

—Warren Thomson, Principal, Central Québec School Board, proposed by the school boards in the territory principally served by Champlain–St. Lawrence College;

—Geneviève Caissy, Director, Services Québec – Bureau de Sainte-Foy, proposed by the regional council of labour market partners in the region where Champlain–St. Lawrence College is located;

(b) members appointed under subparagraph b of the second paragraph of section 48 of the General and Vocational Colleges Act:

—Yanick Santoire, Associate, BDO Canada L.L.P.;

—Martin Brassard, Investment Advisor, Valeurs mobilières Banque Laurentienne;

—Helen Walling, Life Coach and Change Management Consultant, self-employed worker.

## Section 12

Champlain Regional College replaces Champlain Regional College of General and Vocational Education established by letters patent dated 5 May 1971, in accordance with Arrêté en conseil 1332 dated 7 April 1971.

## Section 13

These letters patent come into force on the fifteenth day following the date of publication of a notice of their issue in the *Gazette officielle du Québec*.

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Gouvernement du Québec

## O.C. 865-2019, 21 August 2019

An Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1)

### Preventive withdrawal of certain home childcare providers

Regulation respecting the preventive withdrawal of certain home childcare providers

WHEREAS, under the first and second paragraphs of section 58 of the Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1), the Government may, by regulation,

—establish a protective reassignment plan for home childcare providers, determine its conditions and mechanics and the rights and obligations of the parties involved, as well as the powers and duties of the Commission des normes, de l'équité, de la santé et de la sécurité du travail and the Administrative Labour Tribunal;

—determine how such a plan is to be funded and managed;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation respecting the preventive withdrawal of certain home childcare providers was published in Part 2 of the *Gazette officielle du Québec* of 24 April 2019 with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Families:

THAT the Regulation respecting the preventive withdrawal of certain home childcare providers, attached to this Order in Council, be made.

YVES OUELLET,  
*Clerk of the Conseil exécutif*

## Regulation respecting the preventive withdrawal of certain home childcare providers

An Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1, s. 58)

### CHAPTER I OBJECT

**1.** This Regulation establishes a preventive withdrawal plan for pregnant or breast-feeding home childcare providers covered by the Act respecting the representation of certain home childcare providers and the negotiation process for their group agreements (chapter R-24.0.1).

For the purposes of the administration of the plan, the Commission des normes, de l'équité, de la santé et de la sécurité du travail is vested with all the powers, duties and immunities at its disposal concerning protective reassignment, to the extent that they are consistent with the provisions of this Regulation.

**CHAPTER II**  
**PREGNANT OR BREAST-FEEDING HOME**  
**CHILDCARE PROVIDER'S ELIGIBILITY FOR**  
**PREVENTIVE WITHDRAWAL**

**2.** A home childcare provider is eligible for preventive withdrawal if

- (1) she is pregnant or breast-feeding;
- (2) she is medically fit to provide childcare; and

(3) her physician, after consultation with the public health director or the person designated by the director, and under the conditions provided for in sections 3 and 4, issued a preventive withdrawal certificate for her attesting that her working conditions may be physically dangerous to her unborn child, to the child she is breast-feeding, or to herself by reason of her pregnancy.

**3.** Before issuing a preventive withdrawal certificate, a physician must

(1) ensure that the eligibility conditions set out in paragraphs 1 and 2 of section 2 are met;

(2) send to the public health director or the person designated by the director of the region in which the residence where childcare is provided, for recommendations, his or her observations on the physical dangers to the unborn child, the child being breast-fed or the home childcare provider herself by reason of her pregnancy; and

(3) send to the public health director or the person designated by the director the information concerning the home childcare provider's pregnancy and the expected date of delivery.

In this Regulation, "public health director" means a public health director within the meaning of the Act respecting health services and social services (chapter S-4.2) or of the Act respecting health services and social services for Cree Native persons (chapter S-5).

**4.** For the purpose of determining whether there is physical danger to the home childcare provider, her unborn child or the child she is breast-feeding, the public health director or the person designated by the director may require from the home childcare provider or the home childcare coordinating office that granted its recognition any information relating to the childcare services.

