and social service agencies, all agencies for which, by law, the employees' employment conditions or standards and scales of remuneration are determined or approved by the government, the Office franco-québécois pour la jeunesse, the Société de gestion du réseau informatique des commissions scolaires (GRICS) or any other agency listed in Schedule C of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

Moreover, the requirement of twenty (20) weeks of service under sections 87.14, 87.16 and 87.17 is deemed to have been met, if the senior administrator has satisfied this requirement with any employer mentioned in this paragraph.

4° the weekly salary of a part-time senior administrator is the average weekly salary of the last twenty (20) weeks preceding her maternity leave.

If, during that period, a senior administrator received benefits established at a certain percentage of her regular salary, it shall be understood that, for the purpose of calculating her salary during her maternity leave, the salary referred to is that on the basis of which such benefits are determined.

Moreover, any period during which a senior administrator on special leave as provided for in section 87.25 did not receive an indemnity from the Commission de la santé et de la sécurité du travail, as well as the weeks during which the senior administrator was on annual leave or was absent without pay in accordance with the Regulation, are excluded for the purpose of calculating the average weekly salary.

If the period of twenty (20) weeks preceding a part-time senior administrator's maternity leave includes the date on which salaries are adjusted, the calculation of the weekly salary shall be made on the basis of the salary in force on that date. Moreover, if the maternity leave includes the date on which salaries are adjusted, the weekly salary shall change on that date in accordance with the adjustment formula applicable to her salary class.

The provisions of this paragraph constitute one of the express provisions covered by section 87.2.

87.19. During her maternity leave and the extensions prescribed in section 87.21, a senior administrator shall receive, where she is normally entitled thereto, the following benefits:

- accumulation of vacation days;
- accumulation of continuous service;
- any salary increase following the adjustment of salary classes;
- any increase for satisfactory performance.

87.20. A senior administrator may defer vacation leave that falls within maternity leave, provided that she informs her employer in writing of the date of deferral, no later than two (2) weeks prior to the expiry of her leave.

87.21. Where the birth takes place after the expected due date, the senior administrator is entitled to an extension of her maternity leave equal to the delay, unless she already has at least two (2) weeks of maternity leave remaining after the birth.

A senior administrator is entitled to an extension of her maternity leave if her own or her child's state of health requires it. The duration of this extension is the period that is specified in the medical certificate that must be provided by the senior administrator.

During such extensions, a senior administrator is considered to be on leave without pay and shall not receive any allowance or benefit from the employer. The senior administrator receives the benefits provided for in section 87.19 only during the first six (6) weeks in which the leave is extended, and thereafter, receives the benefits mentioned in section 87.45, provided that she is normally entitled thereto.

87.22. During her maternity leave, a senior administrator shall maintain her participation in the mandatory group insurance plans provided for in section 62, but the employer shall make a payment equal to both its own contribution and the senior administrator's contribution to those plans. Furthermore, the senior administrator shall be exempt from contributing to the optional insurance plans in accordance with the provisions of the master policy.

87.23. A senior administrator receiving an allowance for regional disparities under this regulation shall continue to receive the allowance during her maternity leave.

87.24. An employer shall send a senior administrator, in the fourth (4th) week preceding the expiry of her maternity leave, a notice indicating the scheduled date of expiry of said leave.

A senior administrator to whom the employer has sent the notice referred to in the 1st paragraph must report for work on the expiry date of the maternity leave, unless the leave is extended in the manner prescribed in Division 7 of this chapter.

A senior administrator who does not comply with the preceding paragraph is considered to be on leave without pay for a period not exceeding four (4) weeks. At the end of this period, a senior administrator who is not at work is deemed to have resigned.

87.25. While on maternity leave and special leave for pregnancy and breast-feeding, a senior administrator shall retain the employment relationship with the employer. Her contract must be renewed. Her employment may not be terminated. She may not be dismissed, except for gross negligence.

At the end of her maternity leave, a senior administrator shall resume her position with her employer, subject to the provisions respecting employment stability provided for in Chapter 5. Her terms of employment, including her salary, shall be the same as those to which she would have been entitled had she remained at work.

