

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1992, chapter 36
**AN ACT TO AMEND THE ACT RESPECTING
CHILD DAY CARE**

Bill 33

Introduced by Madam Violette Trépanier, Minister for the Status of Women and Minister responsible for Family Policy

Introduced 14 May 1992

Passage in principle 28 May 1992

Passage 22 June 1992

Assented to 23 June 1992

Coming into force: 23 June 1992, except the provisions enacted by section 3, which will come into force on the date of coming into force of section 5 of the Act respecting child day care

Act amended:

Act respecting child day care (R.S.Q., chapter S-4.1)



CHAPTER 36

An Act to amend the Act respecting child day care

[Assented to 23 June 1992]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. S-4.1,
s. 2,
replaced

1. Section 2 of the Act respecting child day care (R.S.Q., chapter S-4.1) is replaced by the following section:

Right to
day care

“2. Every child is entitled to receive good, continuous, personal day care until the end of primary school.

Choice

The person having parental authority is entitled to choose the day care most convenient for him.

Criteria
for choice

Persons exercising such rights shall take into account the organization and resources of the bodies and persons providing day care, the rules relating to exemptions, financial assistance and grants, as well as the right of a person holding a permit, a school board and a person responsible for home day care to receive or to refuse to receive a child.”

c. S-4.1,
s. 4, am.

2. Section 4 of the said Act is amended

(1) by inserting, after subparagraph 2 of the first paragraph, the following subparagraph:

“(2.1) a non-profit corporation other than a non-profit corporation contemplated in subparagraph 2;”;

(2) by replacing subparagraph 5 of the first paragraph by the following subparagraph:

“(5) a natural person, a partnership or a commercial enterprise who or which does not hold any other permit issued under this Act.”

c. S-4.1,
s. 5, am.

3. Section 5 of the said Act, enacted by section 5 of chapter 85 of the statutes of 1979 and amended by section 318 of chapter 26 of the statutes of 1982 and by section 4 of chapter 59 of the statutes of 1989, is again amended

(1) by inserting, after subparagraph 2 of the first paragraph, the following subparagraph:

“(2.1) a non-profit corporation other than a non-profit corporation contemplated in subparagraph 2;”;

(2) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) a natural person, a partnership or a commercial enterprise who or which does not hold any other permit under this Act.”

c. S-4.1,
s. 10, am.

4. Section 10 of the said Act is amended

(1) by inserting the figure “2.1,” after the word “subparagraphs” in the first line of the first paragraph;

(2) by inserting the figure “2.1,” after the word “subparagraphs” in the second line of the first paragraph.

c. S-4.1,
s. 10.7, am.

5. Section 10.7 of the said Act is amended by replacing the words “the regulations made under section 31” in the fourth and fifth lines by the word “regulation”.

c. S-4.1,
s. 11, am.

6. Section 11 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

Territory

“The bureau shall fix the territory covered by the permit according to the criteria and methods it determines by regulation.”

c. S-4.1,
ss. 17.1-
17.3,
replaced

7. The said Act is amended by replacing sections 17.1 to 17.3 by the following sections:

Approval
required

17.1 The holder of a day care centre permit, nursery school permit or stop over centre permit must submit to the bureau for approval

(1) the plans of any premises he proposes to acquire or lease for the purpose of relocating the day care centre permanently;

(2) the plans of any alterations to his premises affecting an element prescribed by the arrangement, heating or lighting standards

determined by regulation which are rendered necessary by a projected increase in the maximum number of children he may receive;

(3) the plans of any other projected alterations to premises affecting any element prescribed by the said standards and which involve architectural work.

Signature
of archi-
tect
Decision
of bureau

Such plans must be signed and sealed by an architect.

“17.2 The bureau shall render its decision within 60 days of receiving the plans. It may refuse to approve the plans if the premises or alterations, as the case may be, do not conform to the standards.

Conformity
with plans

“17.3 The premises acquired or leased and the alterations carried out must conform to the plans approved.”

c. S-4.1,
s. 18.1, am.

8. Section 18.1 of the said Act is amended by striking out paragraph 1.

c. S-4.1,
s. 20, am.

9. Section 20 of the said Act is amended by striking out the words “on a ground other than the ground set out in paragraph 1 of section 18.1” in the first and second lines of the first paragraph.

c. S-4.1,
s. 23, am.