In this Regulation, "coordinating office" means the home childcare coordinating office to which a home childcare provider reports.

**5.** The public health director or the person designated by the director assesses the physical dangers and sends his or her written recommendations to the physician, who decides whether or not to issue the preventive withdrawal certificate.

**6.** The preventive withdrawal certificate must comply with Schedule I to the Regulation respecting the certificate issued for the preventive withdrawal and re-assignment of a pregnant or breast-feeding worker (chapter S-2.1, r. 3). The copies it includes must be signed by the home childcare provider and dated and signed by the physician.

The physician keeps his or her copy and sends the public health director and the Commission the copies intended for them.

The physician gives the home childcare provider the copy intended for her, as well as the copy to be sent to the coordinating office. The coordinating office sends a copy to the Minister.

**7.** A pregnant or breast-feeding home childcare provider who seeks preventive withdrawal must send the copy of the preventive withdrawal certificate to the intended coordinating office.

**8.** A home childcare provider notifies the parents of the children to whom childcare is provided and the coordinating office of the closing of her home childcare service and stops providing childcare as of the date of sending of the preventive withdrawal certificate to the coordinating office.

**9.** A home childcare provider who exercises her rights under section 2 retains all the benefits relating to her recognition.

Subject to section 15, preventive withdrawal does not confer on the home childcare provider rights or advantages she would not have had if she had continued to provide childcare.

**10.** On receipt of the preventive withdrawal certificate, the coordinating office must, without delay, begin the process to have the recognition suspended, in accordance with section 79 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2). In addition, the coordinating office must send the Minister a copy of the certificate.

**11.** A pregnant or breast-feeding home childcare provider who wishes to avail herself of the right to an income replacement indemnity must complete and sign the section reserved for that purpose on the calculation chart for establishing the income replacement indemnity to which a home childcare provider on preventive withdrawal is entitled. She must then send it to the coordinating office,

along with the supporting documents, so that the coordinating office can determine the net average annual eligible income in accordance with sections 15, 16 and 17.

The Minister publishes the calculation chart for establishing the income replacement indemnity to which a home childcare provider on preventive withdrawal is entitled on the Internet.

**12.** On receipt of the calculation chart and supporting documents, the coordinating office completes it, signs it and sends it without delay to the Commission so that the Commission can establish the income replacement indemnity to which the home childcare provider is entitled. The coordinating office also sends copies to the Minister and the home childcare provider with a statement that the home childcare provider may apply to the Minister for a review of the decision within 30 days of receipt, in accordance with section 19.

**13.** The Commission renders a decision on the home childcare provider's eligibility for preventive withdrawal and rules on the date on which preventive withdrawal begins.

The decision of the Commission is rendered in writing and must give reasons. It is notified to the home childcare provider and the Minister, with a statement that they may apply to the Commission for a review of the decision within 10 days of notification. A copy of the decision is also sent to the coordinating office.

The decision takes effect immediately.

If the home childcare provider is eligible for preventive withdrawal, the Commission establishes the income replacement indemnity according to the calculation chart received.

### CHAPTER III INCOME REPLACEMENT INDEMNITY

#### DIVISION I COMPUTATION OF THE INDEMNITY

**14.** When on preventive withdrawal, for the first 19 days after the closing of her childcare service, the home childcare provider continues to receive the same subsidies she would receive, according to the service agreements in force, the day before her preventive withdrawal certificate was issued.

If the Commission subsequently decides that the home childcare provider is not eligible and, consequently, is not entitled to the subsidies in the first paragraph, the Minister claims the overpayment and may take compensation from any other subsidy he or she may have to pay to the home childcare provider.

**15.** At the end of the 19-day period provided for in section 14, the home childcare provider is entitled to an income replacement indemnity equal to 90% of the weighted net income computed in accordance with sections 16 and 17 and section 63 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001).

For the purposes of the table of income replacement indemnities referred to in section 63 of the Act respecting industrial accidents and occupational diseases, the gross annual income for the purposes of indemnification is obtained on the basis of the net average annual eligible income, computed as determined in section 16.