DIVISION 3 **SPECIAL LEAVE FOR PREGNANCY AND** **BREAST-FEEDING**

§1. Temporary assignment and special leave

87.26. A senior administrator may request to be temporarily assigned to another position or to other tasks corresponding to her training or experience in the following cases:

1° she is pregnant and the conditions of employment involve risks of infectious diseases or physical danger to her or her unborn child;

2° the conditions of employment are dangerous for the child she is breast-feeding.

The senior administrator must submit a medical certificate to that effect as promptly as possible.

If the reassignment is not carried out immediately, the senior administrator is entitled to a special leave beginning immediately. Unless a temporary reassignment is subsequently made terminating the special leave, the special

leave ends, for a senior administrator who is pregnant, on the date of delivery and, for a senior administrator who is breast-feeding, at the end of the breast-feeding period.

However, for a senior administrator who is eligible for benefits under the Act respecting parental insurance, the special leave shall end as of the fourth (4th) week preceding the expected date of delivery.

During the special leave provided for in this section, the senior administrator shall be governed in respect of her allowance by the provisions of the Act respecting occupational health and safety (R.S.Q., c. S-2.1) respecting preventive withdrawal of a pregnant worker or a worker who is breast-feeding.

Following a written request, however, the employer shall pay to the senior administrator an advance on the allowance receivable from the Commission de la santé et de la sécurité du travail (CSST) on the basis of anticipated payments. If the Commission pays the allowance, repayment of the advance shall be deducted therefrom. Otherwise, repayment is at the rate of ten (10)% of the amount disbursed per pay period, until the debt is fully paid.

§2. *Other special leave*

87.27. A senior administrator is also entitled to special leave in the following cases:

1° where a pregnancy complication or a risk of miscarriage requires stopping work for a period, the duration of which is prescribed by a medical certificate; however, this special leave may not be extended beyond the beginning of the fourth (4th) week preceding the expected date of delivery;

2° upon presentation of a medical certificate prescribing the duration of the special leave, where a spontaneous or induced termination of pregnancy occurs before the beginning of the twentieth (20th) week preceding the expected date of delivery;

3° for pregnancy-related consultations with a health professional, attested to by a medical certificate or a written report signed by a midwife.

87.28. For the consultations mentioned in paragraph 3 of section 87.27, a senior administrator is entitled to special leave, with pay, for up to four (4) days, which may be taken in half-days.

During a special leave provided for in this Division, a senior administrator shall be granted the benefits provided for in section 87.19, provided that she is entitled thereto.

DIVISION 4 **CHILDBIRTH LEAVE**

87.29. A senior administrator is entitled, after informing the employer as promptly as possible, to take leave with pay for a maximum of five (5) working days to attend the birth of his child. A senior administrator is also entitled to this leave in the event of a termination of pregnancy after the beginning of the twentieth (20th) week preceding the expected date of delivery. The leave with pay may be discontinuous, but must be taken between the beginning of the delivery and the fifteenth (15th) day following the mother's or the child's return home.

One (1) of the five (5) days may be used for the baptism or registration of the child.

A senior administrator whose spouse is giving birth is also entitled to this leave if she is designated as one of the child's mothers.

DIVISION 5 **PATERNITY LEAVE**

87.30. Upon the birth of his child, a senior administrator is also entitled to a paternity leave not exceeding 5 weeks, which, subject to sections 87.34 and 87.35, must be consecutive.

Paternity leave may be taken after giving written notice of no less than three (3) weeks to the employer indicating the dates scheduled for the beginning of the leave and for the return to work. The time period for giving notice may be shorter if the child is born before the expected date of delivery. The leave shall end no later than the end of the fifty-second (52nd) week following the week in which the child was born.

The leave of the senior administrator eligible for benefits under the Québec Parental Insurance Plan shall be concurrent with the period during which benefits are paid under the Act respecting parental insurance and must begin no later than the week following the start of benefit payments under the Québec Parental Insurance Plan.

A senior administrator whose spouse is giving birth is also entitled to this leave if she is designated as one of the child's mothers.

