



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 136

An Act to amend the Act respecting health services and social services



Introduction

Introduced by
Mr Marc-Yvan Côté
Minister of Health and Social Services

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EXPLANATORY NOTES

The aim of this bill is to make the Act respecting health services and social services applicable to the territory served by the Kativik regional health and social services council and presently governed by the Act respecting health services and social services for Cree and Inuit Native persons.

However, to reflect this territory's cultural and geographical characteristics, the bill introduces a number of changes, particularly as concerns the procedure for examining user complaints, the composition of the board of directors of institutions and of the regional board, compensation for loss of income incurred by members when attending meetings of the board of directors and the possibility for such members to participate in the meetings by telephone.

Under the bill, the Centre de référence des directeurs généraux et des cadres will not need to attest to the qualification of executive directors of institutions or of the regional board. In addition, the bill provides that, for the territory, there will be no regional meeting or regional medical board.

Finally, the bill contains a number of transitional provisions to allow for the establishment of the first boards of directors of institutions and of the regional board, and provides that the latter will succeed the Kativik regional health and social services council.

Bill 136

An Act to amend the Act respecting health services and social services

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

1. The Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by inserting, after section 530, the following:

“PART IV.1

“SPECIAL PROVISIONS APPLICABLE TO THE TERRITORY
CONTEMPLATED BY THE ACT RESPECTING NORTHERN
VILLAGES AND THE KATIVIK REGIONAL GOVERNMENT

“TITLE I

“GENERAL PROVISIONS

“CHAPTER I

“SCOPE

“530.1 This Part applies to every institution whose head office is situated in the territory defined in section 2 of the Act respecting Northern villages and the Kativik Regional Government (R.S.Q., chapter V-6.1) and to the regional board established for that territory pursuant to section 530.25.

“530.2 The provisions of this Act apply to the institutions and regional board contemplated by this Part, subject to the special provisions enacted by this Act.

“530.3 The Government may subdivide the territory contemplated by this Part into sectors.

“CHAPTER II

“USERS’ COMPLAINTS

“DIVISION I

“EXAMINATION BY THE INSTITUTION

“530.4 The application of the complaint examination procedure established pursuant to section 29 may, in the manner set out in the said section, be entrusted to a member of the staff of the institution who is not a senior management officer.

“530.5 In addition to what is provided for in section 31, the complaint examination procedure enables the user to file a complaint with an institution referred to in section 530.1 concerning the services that have or should have been provided to him by an institution whose head office is situated outside the territory contemplated by this Part.

Where such a complaint is filed, the person responsible for the application of the complaint examination procedure who receives the complaint shall transmit it with diligence to the senior management officer in charge of the application of the complaint examination procedure in the institution concerned, who shall then examine the complaint in the manner set out in sections 32 to 41 and communicate with the person responsible who shall inform the user with diligence of the action taken following his complaint.

In addition, where the senior management officer of an institution referred to in the first paragraph receives the complaint directly from a user whose place of residence is situated in the territory contemplated by this Part for services that have or should have been provided to him by the institution, he shall, after informing the person responsible referred to in the second paragraph, examine the complaint in the manner set out in sections 32 to 41 and communicate with that person who shall inform the user with diligence of the action taken following his complaint.

“DIVISION II

“EXAMINATION BY THE REGIONAL BOARD

“530.6 The application of the complaint examination procedure established pursuant to section 43 may, in the manner set out in the said section, be entrusted to a member of the staff of the regional board who is not a senior management officer.

“530.7 Where a user having filed a complaint in writing in either of the situations described in section 530.5 disagrees with the conclusions transmitted to him, he may file a complaint with the person responsible for the application of the complaint examination procedure of the regional board referred to in section 530.25.

Where such a complaint is filed, the person responsible shall, with diligence, transmit the complaint to the senior management officer of the regional board concerned who shall then examine the complaint in the manner set out in sections 44 to 52 and communicate with the person responsible who shall inform the user with diligence of the action taken following his complaint.

In addition, where the senior management officer of the regional board referred to in the second paragraph receives the complaint directly from a user whose place of residence is situated in the territory contemplated by this Part on the grounds set out in the first paragraph, he shall, after informing the person responsible referred to in that paragraph, examine the complaint in the manner set out in sections 44 to 52 and communicate with the person who shall inform the user with diligence of the action taken following his complaint.