Despite the foregoing, the net average annual eligible income cannot be less than \$26,420.

The amount is adjusted according to the increase, as a percentage, of the minimum wage on 1 May of each year.

**16.** The net average annual eligible income is computed on the basis of the calculation chart provided for in section 11. It is equal to the gross average annual eligible income as determined in section 17, from which the result of the computation of business expenses related to subsidized childcare operations is deducted.

The total amount of business expenses eligible for the purposes of the first paragraph is obtained by multiplying the gross average annual eligible income by the percentage obtained by applying the following formula:

$$(A-B) / A \times 100$$

For the purposes of the formula in the second paragraph,

(1) A is the gross income related to subsidized childcare operations declared on line 12 of Schedule L or line 130 of form TP-80 of the Québec fiscal return referred to in section 1000 of the Taxation Act (chapter I-3) or on line 130 of form TP-80-V;

(2) B is the net income related to subsidized childcare operations declared on line 22 of Schedule L or line 264 of form TP-80 of the Québec fiscal return or on line 264 of form TP-80-V;

Home childcare providers who can refer to their Québec fiscal return for the last taxation year preceding the current year must provide the coordinating office with Schedule L or form TP-80-V of the fiscal return to determine their income and business expenses related to subsidized childcare operations. Home childcare providers who cannot refer to it because it has yet to be filed must refer to their Québec fiscal return corresponding to the second year preceding the current year.

In either case, if a home childcare provider has never filed a Québec fiscal return related to subsidized childcare operations, it must provide the coordinating office with Schedule L to the Québec fiscal return established in accordance with form TP-80-V to determine income and expenses. Form TP-80-V must present an estimate of the home childcare provider's business expenses related to subsidized childcare operations corresponding to the provider's next fiscal return to be filed.

**17.** The average gross annual income related to subsidized childcare operations is obtained by adding together all the subsidies paid to the home childcare provider under the Educational Childcare Act (chapter S-4.1.1) for the 26 periods of childcare preceding the date of issue of the preventive withdrawal certificate and the total basic contributions paid by the parents, in accordance with the Reduced Contribution Regulation (chapter S-4.1.1, r. 1) for the same periods.

If the home childcare provider has received subsidies for less than 26 periods of childcare preceding the date of issue of the preventive withdrawal certificate, the average gross annual income provided for in the first paragraph is obtained by projecting the amount of the subsidies and the corresponding basic parental contributions over 26 periods.

A "period of childcare" means the 2-week period for which a coordinating office must pay, according to the Minister's instructions, the subsidies to home childcare providers.

**18.** Despite any other provision of this Regulation, the net average annual eligible income cannot exceed the Maximum Yearly Insurable Earnings established under section 66 of the Act respecting industrial accidents and occupational diseases.

#### **DIVISION II** REVIEW OF THE COMPUTATION OF THE NET AVERAGE ANNUAL ELIGIBLE INCOME

**19.** A home childcare provider may apply to the Minister to review the net average annual eligible income established by the coordinating office, in accordance with section 11.

The application for a review must be made in writing within 30 days of the date of receipt of the copy of the calculation chart, and it must set out the reasons why the amount withheld is incorrect. The application is processed without delay.

The Minister sends his or her written decision, with reasons, to the home childcare provider, the coordinating office and the Commission.

That decision cannot be appealed.

**20.** If the net average annual eligible income is reviewed, the Commission recomputes the indemnity accordingly and adjusts it retroactively. The Commission so informs the home childcare provider and the Minister. The new income is not subject to review by the Commission.

#### **DIVISION III** PAYMENT OF THE INDEMNITY

**21.** The income replacement indemnity is paid as benefits every other week. It is unassignable and non-taxable. Up to 50% of the indemnity is seizable for alimentary debts. It is subject to the deductions in section 144 of the Act respecting industrial accidents and occupational diseases.

**22.** The income replacement indemnity of the pregnant or breast-feeding home childcare provider cannot be concomitant with the payment of any other indemnity granted to compensate the loss of income related to childcare or any other protective reassignment plan from which she may benefit.