87.31. During the paternity leave provided for in section 87.30, a senior administrator shall receive an allowance equal to the difference between his basic weekly salary and the amount of benefits he receives, or would receive after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The 2nd, 3rd and 4th paragraphs of section 87.14 or the 2nd, 3rd and 4th subparagraphs of paragraph 2° of section 87.16, as the case may be, as well as section 87.15, apply to this paragraph, with the necessary modifications.

87.32. A senior administrator who is not eligible for paternity benefits under the Québec Parental Insurance Plan nor benefits under the Employment Insurance Plan shall receive, during the paternity leave provided for in section 87.30, an allowance equal to his basic weekly salary.

87.33. Paragraphs 1°, 2° and 4° of section 87.18 apply to a senior administrator who receives the compensation provided for in section 87.31 and 87.32, with the necessary modifications.

87.34. If his child is hospitalized, a senior administrator may suspend his paternity leave, upon agreement with his employer, and return to work for the period during which the child is hospitalized.

87.35. At a senior administrator's request, paternity leave may be divided into weeks if his child is hospitalized or if a situation described in sections 79.1 or 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1) occurs.

The maximum number of weeks the paternity leave may be suspended is equal to the number of weeks the child is hospitalized. For other paternity leave division options, the maximum number of weeks of suspension is that prescribed by the Act respecting labour standards (R.S.Q., c. N-1.1) for the applicable situation.

During such suspension, the senior administrator is considered to be on leave without pay and shall not receive any allowance or benefit from the employer; however, the senior administrator receives the benefits provided for in section 87.56.

87.36. When a senior administrator resumes a paternity leave that was suspended or divided under section 87.34 or 87.35, the employer shall pay the senior administrator the allowance to which he would have been entitled had he not availed himself of the suspension or division and do so, for the number of weeks remaining under section 87.30.

87.37. A senior administrator who sends to his employer, before the expiry date of his paternity leave, a notice accompanied by a medical certificate attesting that his child's state of health makes it necessary, is entitled to an extension of his paternity leave. The duration of this extension is that specified in the medical certificate.

During such extension, a senior administrator is considered to be on leave without pay and shall not receive any allowance or benefit from the employer; however, the senior administrator receives the benefits provided for in section 87.56.

87.38. A senior administrator who goes on paternity leave under section 87.30 is entitled to the benefits provided for in sections 87.19, 87.20, 87.23 and 87.25.

The senior administrator who is on paternity leave maintains his participation in all of the mandatory group insurance plans in which he participates. The employer and the senior administrator make their respective payments on the basis of the salary that the senior administrator would receive if he were at work and the full provisions of the group insurance plans apply.

87.39. The senior administrator must report for work on the expiry date of the paternity leave provided for in section 87.30, unless the leave is extended in the manner prescribed in Division 7 of this chapter.

A senior administrator who does not comply with the 1st paragraph is deemed to be on leave without pay for a period not exceeding four (4) weeks. At the end of this period, a senior administrator who is not at work is deemed to have resigned.

DIVISION 6

ADOPTION LEAVE AND LEAVE FOR ADOPTION PURPOSES

87.40. A senior administrator is entitled, after informing the employer as promptly as possible, to leave with pay for a maximum of five (5) working days to adopt a child other than his or her spouse's child. This leave may be discontinuous and may not be taken after the fifteenth (15th) day following the child's arrival in the home.

One (1) of the five (5) days may be used for the baptism or registration of the child.

87.41. A senior administrator who legally adopts a child, other than his or her spouse's child, is entitled to adoption leave not exceeding five (5) weeks which, subject to sections 87.42 and 87.43, must be consecutive.

Adoption leave may be taken after giving written notice of no less than three (3) weeks to the employer indicating the dates scheduled for the beginning of the leave and for the return to work. The leave must be terminated no later than the end of the fifty-second (52nd) week following the child's arrival in the home.

The leave of a senior administrator who is eligible for benefits under the Québec Parental Insurance Plan shall be concurrent with the period during which benefits granted under the Act respecting parental insurance (R.S.Q., c. A-29.011) are paid and must begin no later than the week following the start of parental insurance benefit payments.

The leave of a senior administrator who is ineligible for benefits under the Québec Parental Insurance Plan must be taken either following the order of placement of the child or its equivalent, in the case of an international adoption, in accordance with the adoption plan or at another time agreed upon with the employer.