“530.8 A person whose place of residence is situated in the territory contemplated by this Part and who is the user of a family-type resource referred to in section 310 or of the services of a community organization referred to in section 334, or who is residing in a nursing home accredited for the purpose of subsidies within the meaning of section 454 may, where the head office of the resource, organization or home is situated outside the territory of his residence, file a complaint concerning the services that have or should have been provided to him by such resource, organization or home with the person responsible for the application of the complaint examination procedure of the regional board established for that territory.

Where such a complaint is filed, the person responsible shall, with diligence, transmit the complaint to the senior management officer of the regional board concerned who shall then examine the complaint in the manner set out in sections 73 to 76 and communicate with the

person responsible who shall inform the complainant with diligence of the action taken following his complaint.

In addition, where the senior management officer of the regional board referred to in the second paragraph receives the complaint directly from a person in relation to either of the situations described in the first paragraph, he shall, after informing the person responsible referred to in that paragraph, examine the complaint in the manner set out in sections 73 to 76 and communicate with the person who shall inform the complainant with diligence of the action taken following his complaint.

“DIVISION III

“EXAMINATION BY THE COMPLAINTS COMMISSIONER

“530.9 Where the complaints commissioner examines the complaint of a person who is a beneficiary under the Agreement concerning James Bay and Northern Québec and whose place of residence is situated in the territory contemplated by this Part, he must be assisted by a person appointed by the Government on the recommendation of the Kativik Regional Government. The latter person must be a beneficiary under the Agreement concerning James Bay and Northern Québec. The Government shall fix his salary or fees and other conditions of employment.

“DIVISION IV

“ASSISTANCE BY AN ORGANIZATION

“530.10 Notwithstanding section 54, the Minister must, after consulting the regional board, the users’ committees of the institutions and the interested associations of the territory, give one or several organizations or groups of persons of the territory the mandate to assist and accompany, on request, users wishing to file a complaint pursuant to sections 530.5 to 530.9.

“CHAPTER III

“ORGANIZATION OF INSTITUTIONS

“DIVISION I

“BOARDS OF DIRECTORS

“530.11 A board of directors shall be established to administer each institution having its head office in the territory contemplated by this Part.

“530.12 The Minister may permit that a youth protection centre be operated by each institution.

“DIVISION II

“COMPOSITION OF THE BOARDS OF DIRECTORS

“530.13 Each board of directors shall be composed of the following persons, who shall be members of the board as and when they are elected or appointed:

(1) one person elected by an assembly of the inhabitants of each northern village municipality whose territory is included in a sector referred to in section 530.3 and in which the head office of the institution is situated;

(2) four persons elected by and from among the persons employed by the institution or practising their professions in any centre operated by the institution, provided, however, the position titles of the elected persons are different and, where applicable, those persons are members of different professional corporations;

(3) one person elected by the members of the users' committee of the institution;

(4) two persons appointed by the members referred to in paragraphs 1 to 3, one chosen after consultation with bodies representing the community sector and the other after consultation with bodies representing the education sector;

(5) the executive director of the institution.

“530.14 The Minister shall determine, by regulation, the procedure for electing the persons referred to in paragraph 1 of section 530.13. The regional board shall, by by-law, determine the procedure for electing the persons referred to in paragraphs 2 and 3 of section 530.13. The regulation and the by-law must provide that the elections will take place every three years, in October.

Once all the members referred to in paragraphs 1 to 3 of section 530.13 have been elected, the elected members must, within the following thirty days, appoint the members referred to in paragraph 4 of section 530.13.

“530.15 Should the election or appointment of a member under section 530.13 not take place, the regional board shall appoint the member not later than 31 December in the year in which the election or appointment was to take place.

“530.16 Any interested person may apply to the Commission des affaires sociales to contest or demand the annulment of any election held pursuant to section 530.13.

The second, third and fourth paragraphs of section 148 apply to an application made under the first paragraph.

“530.17 A person employed by an institution referred to in section 530.1 or practising his profession in a centre operated by the institution may be elected as a member of the board of directors of the institution only in that capacity. The person may, in other capacities, be elected or appointed member of the board of directors of any other institution.

“530.18 Any vacancy occurring after the election or appointment of a member of the board of directors shall be brought to the attention of the regional board and filled in the manner set out in section 156, the reference to sections 129 to 132 in subparagraph 1 of the first paragraph being replaced, however, by a reference to section 530.13.