#### **DIVISION IV** CESSATION OF THE INDEMNITY

**23.** If the pregnant home childcare provider is eligible for benefits under the Act respecting parental insurance (chapter A-29.011), her income replacement indemnity ceases as of the fourth week preceding the week of the expected date of delivery as stated in the preventive withdrawal certificate. The home childcare provider is presumed to be eligible for those benefits from that fourth week.

Subject to the first paragraph, the indemnity ceases on the date of delivery.

"Delivery" means the natural or the lawfully, medically induced end of a pregnancy by childbirth, whether or not the child is viable.

**24.** A pregnant or breast-feeding home childcare provider who wishes to again prevail herself of preventive withdrawal before resuming childcare activities, must apply for it not later than 15 weeks after the cessation of the benefits paid under the Act respecting parental insurance. If the home childcare provider is again eligible, she is indemnified based on the net average annual eligible income determined during the previous preventive withdrawal.

**25.** The expected date of delivery may be changed if the Commission and the coordinating office are informed by the home childcare provider of a new expected date of delivery, as confirmed by the home childcare provider's physician, not later than 4 weeks before the date stated in the preventive withdrawal certificate.

The Commission then renders a written decision, with reasons. It is notified to the home childcare provider and the Minister with a statement that they have a right to apply to the Commission for a review of the decision within 30 days of notification.

The decision takes effect immediately.

**26.** The income replacement indemnity of the breast-feeding home childcare provider ceases when the breast-feeding period ends.

**27.** The income replacement indemnity of the pregnant or breast-feeding home childcare provider also ceases, subject to section 29, on the date of resumption of her childcare operations.

**28.** The home childcare provider must notify the Commission and the coordinating office in writing, without delay, of any change affecting her situation and which may affect her entitlement to an indemnity or the amount of the benefits she receives.

The Commission may cease the indemnity or adjust the amount of the benefits, as applicable.

**29.** The coordinating office must notify the Commission and the Minister in writing, without delay, of any change affecting the recognition of the home childcare provider during her preventive withdrawal.

**30.** The income replacement indemnity ceases if the home childcare provider's recognition is suspended for a reason other than her preventive withdrawal or is revoked, or if she becomes unfit to exercise or resume her childcare operations.

In all cases, the indemnity ceases as of the date of suspension or revocation of the recognition, or when the home childcare provider becomes unfit.

**31.** A home childcare provider who has received, under this Regulation, an indemnity to which she was not entitled or that was in excess of the amount to which she was entitled must repay the overpayment to the Commission.

**32.** Subject to the second paragraph of section 14, sections 430 to 436 of the Act respecting industrial accidents and occupational diseases relating to the recovery of benefits paid without entitlement or the amount of which exceeds that to which a person is entitled, apply to the recovery of the debt, with the necessary modifications.

With the agreement of the Minister and in accordance with section 437 of the Act respecting industrial accidents and occupational diseases, the Commission may remit the debt.

## CHAPTER IV RESUMPTION OF CHILDCARE OPERATIONS

**33.** The home childcare provider must notify the coordinating office in writing of the date of her return or of her intention to avail herself of another condition provided for in section 79 of the Educational Childcare Regulation. On receipt of the notice, the coordinating office undertakes the measures provided for in section 80 of the Regulation.

## CHAPTER V PROCEEDINGS BEFORE THE COMMISSION AND THE ADMINISTRATIVE LABOUR TRIBUNAL

### DIVISION I REVIEW AND RECONSIDERATION OF THE DECISION BY THE COMMISSION

**34.** The Minister or the home childcare provider who believes she has been wronged by a decision rendered by the Commission under this Regulation may apply to the Commission to review its decision, except in the case of a refusal to reconsider a decision provided for in section 36.

The application for a review must briefly set forth the grounds on which it is based and be made in writing within 30 days of notification of the contested decision, unless it is a decision pertaining to the home childcare provider's eligibility for preventive withdrawal, in which case the time limit is 10 days.