87.42. A senior administrator whose child is hospitalized may suspend the adoption leave provided for in section 87.41, upon agreement with the employer and return to work for the duration of the hospitalization.

87.43. At the senior administrator's request, the adoption leave provided for in section 87.41 may be divided into weeks if the child is hospitalized or if a situation described in sections 79.1 and 79.8 to 79.12 of the Act respecting labour standards (R.S.Q., c. N-1.1) occurs.

The maximum number of weeks during which adoption leave may be suspended is equal to the number of weeks during which the child is hospitalized. For other adoption leave division options, the maximum number of weeks of suspension is that prescribed by the Act respecting labour standards (R.S.Q., c. N-1.1) for the applicable situation.

During such suspension, a senior administrator is considered to be on leave without pay and shall not receive any allowance or benefit from the employer; however, the senior administrator receives the benefits provided for in section 87.56.

87.44. When a senior administrator resumes an adoption leave that was suspended or divided under section 87.42 or 87.43, the employer shall pay the senior administrator the allowance to which he or she would have been entitled had he or she not availed himself or herself of the suspension or division for the number of weeks remaining under section 87.41.

87.45. A senior administrator who sends to his employer, before the expiry date of the adoption leave, a notice accompanied by a medical certificate attesting that his or her child's state of health requires it, is entitled to an extension of the adoption leave provided for in section 87.41. The duration of this extension is that specified in the medical certificate.

During such an extension, a senior administrator is considered to be on leave without pay and shall not receive any allowance or benefit from the employer; however, the senior administrator receives the benefits provided for in section 87.56.

87.46. During the adoption leave provided for in section 87.41, the senior administrator shall receive an allowance equal to the difference between his or her weekly salary and the amount of benefits he or she receives, or would receive after submitting an application for benefits, under the Québec Parental Insurance Plan or the Employment Insurance Plan.

The 2nd, 3rd and 4th paragraphs of section 87.14 or the 2nd, 3rd and 4th paragraphs of paragraph 2° of section 87.16, as the case may be, as well as section 87.15, apply, with the necessary modifications.

87.47. A senior administrator who is not eligible for adoption benefits under the Québec Parental Insurance Plan or parental benefits under the Employment Insurance Plan and who adopts a child, other than his or her spouse's child, shall receive, during the adoption leave provided for in section 87.41, an allowance equal to the senior administrator's weekly salary.

87.48. Paragraphs 1°, 2° and 4° of the 1st paragraph of section 87.18 apply to a senior administrator receiving compensation under section 87.46 or 87.47, with the necessary modifications.

87.49. A senior administrator who takes an adoption leave provided for in section 87.40 or 87.41 is entitled to the benefits provided for in sections 87.19, 87.20, 87.23 and 87.25.

The senior administrator who is on adoption leave maintains his or her participation in all of the mandatory group insurance plans in which he or she participates. The employer and the senior administrator make their respective payments on the basis of the salary that the senior administrator would receive if he or she were at work and the full provisions of the group insurance plans apply.

87.50. A senior administrator must report for work on the expiry date of the adoption leave provided for in section 87.41, unless the leave is extended in the manner prescribed in Division 7 of this chapter.

A senior administrator who does not comply with the 1st paragraph is considered to be on leave without pay for a period not exceeding four (4) weeks. At the end of this period, a senior administrator who is not at work is deemed to have resigned.

87.51. A senior administrator who is adopting his or her spouse's child is entitled to a leave not exceeding five (5) working days, of which only the first two (2) days are with pay.

This leave may be discontinuous and may not be taken after the fifteenth (15th) day following the filing of the adoption application.

87.52. A senior administrator shall be granted, for the purpose of adopting a child, a leave without pay not exceeding ten (10) weeks from the date on which he or she actually takes custody of the child, unless it involves the child of a spouse.

A senior administrator who travels outside of Québec to adopt a child, except for his or her spouse's child, shall, by applying in writing to the employer, if possible, two (2) weeks in advance, obtain leave without pay for the required travel time.