“DIVISION III

“OPERATION OF THE BOARDS OF DIRECTORS

“530.19 In addition to what is provided for in section 164, the members of a board of directors may, in case of emergency and if two-thirds of the members agree, participate in a sitting of the board by using any means enabling all participants to communicate with each other orally, in particular, by telephone. In such a case, they are deemed to have attended the sitting.

“530.20 The members of a board of directors shall be compensated, in accordance with the by-law passed by the board, for any loss of income resulting from their attending the sittings of the board. They are also entitled to be reimbursed, in accordance with that by-law, for expenses incurred in the performance of their duties.

The by-law must take into account the conditions prevailing in the territory contemplated by this Part as well as the following conditions:

(1) the sittings of the board of directors must be held, so far as possible, on dates fixed so as to avoid interference with the remunerated working hours of the members and to enable them to use convenient and economical means of transportation;

(2) if, despite the provisions of subparagraph 1, a member sustains a loss of income, the board of directors may, on request, compensate him therefor provided the following three conditions are met:

(a) that the territory where the sitting is held is not the territory of the municipality represented by the member pursuant to paragraph 1 of section 530.13 or that of the municipality in which he normally resides;

(b) the member is self-employed or works in conditions which prevent him from receiving a remuneration while absent to attend such sittings;

(c) the loss of income is certain and not merely probable.

The by-law must be submitted to the Minister for approval.

“530.21 The board of directors of an institution shall meet at least five times a year.

“DIVISION IV

“EXECUTIVE DIRECTOR

“530.22 The second and third paragraphs of section 193 do not apply to the executive director of an institution.

“DIVISION V

“COUNCILS

“530.23 The council of nurses established for an institution pursuant to section 219 is not required to establish the nursing assistants committee referred to in section 223.

“530.24 The multidisciplinary council established for each institution pursuant to section 226 shall be composed of all the persons who perform duties for the institution which are directly related to health services, social services, research or teaching.

However, physicians, dentists or pharmacists shall not be members of the multidisciplinary council, nor shall nurses where a council of nurses has been established for the institution.

“CHAPTER IV

“REGIONAL BOARD

“DIVISION I

“ESTABLISHMENT OF THE REGIONAL BOARD

“530.25 The Government shall establish a regional board for the territory contemplated by this Part.

“530.26 Sections 418 to 430 respecting the regional assembly do not apply and the references to such an assembly in subparagraph 2 of the second paragraph of section 340, in subparagraph 2 of the first paragraph of section 343 and in the first paragraph of sections 346 and 347 do not apply.

Sections 367 to 370 respecting the regional medical commission do not apply and the references to such a commission in subparagraph 3 of the second paragraph of section 340, in section 359 and in the first paragraph of section 361 do not apply.

“DIVISION II

“OPERATION

“530.27 The regional board shall, once a year, hold a public information meeting to which the population shall be invited and at which every institution convened by the regional board shall answer questions it raises regarding its management.

At the meeting, the board shall also present to the population its regional priorities in the field of health services and social services as well as its annual report of activities.

“530.28 In addition to what is provided for in section 411, the members of the board of directors may, in case of emergency and if two-thirds of the members agree, participate in a sitting of the board by using any means enabling all participants to communicate with each other orally, in particular, by telephone. In such a case, they are deemed to have attended the sitting.

“530.29 Section 530.20 applies to the members of the board of directors of a regional board.

“DIVISION III

“BOARD OF DIRECTORS

“530.30 The board of directors of the regional board shall be composed of the following persons as and when they are appointed:

(1) one representative appointed by each Northern village municipality included in the territory referred to in section 530.1;

(2) the executive director of each institution and another person appointed by the members of the board of directors of each institution, chosen from among the persons referred to in paragraph 1 of section 530.13;

(3) a regional councillor appointed by the board of directors of the Kativik Regional Government;

(4) the executive director of the regional board.

“530.31 The Minister shall, by regulation, determine the procedure for appointing the members referred to in paragraphs 1 to 3 of section 530.30. The regulation must provide that appointments will take place every three years, in November.

“DIVISION IV

“EXECUTIVE DIRECTOR

“530.32 The second and third paragraphs of section 414 do not apply to the executive director of the regional board.

