

NATIONAL ASSEMBLY

SECOND SESSION

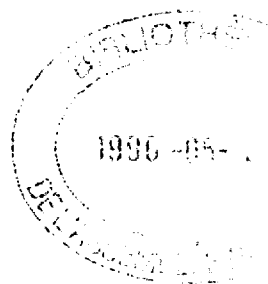
THIRTY-FIFTH LEGISLATURE

Bill 11

An Act to amend the Act respecting child day care and other legislative provisions

Introduction

**Introduced by
Madam Pauline Marois
Minister of Education**



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EXPLANATORY NOTES

This bill amending the Act respecting child day care lays down new rules concerning, among other things, the issue of permits and the financing of day care establishments and home day care agencies.

Clarifications are provided as to who may be issued a permit and as to the requirements to be satisfied and undertakings to be made by applicants. Only cooperatives the majority of whose directors are patrons of the day care services and certain non-profit legal persons will qualify for home day care agency permits. Local community service centres will be allowed to obtain day care centre, nursery school and stop over centre permits. Moreover, specific provisions regulate the composition of parents committees.

Any individual providing day care in a private residence to seven or more children, including the individual's own children and any child of an assistant who are under nine years of age, will be required to be recognized by a home day care agency. Moreover, a person responsible for home day care will be obliged to provide the home day care agency permit holder with the information needed to obtain grants and to form the parents committee.

As regards financing measures, the bill provides that the number of subsidized day care places and their allotment will henceforth be determined in a different manner and specifies to whom exemption, financial assistance and grants may be awarded. In future, only home day care agencies and day care centres which are operated by a cooperative or a non-profit legal person the majority of whose directors are patrons of the day care services and day care centres operated by public institutions, school boards or municipalities will be eligible under financing programs. Furthermore, the Government is authorized to allocate sums annually for the awarding of exemptions and financial assistance for day care services provided in schools. The eligibility of permit holders receiving financial assistance will be maintained subject to certain conditions.

The composition and powers of the Office des services de garde à l'enfance are modified. Penal provisions and provisions regarding inspection procedures are revised and a specific time frame is established for the coming into force of the provisions concerning nursery schools and stop over centres.

Finally, the bill improves certain definitions and contains a number of consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Education Act (R.S.Q., chapter I-13.3);
- Act respecting health services and social services (R.S.Q., chapter S-4.2);
- Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5);
- Charter of the city of Québec (1929, chapter 95);
- Charter of the city of Montréal (1959-60, chapter 102).

Bill 11

An Act to amend the Act respecting child day care and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting child day care (R.S.Q., chapter S-4.1) is amended

(1) by replacing the definition of the expression “day care centre” by the following definition:

“ “day care centre” means an establishment that provides day care in facilities where seven or more children are received on a regular basis for periods not exceeding 24 consecutive hours and are offered activities which promote their physical, intellectual, emotional, social and moral development;”;

(2) by replacing the definition of the expression “stop over centre” by the following definition:

“ “stop over centre” means an establishment that provides day care in facilities where seven or more children are received on a casual basis, as defined by regulation, for periods not exceeding 24 consecutive hours;”;

(3) by replacing the definition of the expression “nursery school” by the following definition:

“ “nursery school” means an establishment that provides day care in facilities where seven or more children from two to five years of age are received, in a stable group, on a regular basis for periods not exceeding four hours a day and are offered activities carried on over a fixed period which promote their physical, intellectual, emotional, social and moral development;”;

(4) by inserting the words “under nine years of age” after the words “person’s children” in the first line of paragraph 1 of the definition of the expression “home day care”, and by inserting the words “under nine years of age” after the word “children” in the second line of paragraph 2 of the said definition;

(5) by inserting the following definition:

““parent” means the person having parental authority or the person who has *de facto* custody of the child, except if the person having parental authority objects;”.

2. Section 1.1 of the said Act is amended

(1) by replacing the words “, safety and” in the second line of the first paragraph by the words “and safety and foster the development and”;

(2) by replacing the second paragraph by the following paragraph:

“It is also the object of this Act to foster the harmonious development of day care services, giving priority to the development of non-profit day care centres and home day care agencies, subject to the restrictions contained in this Act.”

3. Section 2 of the said Act is amended by replacing the words “person having parental authority” in the first line of the second paragraph by the word “parent”.