Notwithstanding the provisions of the preceding paragraphs, the leave without pay shall end no later than the week following the start of benefit payments under the Québec Parental Insurance Plan or the Employment Insurance Plan, when the provisions of section 87.41 become applicable.

During the leave without pay, the senior administrator is entitled to the benefits provided for in section 87.56.

DIVISION 7 **LEAVE WITHOUT PAY AND PARTIAL LEAVE** **WITHOUT PAY**

87.53. A senior administrator is entitled to one of the following leaves:

1° a leave without pay not exceeding two (2) years immediately following the maternity leave provided for in section 87.7;

2° a leave without pay not exceeding two (2) years immediately following the paternity leave provided for in section 87.30. However, the duration of the leave must not exceed the one hundred and twenty-fifth (125th) week following the birth;

3° a leave without pay not exceeding two (2) years immediately following the adoption leave provided for in section 87.41. However, the duration of the leave must not exceed the one hundred and twenty-fifth (125th) week following the child's arrival in the home.

The full-time senior administrator who does not prevail herself or himself of the leave without pay shall be entitled, upon agreement with the employer, to a partial leave without pay not exceeding two (2) years. The duration of the leave must not exceed the one hundred and twenty-fifth (125th) week following the child's birth or arrival in the home. During the partial leave without pay, the senior administrator may be assigned to his or her position or to any other duties agreed upon between the senior administrator and the employer.

During a leave provided for in this section, the senior administrator may, upon agreement with the employer, prevail himself or herself once of one of the following modifications:

1° convert a leave without pay into a partial leave without pay, or vice versa, as the case may be;

2° convert a partial leave without pay into a different partial leave without pay.

The senior administrator who does not take his or her leave without pay or partial leave without pay may, for the part of the leave that his or her spouse did not use, elect to benefit from a leave without pay or partial leave without pay by complying with the formalities prescribed.

Where a senior administrator's spouse is not employed by an employer mentioned in paragraph 3° of section 87.18, the senior administrator may prevail himself or herself of a leave at the time his or her choosing within two (2) years following the birth or adoption, without, however, exceeding the set deadline of two (2) years, from the birth or adoption. The senior administrator may also, upon agreement with the employer, take a partial leave without pay under the same terms.

87.54. A senior administrator who does not take the leave provided for in section 87.53 is entitled, after the birth or adoption of the child, to a leave without pay of no more than fifty-two (52) continuous weeks beginning at the time decided by the senior administrator and ending at the latest seventy (70) weeks after the birth or, in the case of an adoption, seventy (70) weeks after the child is placed with the senior administrator.

87.55. A senior administrator who wants to take a leave provided for in section 87.53 or in section 87.54 must submit a written request to that effect at least three (3) weeks in advance.

87.56. During the leave without pay or partial leave without pay, a senior administrator's continuous service is not interrupted.

His or her participation in the uniform life insurance plan is maintained for the duration of the leave provided for in section 87.53.

Moreover, the senior administrator must maintain his or her participation in the basic compulsory accident and health plan, in compliance with the following conditions:

(a) pay his or her contributions according to this plan;

(b) pay the employer's contribution to this plan, for the period of time that exceeds the first fifty-two (52) weeks of the leave without pay or the partial leave without pay provided for in section 87.53.

The senior administrator may, upon request made to the employer before the beginning of the leave, maintain his or her participation in all insurance plans that he or she participated in before the leave, in accordance with the provisions of the master policy.

The provisions relating to the maintenance of the senior administrator's participation in the surviving spouse's pension plan are those provided for in section 61.

For the purposes of the short-term disability insurance plan, any total disability beginning during the leave without pay is deemed to have started at the end of the leave.

The provisions relating to the maintenance of the senior administrator's retirement plan apply as prescribed.

With respect to the other terms of employment, a senior administrator who is on partial leave without pay shall be governed, during his or her time at work, by the rules applicable to a part-time senior administrator.

87.57. A senior administrator may take any deferred annual vacation immediately before a leave without pay or partial leave without pay, provided that it is continuous with the maternity leave, paternity leave or adoption leave, as the case may be.

For the purposes of this section, statutory holidays or flexible leave accumulated before the beginning of the maternity leave, paternity leave or adoption leave are considered in the same manner as deferred annual vacation.