“TITLE II

“CONTINUANCE OF LEGAL PERSONS

“CHAPTER I

“INSTITUTIONS

“530.33 Every establishment that constitutes a legal person pursuant to the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5) and whose head office is situated in the territory contemplated by this Part is continued and is deemed, from (*insert here the date of coming into force of this section*), to be an institution constituting a legal person under this Act.

The rights, obligations and acts of such an institution are not affected by the continuance. They remain in force and retain their effects to the extent that they are consistent with this Act.

“530.34 If a continued institution operated a hospital centre belonging to the class of short-term care centres, it is deemed to have as its object, from the date of continuance, the carrying on of activities inherent in the mission of a hospital belonging to one of the classes listed in section 85 and determined by the Minister.

“530.35 If a continued institution operated a hospital centre belonging to the class of long-term care centres, it is deemed to have as its object, from the date of continuance, the carrying on of activities inherent in the mission of a residential and long-term care centre.

“530.36 If a continued institution operated a reception centre belonging to the class of reception and rehabilitation centres, it is deemed to have as its object, from the date of continuance, the carrying on of activities inherent in the mission of a rehabilitation centre belonging to one or several of the classes listed in section 86 and determined by the Minister.

“530.37 If a continued institution operated a social service centre, it is deemed to have as its object, from the date of continuance, the carrying on of activities inherent in the mission of a child and youth protection centre.

“530.38 In order to effect the modifications consequent upon the application of sections 530.34 to 530.37, supplementary letters patent shall be issued in accordance with section 322.

“530.39 From the coming into force of sections 530.33 to 530.37, the institutions referred to in section 530.33 shall cease to be administered by the boards of directors established under the Act respecting health services and social services for Cree and Inuit Native persons and begin to be administered by the first boards of directors formed under section 3 of the Act to amend the Act respecting health services and social services (1993, chapter (*insert here the chapter number of Bill 136 of 1993*)).

“CHAPTER II

“REGIONAL BOARD

“530.40 The regional board, together with the Kativik Regional Government, shall establish a plan for the transfer and integration of the officers of the Kativik Regional Government assigned to the functions which devolve upon the regional board, in

conformity with the conditions and procedure determined by the Minister. The plan shall be submitted to the Minister for approval.

“530.41 The Minister shall ensure that the regional board receives the information and assistance necessary for the implementation and execution of the plan referred to in section 530.40.

The Minister shall rule on any dispute between the regional board and the Kativik Regional Government, except disputes relating to the transfer and integration of employees who are members of a certified association within the meaning of the Labour Code or of employees for whom a government regulation already provides a specific recourse.

“530.42 The health and social services council established for the territory contemplated by this Part under the Act respecting health services and social services for Cree and Inuit Native persons, in existence on (*insert here the date of the day preceding the date of coming into force of this section*), ceases to exist in that territory from (*insert here the date of coming into force of this section*). From the latter date, the rights and obligations of the health and social services council shall become, without other formality, the rights and obligations of the regional board which shall carry out all the functions devolved on it by this Act.

On the same date, the officers of the Kativik Regional Government who were assigned to the functions devolved upon the regional board shall become members of the personnel of the regional board, in conformity with the transfer and integration plan established for that purpose, subject, as regards employees within the meaning of the Labour Code and the certified associations representing them, to the provisions of that Code.”

2. Section 620 of the said Act is amended by striking out the words “and the territory of the Kativik health and social services council” in the third and fourth lines.

CHAPTER II

TRANSITIONAL PROVISIONS

DIVISION I

ESTABLISHMENT OF THE FIRST BOARDS OF DIRECTORS OF PUBLIC INSTITUTIONS

3. The first boards of directors of the institutions referred to in section 530.1 of the Act respecting health services and social services

shall be formed in accordance with the provisions of the Act respecting health services and social services, subject to the special provisions of this division.

The Minister is responsible for taking the necessary steps to ensure that those boards are formed as soon as possible after the establishment of the regional board pursuant to section 530.25 of the Act respecting health services and social services.

4. The election procedure for electing the persons referred to in paragraphs 2 and 3 of section 530.13 of the Act respecting health services and social services shall be determined by regulation of the Minister. The Minister may, in the regulation, entrust the health and social services council referred to in section 530.42 of the Act respecting health services and social services with the functions related to the election procedure that would normally be exercised by the regional board referred to in section 3.