4. The said Act is amended by replacing, in the French text, the heading of Division I of Chapter II by the following heading:

“ORGANISATION DES GARDERIES, DES JARDINS D’ENFANTS, DES HALTES-GARDERIES
ET DES SERVICES DE GARDE EN MILIEU FAMILIAL”.

5. Sections 3 to 7 of the said Act are replaced by the following sections:

“3. No person, except a person holding a day care centre permit issued by the bureau, may provide or offer to provide day care in facilities where seven or more children are received on a regular basis for periods not exceeding 24 consecutive hours.

No person, except a person holding a nursery school permit issued by the bureau, may provide or offer to provide day care in facilities where seven or more children from two to five years of age

are received, in a stable group, on a regular basis for periods not exceeding four hours a day.

“4. No person, except a person holding a permit issued for that purpose by the bureau, may

(1) operate a day care centre or a nursery school, or operate a stop over centre on a permanent basis in the cases and on the conditions determined by regulation;

(2) offer to provide day care in a day care centre or a nursery school, or offer to provide day care in a stop over centre on a permanent basis in the cases and on the conditions determined by regulation;

(3) act or claim to act as a home day care agency;

(4) use a name that includes the expression “day care centre”, “nursery school” or “home day care agency”.

Subparagraphs 1 and 2 of the first paragraph do not apply to a person who provides or offers to provide day care in a stop over centre if

(1) the parents of the children to whom the person provides day care are on the premises and immediately available to respond to the needs of their children; or

(2) the stop over centre is situated in a shopping centre or a ski centre.

“5. The bureau may issue a day care centre permit or a nursery school permit to any person who

(1) applies therefor in writing to the bureau and provides the information and documents required by regulation;

(2) undertakes to provide day care to children;

(3) undertakes to offer children a programme of activities which promote their physical, intellectual, emotional, social and moral development;

(4) pays the fees fixed by regulation; and

(5) fulfils the other conditions prescribed by this Act and the regulations.

However, the bureau may not issue a nursery school permit to a school board or to a private educational institution within the meaning of the Act respecting private education (chapter E-9.1).

A natural person, partnership or profit-seeking legal person holding a permit issued under this Act may not be issued any other permit under this Act.

“6. The bureau may issue a stop over centre permit to any person who satisfies the requirements of subparagraphs 1, 2, 4 and 5 of the first paragraph of section 5 and undertakes to operate the establishment on a permanent basis in the cases and on the conditions determined by regulation.

“7. The bureau may issue a home day care agency permit to

(1) a cooperative of which the majority of the members of the board of directors are parents who are future users of the home day care services the agency will coordinate;

(2) a non-profit legal person;

(3) a public institution within the meaning of the Act respecting health services and social services (chapter S-4.2) or within the meaning of the Act respecting health services and social services for Cree Native persons (chapter S-5);

(4) a municipality;

(5) a school board.

In addition, the majority of the members of the board of directors of a cooperative must be parents who are future users of the day care services but are neither persons responsible for home day care, nor their assistants, nor members of the staff of the agency.

Moreover, the majority of the members of the board of directors of a legal person referred to in subparagraph 2 of the first paragraph must be persons who are neither persons responsible for home day care, nor their assistants, nor members of the staff of the agency.

“7.1 To obtain an agency permit, an applicant must satisfy the requirements of subparagraphs 1, 4 and 5 of the first paragraph of section 5.

The applicant may not be the holder of any other agency permit.

“7.2 No person may provide or offer to provide day care, for remuneration, to more than nine children in a private residence otherwise than in facilities designed for such purposes.”

6. Section 8 of the said Act is amended

(1) by inserting the words “under nine years of age” after the words “person’s children” in the first line of subparagraph 1 of the first paragraph;

(2) by inserting the words “under nine years of age” after the word “children” in the second line of subparagraph 2 of the first paragraph;

(3) by replacing the second paragraph by the following paragraph:

“A natural person who provides day care for remuneration in a private residence for periods that may exceed 24 consecutive hours to not less than seven nor more than nine children must be assisted by another adult and be recognized, in the manner determined by regulation, by the holder of a home day care agency permit. The person may not receive more than four children under 18 months of age and must include, in computing the number of children received, the person’s own children and any child of the assisting adult if they are under nine years of age.”;

(4) by replacing the word “he” in the second line of the last paragraph by the words “the person” and by adding, at the end of the same paragraph, the following sentence: “The person must also, on request, furnish the permit holder with any information required for obtaining grants under this Act.”