87.58. A senior administrator to whom the employer has sent, four (4) weeks in advance, a notice indicating the expiry date of his or her leave without pay or partial leave without pay must give notice of his or her return to work at least two (2) weeks before the expiry of said leave, failing which, the senior administrator is deemed to have resigned.

A senior administrator may, upon agreement with the employer, terminate his or her leave without pay or partial leave without pay before the scheduled date.

87.59. At the end of this leave without pay or partial leave without pay, a senior administrator shall resume his or her position with the employer, subject to the provisions respecting employment stability provided for in Chapter 5. The terms of employment, including the salary, shall be the same as those to which the senior administrator would have been entitled had he or she remained at work.

DIVISION 8

LEAVE FOR PARENTAL RESPONSIBILITIES

87.60. A senior administrator who is absent from work under sections 79.8 to 79.15 of the Act respecting labour standards (R.S.Q., c. N-1.1) must inform the employer of the reasons for his or her absence as promptly as possible and provide the employer with supporting documents to justify the absence.

The conditions set out in sections 87.56 and 87.59 shall be applicable during this absence, subject to the provisions set out in section 79.16 of the Act respecting labour standards (R.S.Q., c. N-1.1).

87.61. A senior administrator may, after informing the employer as promptly as possible, be absent without pay up to a maximum of ten (10) days per year to fulfil obligations relating to the custody, health or education of his or her child or spouse's child.

The days thus used shall be deducted, where possible, from the senior administrator's annual bank of vacation days or days taken without pay, as the senior administrator chooses.

This leave may be divided into half-days if the employer consents thereto."

8. Section 98 of this Regulation is amended by replacing the 5th paragraph by the following paragraph:

"Leaves under the Parental Rights Plan provided for in Chapter 4.1 are excluded from the reinstatement period."

9. Section 108 of this Regulation is replaced by the following:

“**108.** A senior administrator who is reinstated in a position located more than 50 kilometres by road from his home base and his residence is entitled to the reimbursement, from his original employer, of his or her moving expenses and temporary moving-in expenses; these expenses are the same as those prescribed in the *Directive concernant l'ensemble des conditions de travail des cadres*, adopted by the Conseil du trésor on April 20, 2010 (C.T. 208914), and its amendments for the public sector, with the necessary modifications.”

10. The 2nd paragraph of section 127 of this Regulation is amended by deleting the phrase “or on the date on which he changed his choice”.

11. The 2nd paragraph of section 132 of this Regulation is replaced by the following:

“In the case of a decision of non-renewal or termination of employment, the notice must be sent to the senior administrator at least 90 days prior to the date of end of employment.”

12. Section 136 of this Regulation is amended by adding, after the 1st paragraph, the following paragraph:

“Notwithstanding the foregoing, the severance pay is reduced by the flat dollar amounts received as attraction and retention allowances provided for under sections 40.2 and 161.”

13. Section 141 of this Regulation is amended by adding, after the 2nd sentence, the following sentence:

“However, if the senior administrator has received flat dollar amounts as attraction and retention allowances provided for under sections 40.2 and 161, the duration of the leave with pay will be reduced proportionate to the flat dollar amounts received in this respect.”

14. The first paragraph of section 157 of this Regulation is revoked.

15. Section 161 of this Regulation is amended:

1° by adding, after the number “5”, the words “or end-of-engagement measures provided for in Chapter 6”;

2° by adding, after the last paragraph, the following paragraph:

“This section does not apply to a senior administrator who receives a retirement pension from a pension plan managed by the *Commission administrative des régimes de retraite et d'assurance* (CARRA), other than the Pension Plan of Elected Municipal Officers (PPEMO), the Retirement Plan for Mayors and Councillors of Municipalities (RPMCM) or the Pension Plan of the Members of the National Assembly (PPMNA).”

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

1885

M.O., 2011

Order number 2011 019 of the Minister of Health and Social Services dated 22 December 2011

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

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

CONSIDERING 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 made by Order in Council 1218-96 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 officers of regional boards and health and social services institutions”, approved by T.B. 193821 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;