10. Section 23 of the said Act is amended by replacing the figure “31” in the second line of paragraph 4 by the figure “41.6”.

c. S-4.1,
Chap. II,
Div. I,
Subdiv. 3,
repealed

11. Subdivision 3 of Division I of Chapter II of the said Act is repealed.

c. S-4.1,
s. 33.1,
repealed

12. Section 33.1 of the said Act is repealed.

c. S-4.1,
Chap. II,
Div. IV,
heading,
replaced

13. The heading of Division IV of Chapter II of the said Act is replaced by the following heading:

“CONTRIBUTION, EXEMPTION, FINANCIAL ASSISTANCE AND GRANTS”.

c. S-4.1,
heading,
added

14. The said Act is amended by inserting, before section 38, the following heading:

“§ 1.—*Contribution*”.

c. S-4.1,
s. 39, am.

15. Section 39 of the said Act is amended by inserting, after the first sentence, the following sentence: “The contribution is required

from the person having parental authority or from any other person determined by regulation.”

c. S-4.1,
heading,
added

16. The said Act is amended by inserting, before section 40, the following heading:

“§ 2.—*Exemption and financial assistance*”.

c. S-4.1,
s. 40, am.

17. Section 40 of the said Act is amended by replacing the first paragraph by the following paragraph:

Exemption

“40. Subject to the restriction provided for in section 41.7, the bureau, in the cases and according to the conditions, circumstances and terms it determines by regulation, may exempt wholly or partially a person who so requests from the payment of the contribution required from him under section 38 or 39 by

- (1) the holder of a day care centre permit;
- (2) a person responsible for home day care;
- (3) a school board which provides school day care.”

c. S-4.1,
s. 41,
replaced

18. Section 41 of the said Act is replaced by the following section:

Financial
assistance

“41. In cases of exemption, according to the conditions and terms it determines by regulation, the bureau shall pay financial assistance in an amount equal to the amount of the exemption to the person entitled to require the contribution, except in respect of home day care, where the financial assistance shall be paid by the bureau to the holder of the home day care agency permit for the benefit of the person entitled to require the contribution.”

c. S-4.1,
s. 41.2, am.

19. Section 41.2 of the said Act is amended by replacing the first paragraph by the following paragraph:

Reimburse-
ment of
overpay-
ments

“41.2 Any financial assistance paid without entitlement must be reimbursed to the bureau, in the cases and according to the conditions and terms determined by regulation, by the person to whom it was paid or for whose account it was paid or by the person exempted.”

c. S-4.1,
s. 41.3, am.

20. Section 41.3 of the said Act is amended by replacing the words “requested in accordance with section 40” in the third line by the words “or the payment of financial assistance”.

c. S-4.1,
ss. 41.6
and 41.7,
added

21. The said Act is amended by inserting, after section 41.5, the following subdivisions and sections:

“§ 3.—*Grants*

Grants

“**41.6** Subject to the restriction provided for in section 41.7, the bureau may make grants, in the cases and according to the conditions, circumstances and modalities determined by regulation, to

- (1) an applicant for, or the holder of, a day care centre permit;
- (2) the holder of a nursery school permit under subparagraphs 1 to 3 of the first paragraph of section 5;
- (3) the holder of a non-profit stop over centre permit;
- (4) a person applying for a home day care agency permit or the holder of such a permit, for his own benefit or for the benefit of a person responsible for a home day care service recognized by the agency;
- (5) a school board which proposes to set up, or which offers, school day care;
- (6) a school board, a municipality, a public institution within the meaning of the Act respecting health services and social services, or any other body or person, with a view to allowing or encouraging the development or improvement of the quality of child day care, a response to specific day care needs, or experimentation or innovation in the field of child day care.

“§ 4.—*Restriction*

New day
care and
agencies

“**41.7** In each of the following categories:

- (1) day care offered by the holder of a permit under subparagraphs 1 to 4 of the first paragraph of section 4;
- (2) day care offered by the holder of a permit under subparagraph 5 of the first paragraph of section 4;
- (3) home day care agencies;
- (4) school day care;

the Government shall fix and allot annually for new day care and new agencies, according to the criteria, methods and standards it determines by regulation, a number of places for which an exemption, financial assistance or grants may be obtained from the bureau.