7. Section 10 of the said Act is replaced by the following sections:

“10. The holder of a day care centre permit or a nursery school permit shall form a parents committee composed of five persons elected by and from among the parents of children received in the day care centre or nursery school.

In no case may the permit holder or, where applicable, a member of its board of directors, or a member of the staff of the day care centre or nursery school, be a member of the parents committee.

The permit holder must consult the parents committee on all aspects of the life of the children in the day care centre or nursery school and, in particular, on

(1) the preparation, evaluation and revision of the programme of activities which promote the physical, intellectual, emotional, social and moral development of the children;

(2) the acquisition and use of the educational materials and equipment to be used in the establishment;

(3) the location or the change of location of the establishment;

(4) the arrangement and furnishings of the facilities; and

(5) the services to be provided.

However, the permit holder is not required to form a parents committee if the majority of the members of the permit holder's board of directors are parents who are not members of the staff of the day care centre or nursery school and whose children are received in the day care centre or nursery school.

“10.0.1 The holder of an agency permit referred to in subparagraphs 2 to 5 of the first paragraph of section 7 shall form a parents committee composed of five persons elected by and from among the parents who are users of the home day care services. In no case may a member of the staff of the agency, a person recognized by the permit holder as a person responsible for home day care or a person assisting such a person be a member of the parents committee.

However, the holder of an agency permit is not required to form a parents committee if the majority of the members of its board of directors are parents who are users of the home day care services but are neither persons responsible for home day care that are recognized by the permit holder, nor persons assisting them, nor members of the staff of the agency.

The permit holder shall consult the parents committee on all aspects of the life of the children while they are in the care of a person recognized by the permit holder as a person responsible for home day care.”

8. Section 10.1 of the said Act is amended

(1) by inserting “or 10.0.1” after the figure “10” in the third line and by replacing the word “by” in the fourth line by the word “in”;

(2) by adding, at the end, the following paragraph:

“For that purpose, a person responsible for home day care must, on request, furnish to the holder of an agency permit having recognized the person as such the names and addresses of the parents of the children the person receives.”

9. Section 10.3 of the said Act is replaced by the following section:

“**10.3** If a vacancy occurs on the parents committee, the permit holder shall call a meeting of the committee so that it may fill the vacancy by appointing a person who satisfies the requirements of section 10 or 10.0.1.”

10. Section 10.7 of the said Act is repealed.

11. Section 11 of the said Act is amended by replacing the first and second paragraphs by the following paragraphs:

“**11.** A day care centre, nursery school or stop over centre permit must indicate the name and address of the permit holder, the name and address of the establishment where the day care is provided and the maximum number of children that may be received in the establishment.

A day care centre permit must, in addition, indicate the maximum number of children per age class or per grouping of age classes.”

12. Section 11.1 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**11.1** The holder of a day care centre, nursery school or stop over centre permit may not receive more children in the establishment than the maximum number appearing on the permit.”;

(2) by replacing, in the French text, the words “service de garde en garderie” in the first line of the second paragraph by the word “garderie”;

(3) by replacing, in the French text, the words “service de garde en jardin d’enfants” in the first line of the third paragraph by the words “jardin d’enfants”.

13. Section 12 of the said Act is amended

(1) by replacing the word “two” in the first line of the first paragraph by the word “three”;

(2) by replacing the second paragraph by the following paragraph:

“A permit shall be renewed, on the conditions prescribed by this Act or the regulations, upon a written application submitted by the permit holder together with the information, documents and fees prescribed by regulation.”

14. Section 13 of the said Act is replaced by the following sections:

“13. The holder of a day care centre permit or an agency permit, except a municipality or a school board, shall keep the books and accounts determined by regulation, in the manner prescribed by regulation.

“13.1 The fiscal year of the holder of a day care centre permit or an agency permit shall end on 31 March. However, if the permit holder is a municipality or a school board, the fiscal year shall end on the same date as that of the municipality or the school board.

“13.2 The holder of a day care centre permit or an agency permit receiving financial assistance or grants under this Act shall, not later than 30 June each year, submit a financial report for the preceding fiscal year to the bureau. In the case of a municipality, the report shall be submitted not later than 31 March each year and, in the case of a school board, not later than 30 September.