A regulation made under this section is not subject to sections 8 and 17 of the Regulations Act as regards its publication and date of coming into force. The same applies to the first regulation made by the Minister under the first paragraph of section 530.14 of the Act respecting health services and social services.

5. The Minister shall determine on what day of what month the elections referred to in section 4 must take place.

6. The Minister shall appoint a person considered to be the person elected by the users' committee pursuant to paragraph 3 of section 530.13 of the Act respecting health services and social services. Such appointment must take place on or before the date determined by the Minister under section 4.

7. The Minister shall exercise the power of appointment conferred on the regional board in the cases described in section 530.15 of the Act respecting health services and social services.

8. The term of office of the members of the first boards of directors is extended, notwithstanding section 149 of the Act respecting health services and social services, to the month of October of the year following the year of the second anniversary of the forming of the boards of directors.

9. Any interested person may apply to the Commission des affaires sociales to contest or demand the annulment of any election held pursuant to this division.

The Commission has exclusive jurisdiction over the hearing of such an application.

An application filed under this section to contest or demand the annulment of an election is deemed to be an application filed under paragraph *f* of section 21 of the Act respecting the Commission des affaires sociales.

The second, third and fourth paragraphs of section 148 of the Act respecting health services and social services apply to an application filed under this section.

DIVISION II

ESTABLISHMENT OF THE FIRST BOARD OF DIRECTORS OF THE REGIONAL BOARD

10. The first board of directors of the regional board referred to in section 3 shall be formed in accordance with the provisions of the Act respecting health services and social services, subject to the special provisions of this division.

The Minister is responsible for taking the necessary steps to ensure that the board is formed as soon as possible after the establishment of the regional board.

11. The first regulation made by the Minister under section 530.31 of the Act respecting health services and social services is not subject to sections 8 and 17 of the Regulations Act as regards its publication and date of coming into force.

12. The term “regional board”, as used in paragraph 5 of section 424 of the Act respecting health services and social services, refers to the health and social services council referred to in section 530.42 of the Act respecting health services and social services.

13. Any reference to a general or special provision of the Act respecting health services and social services in paragraphs 5 and 6 of section 424 of the said Act is a reference to the corresponding provision of the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5).

14. The term of office of the members of the first board of directors of the regional board is extended, notwithstanding section 530.31 of the Act respecting health services and social services to the month of November of the year following the year of the second anniversary of the forming of the board of directors.

DIVISION III

EXECUTIVE DIRECTORS

15. The person who, on the date of coming into force of section 530.39 of the Act respecting health services and social services, holds the office of executive director of an institution referred to in section 530.1 of the Act respecting health services and social services continues to hold office until the expiration of his contract.

The person who, on the date of coming into force of section 530.42 of the Act respecting health services and social services, holds the office of executive director of the health and social services council referred to in the said section 530.42 becomes, on that date, the executive director of the regional board referred to in that section, until the expiration of his contract.

16. The standards prescribed by government regulation made under section 507 of the Act respecting health services and social services to be applied for the selection, appointment, engagement, remuneration and other terms of employment applicable to executive directors apply, adapted as required, where the office of executive director of an institution or of the regional council referred to in section 15 becomes vacant.

DIVISION IV

MISCELLANEOUS PROVISIONS

17. The Government may, by regulation, adopt any other transitional provisions to remedy any omission to ensure the application of this chapter as soon as possible after the establishment of the regional board under section 530.25 of the Act respecting health services and social services.

A regulation made under this section is not subject to section 8 of the Regulations Act as regards publication and, notwithstanding section 17 of the said Act, comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein. However, such a regulation may, if it so provides, apply from any date not prior to the date of the establishment of the regional board.

18. The sums required for the carrying out of this chapter shall be determined by the Minister of Health and Social Services and must be taken out of the revenues appearing in the budget of each existing public institution and health and social services council, in the manner determined by the Minister.

CHAPTER III

FINAL PROVISION

19. The provisions of this Act will come into force on the dates fixed by the Government, with the exception of the provisions of sections 530.11 to 530.15, 530.17, 530.19, 530.25, 530.26 and 530.30, enacted by section 1, and the provisions of sections 2 to 18, which will come into force on *(insert here the date of assent to this Act)*.