After giving the parties an opportunity to present observations, the Commission makes a decision on the basis of the record; it may confirm, quash or amend the decision and, if appropriate, make the decision that should, in its opinion, have been made initially.

A decision of the Commission must be in writing, give the reasons on which it is based, be notified to the parties, and state their right to contest the decision before the Administrative Labour Tribunal and the time limit for doing so.

**35.** The Commission may extend the time limit prescribed by section 34 or relieve a person of the consequences of a failure to act within the allotted time, if it is established that the application for review could not reasonably have been made within that time.

**36.** In order to correct any error, the Commission may, within 90 days, reconsider a decision it has rendered if the decision has not been the subject of a decision rendered pursuant to section 34.

If a decision of the Commission was rendered before an essential fact became known, it may, of its own initiative or at the request of a party, reconsider the decision within 90 days of the fact becoming known.



Similarly, in order to correct any error it may have made in establishing a computation necessary for the purposes of this Regulation, the Commission may, of its own initiative or at the request of a party, redo the computation within 90 days of the error becoming known.

Before reconsidering a decision or a computation, under this section, the Commission so informs the home childcare provider and the Minister.

## **DIVISION II**

### **CONTESTATION OF THE COMMISSION'S DECISION BEFORE THE ADMINISTRATIVE LABOUR TRIBUNAL**

**37.** A party who believes he or she has been wronged by a decision rendered by the Commission under section 34 may, within 45 days of notification, contest the decision before the Administrative Labour Tribunal, unless it is a decision pertaining to the home childcare provider's eligibility for preventive withdrawal, in which case the time limit is 10 days from notification.

Such cases are heard and decided by the occupational health and safety division, in accordance with the Act to establish the Administrative Labour Tribunal (chapter T-15.1).

## **CHAPTER VI**

### **FINAL AND TRANSITIONAL**

**38.** The Minister of Families repays to the Commission des normes, de l'équité, de la santé et de la sécurité du travail the amount of indemnities paid under this Regulation. The Commission repays to the Minister any amount recovered under this Regulation. To that end, the Commission provides, according to terms defined by agreement, the information required for the reconciliation of the amounts paid or recovered as indemnities.

The costs relating to the administration of the home childcare provider's preventive withdrawal plan, including the costs relating to the recovery of indemnities and the adaptation of the Commission's technological infrastructures used exclusively for the execution of this Regulation, are determined by agreement between the Minister and the Commission and are repaid by the Minister.

**39.** In order to avail herself of preventive withdrawal, a home childcare provider whose home childcare service was closed before 19 September 2019 is subject to sections 40 to 48 of the Act respecting occupational health and safety until the end of her preventive withdrawal.

**40.** This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

## **O.C. 867-2019, 21 August 2019**

An Act respecting the Québec Pension Plan  
(chapter R-9)

### **Benefits**

#### **—Amendment**

Regulation to amend the Regulation respecting benefits

WHEREAS, under paragraphs *a*, *g* and *t* of section 219 of the Act respecting the Québec Pension Plan (chapter R-9), *Retraite Québec* may make regulations:

—prescribing anything that is to be prescribed otherwise than under Title III and Division I of Title V of the Act;

—prescribing the time, manner and form of applications for benefits, applications for the partition of a retirement pension and applications for the partition of earnings, the information and evidence to be furnished in connection therewith;

—determining the manner of rounding off a fraction that is less than one resulting from the calculations made in the application of Title IV of the Act;

WHEREAS, on 21 September 2018, *Retraite Québec* made the Regulation to amend the Regulation respecting benefits;

WHEREAS under section 220 of the Act respecting the Québec Pension Plan, the regulations made by *Retraite Québec* do not come into force until approved by the Government and published in the *Gazette officielle du Québec*;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting benefits was published in Part 2 of the *Gazette officielle du Québec* of 10 April 2019 with a notice that it could be approved by the Government on the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, on the recommendation of the Minister of Finance:

THAT the Regulation to amend the Regulation respecting benefits be approved.

YVES OUELLET,  
*Clerk of the Conseil exécutif*