The financial report must be audited if the permit holder received from the bureau, during the preceding fiscal year, grants or financial assistance totalling \$25,000 or more.

“13.3 Every permit holder shall, in addition, not later than 30 June each year, submit an activity report to the bureau. In the case of a municipality, the report shall be submitted not later than

31 March each year and, in the case of a school board, not later than 30 September. The activity report must contain the information the bureau determines by regulation.”

15. Section 14 of the said Act is amended

(1) by replacing the words “, of name or of firm name” in the second line of the first paragraph by the words “or of name”;

(2) by replacing “In the case of a corporation contemplated in subparagraph 2 of the first paragraph of section 4, a permit holder” in the first and second lines of the second paragraph by the words “A permit holder that is a legal person”.

16. Section 15 of the said Act is amended by striking out the words “or transferred”.

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

“**17.** The holder of a day care centre, nursery school or stop over centre permit may not operate elsewhere than at the address of the establishment appearing on the permit.”

18. Section 17.1 of the said Act is amended

(1) by replacing, in the French text, the words “service de garde en garderie, en jardin d’enfants ou en halte-garderie” in the first and second lines of the first paragraph by the words “garderie, de jardin d’enfants ou de halte-garderie”;

(2) by replacing the words “the day care centre permanently” in the second line of subparagraph 1 of the first paragraph by the words “permanently the establishment in which the day care services are provided”.

19. Section 18 of the said Act is amended

(1) by replacing the words “his activities must notify the bureau of it and cease them” in the first and second lines by the words “to operate shall notify the bureau in writing and cease to operate”;

(2) by adding, at the end, the following paragraph:

“The bureau shall revoke the permit as of the date indicated in the notice if the permit holder has complied with the conditions determined by regulation.”

20. Section 18.1 of the said Act is replaced by the following section:

“18.1 The bureau may refuse to issue a permit where

(1) the health, safety or well-being of the children to whom the applicant proposes to provide day care in a day care centre, nursery school or stop over centre would be endangered;

(2) the applicant or an officer of the applicant has been convicted of an indictable offence or of an offence punishable on summary conviction

(a) under Part V of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), except sections 175(1) (a) and (c) and 176 to 178,

(b) under Part VIII of the Criminal Code, except sections 216, 217, 247 to 263, 264.1(1) (b) and (c) and 287 to 320,

(c) under section 210, 212, 213, 343, 346 or 463 to 465 of the Criminal Code,

(d) under section 39 or 48 of the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27),

(e) under section 4, 5 or 6 of the Narcotic Control Act (Revised Statutes of Canada, 1985, chapter N-1), or

(f) under section 50 of the Young Offenders Act (Revised Statutes of Canada, 1985, chapter Y-1),

which is connected with the aptitudes and conduct required to operate under the permit applied for, unless the applicant or officer has been pardoned;

(3) the applicant or an officer of the applicant has been convicted of an offence under section 135 of the Youth Protection Act (chapter P-34.1), unless the applicant or officer has been pardoned;

(4) the applicant or an officer of the applicant has been convicted, in the two years preceding the application, of an offence under section 3 or 4, unless the applicant or officer has been pardoned;

(5) the applicant or an officer of the applicant held a permit that was revoked or not renewed under section 19 in the three years preceding the application;

(6) the applicant made a statement containing false or misleading information or distorted a material fact when applying for the permit.”

21. Section 19 of the said Act is amended

(1) by replacing the word “cancel” in the first line by the word “revoke”;

(2) by replacing paragraph 3 by the following paragraph:

“(3) the health, safety or well-being of children being provided day care in a day care centre, a nursery school, a stop over centre or a home is endangered;”;

(3) by adding, at the end, the following paragraph:

“(5) the permit holder ceased to operate without first complying with section 18.”

22. Section 20 of the said Act is amended

(1) by replacing the word “cancelling” in the first line of the first paragraph by the word “revoking”;

(2) by replacing, in the French text, the word “requérant” in the third line of the first paragraph and in the first line of the second paragraph by the word “demandeur”.

23. Section 21 of the said Act is replaced by the following section:

“21. The decision of the bureau shall be sent to the applicant or to the permit holder within 15 days after the date on which it was made.”