Day care and agencies considered new
 Day care and agencies are considered to be new until an exemption, financial assistance or a grant has been obtained, pursuant to this section, for services offered by such day care or agencies or by a person recognized by such an agency, as the case may be.”

c. S-4.1,
s. 42, am.
22. Section 42 of the said Act is amended by striking out the words “on a ground other than the ground set out in paragraph 1 of section 18.1” in the second line of the first paragraph.

c. S-4.1,
s. 62.1,
added
23. The said Act is amended by inserting, after section 62, the following section:

Immunity
62.1 In no case may the bureau, its members, the members of its personnel, its inspectors, any person, body or public establishment to whom it delegates powers pursuant to the second paragraph of section 69 or an administrator appointed under the third paragraph of section 30 be prosecuted for any act performed in good faith in the performance of their duties.”

c. S-4.1,
s. 68, am.
24. Section 68 of the said Act is amended

(1) by inserting, before subparagraph 2 of the second paragraph, the following subparagraph:

“(1) identify the priorities and requirements of the population in matters of child day care;”;

(2) by inserting the words “, taking into account, however, the rules relating to exemptions, financial assistance and grants” after the word “population” in the second line of subparagraph 6 of the second paragraph.

c. S-4.1,
s. 68.1,
repealed
25. Section 68.1 of the said Act is repealed.

c. S-4.1,
s. 72.1,
added
26. The said Act is amended by inserting, after the heading of Chapter IV, the following section:

Allotment of places
72.1 The Government, by regulation, may establish the criteria, methods and standards according to which it fixes and allots annually, under section 41.7, a number of places for which an exemption, financial assistance or grants may be obtained.

Variations
 The criteria, methods and standards may vary according to the categories listed in section 41.7. They may provide for priorities with regard to those categories and the allotment of places.”

c. S-4.1,
s. 73, am.
27. Section 73 of the said Act is amended in the first paragraph

(1) by adding, at the end of subparagraph 2, the words “and prescribing an outdoor play area and standards for the arrangement, equipment and maintenance of that area”;

(2) by replacing the words “, taking into account the dimensions and arrangement of these premises” in the third and fourth lines of subparagraph 5 by the words “or in the prescribed outdoor play area, taking into account the dimensions and arrangement of the place”;

(3) by replacing the words “dans les locaux où sont fournis des” in the second line of subparagraph 6 of the French text by the words “dans les”;

(4) by inserting, after subparagraph 12, the following subparagraph:

“(12.1) determining the criteria and methods according to which the territory of a home day care agency permit shall be fixed;”;

(5) by replacing subparagraph 15 by the following subparagraph:

“(15) determining the cases, conditions, circumstances and modalities in or according to which grants may be made pursuant to section 41.6, prescribing, in cases where an application for a grant is made by the holder of a permit under subparagraph 5 of the first paragraph of section 4, that it must include proof that the parents committee approves of the purposes for which application for a grant is made and determining the nature of that proof;”;

(6) by replacing subparagraph 20 by the following subparagraph:

“(20) determining from which persons, other than those having parental authority, the amount of the contribution fixed under section 38 or 39 may be required;”;

(7) by inserting the words “wholly or partially” after the word “be” in the second line of subparagraph 21;

(8) by replacing subparagraph 22 by the following subparagraph:

“(22) determining the conditions and terms according to which financial assistance is paid in cases of exemption from contribution;”;

(9) by replacing subparagraph 22.1 by the following subparagraph:

“(22.1) determining the cases, conditions and terms in or according to which financial assistance paid without entitlement must

be reimbursed and determining the cases, circumstances, conditions and terms in or according to which that debt may be deducted from any future payment of financial assistance;”.

Effect of
s. 41.7

28. Section 41.7 of the Act respecting child day care, enacted by this Act, has effect since 14 May 1992.

Time limit

The Government may make, not later than 31 December 1992, a regulation under section 72.1 of the Act respecting child day care, enacted by section 26 of this Act, notwithstanding section 8 of the Regulations Act (R.S.Q., chapter R-18.1) as regards its publication. Such a regulation shall come into force, notwithstanding section 17 of the said Act, on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein. Such a regulation may, where it so provides, apply from any date not prior to 14 May 1992.

Coming into
force

29. The provisions of this Act come into force on 23 June 1992 except the provisions enacted by section 3, which will come into force on the date of coming into force of section 5 of the Act respecting child day care.