

Gouvernement du Québec

## O.C. 1730-2024, 4 December 2024

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

### Preventive withdrawal of certain home educational childcare providers — Amendment

Regulation to amend the Regulation respecting the preventive withdrawal of certain home educational childcare providers

WHEREAS, under the first paragraph of section 58 of the Act respecting the representation of certain home educational 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 educational 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;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (chapter R-18.1), a draft Regulation to amend the Regulation respecting the preventive withdrawal of certain home educational childcare providers was published in Part 2 of the *Gazette officielle du Québec* of 3 July 2024, 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 to amend the Regulation respecting the preventive withdrawal of certain home educational childcare providers, attached to this Order in Council, be made.

JOSÉE DE BELLEFEUILLE

*Associate Secretary General and Assistant Clerk  
of the Secrétariat du Conseil exécutif*

## Regulation to amend the Regulation respecting the preventive withdrawal of certain home educational childcare providers

Act respecting the representation of certain home educational childcare providers and the negotiation process for their group agreements (chapter R-24.0.1, s. 58, 1st par.).

**1.** The Regulation respecting the preventive withdrawal of certain home educational childcare providers (chapter R-24.0.1, r. 1) is amended in the title of Chapter I by adding “AND DEFINITIONS” at the end.

**2.** The following is inserted after section 1:

“1.1. In this Regulation,

(1) “coordinating office” means the accredited home educational childcare coordinating office from which a home educational childcare provider has obtained its recognition;

(2) “certificate” means the certificate prescribed by the Commission that attests that the conditions in which the home educational childcare is provided may be physically dangerous to the provider’s unborn child, to the child she is breast-feeding, or to herself by reason of her pregnancy;

(3) “public health director” means a public health director within the meaning of the Act respecting the governance of the health and social services system (chapter G-1.021), the Act respecting health services and social services for the Inuit and Naskapi (chapter S-4.2) or the Act respecting health services and social services for Cree Native persons (chapter S-5), or the person designated by the director.”.

**3.** Section 2 is amended by replacing paragraph 3 by the following:

“(3) the professional providing pregnancy care or, for a home educational childcare provider who is breast-feeding, the professional providing postnatal care, issues her a certificate in accordance with the conditions set out in sections 3 to 5.”.

**4.** Sections 3 to 6 are replaced by the following:

“3. Prior to issuing a certificate pursuant to sections 4 or 5, the professional providing pregnancy care or, for a home educational childcare provider who is breast-feeding, the professional providing postnatal care, must ascertain that the eligibility conditions set out in paragraphs 1 and 2 of section 2 have been met.

4. Subject to the second paragraph, the professional providing pregnancy care or, for a home educational childcare provider who is breast-feeding, the professional providing postnatal care, issues a certificate after they have evaluated, in accordance with a protocol developed under section 13.1, that the conditions in which the home educational childcare is provided may be physically dangerous to the provider's unborn child, to the child she is breast-feeding, or to herself by reason of her pregnancy.

If the dangers and the associated conditions in which the home educational childcare is provided are not identified by a protocol, the certificate must be issued in accordance with section 5.

5. In the absence of a protocol developed under section 13.1, the professional providing pregnancy care or, for a home educational childcare provider who is breast-feeding, the professional providing postnatal care, must, before issuing the certificate, consult the public health director of the region in which is situated the residence where childcare is provided about the physical dangers to the unborn child, the child being breast-fed or the home educational childcare provider herself by reason of her pregnancy. The professional must send to the public health director the information concerning the home educational childcare provider's pregnancy and the expected date of delivery.

For the purpose of determining whether there is physical danger to the unborn child, the child being breast-fed or the home educational childcare provider herself by reason of her pregnancy, the public health director may require from the home educational childcare provider or the coordinating office any information relating to the conditions in which the childcare is provided.

The public health director assesses the physical dangers and informs thereof the professional referred to in the first paragraph, who decides whether to issue the certificate.

6. The professional providing pregnancy care or, for a home educational childcare provider who is breast-feeding, the professional providing postnatal care, keeps their copy of the certificate and gives two copies to the home educational childcare provider who must keep one for herself and send the other to the coordinating office in accordance with section 7.”.

5. Sections 7, 8 and 10 are amended by replacing the words “preventive withdrawal certificate” wherever they appear by “certificate”.

6. The following is inserted after section 13:

“13.1. The national public health director may, in the manner outlined in section 48.1 of the Act respecting occupational health and safety (chapter S-2.1), develop and update any protocols aimed at identifying dangers and the associated conditions in which home educational childcare is performed for the purposes of the exercise of the right to preventive withdrawal provided for in section 2, and at meeting, in particular, the needs the Commission communicates to the national public health director.”.

7. Sections 14, 17 and 23 are amended by replacing the words “preventive withdrawal certificate” wherever they appear by “certificate”.

8. Section 25 is amended by replacing the first paragraph by the following:

“The expected date of delivery may be changed if not later than 4 weeks before the date stated in the certificate the Commission and the coordinating office are informed by the home educational childcare provider of a new expected date of delivery, as confirmed by the professional providing pregnancy care.”.

9. Section 37 is amended

(1) by replacing “45 days” by “60 days” in the first paragraph;

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

“Moreover, a person may contest before the Administrative Labour Tribunal a decision whose review the person applied for under section 34 if the Commission did not make a decision within 90 days after receiving the application. If the person who applied for the review requested more time to present observations or produce documents, the 90-day time limit runs from the time observations are presented or documents are produced.”;

(3) by replacing “Such cases” in the second paragraph by “Cases referred to in the first or second paragraph”.

10. 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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