24. Section 22 of the said Act is amended

(1) by replacing the words “day care centre, nursery school or stop-over centre” in the first line of the first paragraph by the words “day care centre, nursery school or stop over centre”;

(2) by replacing the words “The information” in the first line of the second paragraph by “Subject to the provisions of sections 34 and 35, the information”;

(3) by replacing the words “person having parental authority over” in the fourth line of the second paragraph by the words “parent of”.

25. Section 23 of the said Act is amended

(1) by replacing the words “day care centre, nursery school, stop-over centre” in the second line by the words “day care centre, nursery school, stop over centre”;

(2) by replacing paragraph 1 by the following paragraph:

“(1) if the day care centre, nursery school, stop over centre or agency permit has been suspended or revoked in accordance with this Act;”;

(3) by replacing the words “day care centre, nursery school or stop-over centre permit indulges” in the first and second lines of paragraph 2 by the words “day care centre, nursery school or stop over centre permit engages”.

26. Section 25 of the said Act is amended by replacing the words “day care centre, nursery school, stop-over centre” in the second line by the words “day care centre, nursery school, stop over centre”.

27. Section 26 of the said Act is amended by replacing the words “day care centre, nursery school, stop-over centre” in the first and second lines by the words “day care centre, nursery school, stop over centre”.

28. Section 28 of the said Act is amended

(1) by replacing the words “day care centre, nursery school, stop-over centre” in the first and second lines of paragraph 1 and of

paragraph 2 by the words “day care centre, nursery school, stop over centre”;

(2) by replacing the words “day care centre, nursery school, stop-over centre” in the first and second lines of paragraph 3 by the words “day care centre, nursery school, stop over centre”.

29. Section 30 of the said Act is amended by replacing the words “day care centre, nursery school, stop-over centre” in the third and fourth lines of the first paragraph by the words “day care centre, nursery school, stop over centre”.

30. Sections 34 and 35 of the said Act are replaced by the following sections:

“34. The chairman of the bureau may authorize a person to act as an inspector for the purposes of this Act.

“34.1 An inspector may, in the performance of his duties,

(1) at any reasonable time, enter any premises where he has reasonable grounds to believe that activities for which a permit is required under this Act or activities referred to in section 32 are carried on, to ascertain whether this Act and the regulations are complied with;

(2) photograph the premises and equipment;

(3) require that extracts from any book, file, account, register, attendance card, registration card, recording, record or document be communicated for examination or reproduction, if he has reasonable grounds to believe that they contain information relating to the application of this Act or the regulations. However, in the case of a municipality or a school board, access is limited to entries respecting the day care services provided in accordance with this Act or the regulations.

Any information obtained by an inspector in the performance of his duties is confidential; it shall not be communicated or made available to any person not lawfully entitled to it, except with the written authorization of the person concerned.

“35. The person in charge of the premises being inspected, and any person who works there, is required to assist an inspector in the performance of his duties. In addition, the person having custody,

possession or control of the documents referred to in subparagraph 3 of the first paragraph of section 34.1 must communicate them to the inspector and facilitate his examination thereof.

No person may, in any manner whatsoever, hinder an inspector in the performance of his duties, deceive him by misleading statements or refuse to provide him with any information he is entitled to obtain under this Act or the regulations.”

31. Section 36 of the said Act is amended by replacing the second paragraph by the following paragraph:

“On request, an inspector shall identify himself and produce a certificate signed by the chairman or the secretary of the bureau, attesting his capacity.”

32. Section 37 of the said Act is repealed.

33. Section 38 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“**38.** The holder of a day care centre, nursery school or stop over centre permit, or a school board providing school day care, shall fix the amount of the contribution required in respect of each child received. The contribution shall be required from the parent or from any other person determined by regulation.”;

(2) by replacing the words “he or it” in the first line of the second paragraph by the words “the holder of a day care centre permit and a school board providing school day care”.

34. Section 39 of the said Act is amended by replacing the words “person having parental authority” in the third line by the word “parent”.

35. Sections 40 and 41 of the said Act are replaced by the following sections:

“**40.** Subject to section 41.7, the bureau, in the cases and on the conditions determined by regulation, may exempt wholly or partially a person who so requests from the payment of the contribution required under section 38 or 39 by

(1) the holder of a day care centre permit that is

(a) a cooperative of which the majority of the members of the board of directors are parents who are not members of the staff of the day care centre and whose children are or will be enrolled at that centre;

(b) a non-profit legal person of which the majority of the members of the board of directors are parents who are not members of the staff of the day care centre and whose children are or will be enrolled at that centre;

(c) a public institution within the meaning of the Act respecting health services and social services or within the meaning of the Act respecting health services and social services for Cree Native persons;

(d) a municipality; or

(e) a school board;

(2) the holder of a day care centre permit that was eligible for financial assistance on (*insert here the date immediately preceding the date of coming into force of this Act*);

(3) a person responsible for home day care who is recognized by an agency holding a permit;

(4) a school board that provides school day care.

However, a person responsible for home day care and any person assisting that person are not eligible for an exemption for their children who are received in a day care centre or are provided home day care.

“41. Where a person is exempted, the bureau shall, according to the terms and conditions determined by regulation, pay financial assistance equivalent to the amount of the exemption to the person entitled to require a contribution. In the case of home day care, however, the bureau may pay the financial assistance to the holder of the agency permit for the benefit of the person entitled to require the contribution.”

36. The said Act is amended by inserting, after section 41.1, the following section:

“41.1.1 No person may require from an exempted person any fee whatever for the administration and management of his exemption file.

Moreover, the holder of a day care centre permit or the person responsible for home day care may not require from an exempted person a higher contribution than that required from a non-exempted person for day care services of the same nature and duration, or for equivalent services, offered by the permit holder.”

37. Section 41.6 of the said Act, amended by section 19 of chapter 23 of the statutes of 1994, and section 41.7 of the said Act are replaced by the following sections:

“41.6 Subject to section 41.7, the bureau may, in the cases and on the conditions determined by regulation, award grants to

(1) an applicant for or holder of a day care centre permit referred to in subparagraph 1 of the first paragraph of section 40;

(2) a holder of a day care centre permit, other than a permit holder referred to in subparagraph 1, that was eligible for grants on *(insert here the date immediately preceding the date of coming into force of this Act)*;

(3) an applicant for or holder of an agency permit, for the benefit of the applicant or for the benefit of a person responsible for home day care recognized by the agency;

(4) a school board, a municipality, a public institution within the meaning of the Act respecting health services and social services or within the meaning of the Act respecting health services and social services for Cree Native persons, or any other body or person, in order to facilitate or support the development or improvement of child day care, responses to specific day care needs, or experimentation or innovation in the field of child day care.

A permit holder, notwithstanding any change of status, may not receive any grants other than the grants originally awarded to the permit holder, subject to the other provisions of this Act and the regulations.

Where the holder of a day care centre permit receiving grants because of its status as a cooperative or non-profit legal person the majority of the members of the board of directors of which are parents who are not members of the staff of the day care centre and

whose children are or will be enrolled at that centre ceases to satisfy that condition, the permit holder shall be eligible only for the grants awarded to a permit holder not satisfying that condition but nevertheless eligible for grants on *(insert here the date immediately preceding the date of coming into force of this Act)*, subject to the other provisions of this Act and the regulations.

“41.7 The Government may fix annually a number of places for which the bureau may award an exemption, financial assistance or grants in each of the following categories:

(1) day care centres operated by

(a) a cooperative of which the majority of the members of the board of directors are parents who are not members of the staff of the day care centre and whose children are or will be enrolled at that centre;

(b) a non-profit legal person of which the majority of the members of the board of directors are parents who are not members of the staff of the day care centre and whose children are or will be enrolled at that centre;

(c) a public institution within the meaning of the Act respecting health services and social services or within the meaning of the Act respecting health services and social services for Cree Native persons;

(d) a municipality; or

(e) a school board;

(2) home day care agencies.

The Government may also allocate sums annually to allow the bureau to award exemptions and financial assistance for school day care.

The bureau shall allot the number of places fixed under the first paragraph among all of the administrative regions of Québec according to need. The bureau shall then allocate places to new day care centres and agencies in each of the regions, according in particular to the needs and priorities of the region as identified after consultation with the interested persons and bodies.

A day care centre or an agency is considered to be new as long as no exemption, financial assistance or grant has been awarded, pursuant to this section, to the day care centre, to the agency or to any person recognized by the agency.

“41.3 The acquirer of a day care centre or agency operated by a permit holder eligible for financial assistance or grants under sections 40 and 41.6 becomes eligible for the same grants and the same financial assistance, subject to the other provisions of this Act and the regulations, on obtaining a day care permit to operate at the same address or an agency permit to operate in the same territory.

If the acquirer is a person other than a person referred to in subparagraph 1 of the first paragraph of section 40, the acquirer may claim only the financial assistance awarded to a permit holder referred to in subparagraph 2 of the first paragraph of section 40 and in subparagraph 2 of the first paragraph of section 41.6.”

38. Section 42 of the said Act is amended by replacing the word “cancelled” in the second line of the first paragraph by the word “revoked”.

39. Section 43 of the said Act is amended by replacing, in the French text, the word “requérant” in the first line by the word “demandeur”.

40. Section 44 of the said Act is amended

(1) by replacing the words “person having parental authority to whom the holder of a day care centre, nursery school or stop-over” in the first and second lines of the first paragraph by the words “parent to whom the holder of a day care centre, nursery school or stop over”;

(2) by replacing the words “person having parental authority” in the first line of the second paragraph by the word “parent”.

41. Section 47 of the said Act is replaced by the following section:

“47. The bureau is a legal person.”

42. Section 48 of the said Act is amended by striking out, in the French text, the word “social” in the first and second lines of the first paragraph.

43. Section 49 of the said Act is amended by replacing the word “seventeen” in the first line by the word “nineteen”.

44. Section 50 of the said Act is amended

(1) by replacing the words “in a day care centre, in a nursery school, at” in the third line of paragraph 1 by the words “in a day care centre, in a nursery school, in a”;

(2) by replacing the words “in a day care centre, in a nursery school, at” in the second and third lines of paragraph 3 by the words “in a day care centre, in a nursery school, in a”, and by replacing the words “a nursery school, at” in the third line of paragraph 4 by the words “in a nursery school, in a”;

(3) by replacing paragraph 6 by the following paragraph:

“(6) one member is chosen from among the members of municipal councils, after consultation with the representative associations of municipalities.”

45. Section 51 of the said Act is replaced by the following section:

“51. The six other members of the bureau shall be public servants designated by the Minister of Health and Social Services, the Minister of Education, the Minister of Municipal Affairs, the Minister responsible for the Status of Women, the Minister responsible for Family Policy and the minister responsible for the administration of this Act, respectively. These members shall not have the right to vote.”

46. Section 57 of the said Act is amended by striking out the word “temporarily” in the first, second and third paragraphs.

47. Section 68 of the said Act is amended by inserting the words “the administration and” after the word “supervise” in the first line of the second paragraph.

48. Section 68.2 of the said Act is replaced by the following section:

“68.2 Following a proposal by the bureau, the Government may charge the bureau with implementing new programmes, and for that purpose may appropriate to the bureau the moneys the Government considers appropriate.

The bureau shall, in addition, carry out any other function entrusted to it by the Government.”

49. Section 69 of the said Act, amended by section 23 of chapter 23 of the statutes of 1994, is again amended by replacing the second paragraph by the following paragraph:

“The bureau may also, in writing, authorize a person, a government department, a body or a public institution within the meaning of the Act respecting health services and social services or within the meaning of the Act respecting health services and social services for Cree Native persons to exercise all or some of the powers conferred upon the bureau by this Act or the regulations.”

50. Section 70 of the said Act is amended by adding the following paragraph:

“The bureau may, for the same purpose, make agreements with a government department or body.”

51. Section 72.1 of the said Act is repealed.

52. Section 73 of the said Act is amended in the first paragraph

(1) by replacing subparagraphs 4 to 6.1 by the following subparagraphs:

“(4) establishing classes according to the age of the children received and the services to be provided in a day care centre;

“(5) determining the maximum number of children who may be received in the premises of a day care centre, nursery school or stop over centre or in the premises used for home day care or in the prescribed outdoor play area, according to the dimensions and arrangement of the premises or area, the age class of the children and the services to be provided, where applicable;

“(6) establishing standards of hygiene, salubrity and safety that must be observed in day care centres, nursery schools, stop over centres or homes where day care is provided;

“(6.1) prescribing the requirements that must be satisfied by the holder of a day care centre, nursery school or stop over centre permit applying for authorization to engage temporarily in activities for which the permit was issued elsewhere than at the address of the establishment appearing on the permit;”;

(2) by replacing the words “a day care centre, nursery school or home” in the first and second lines of subparagraph 7 by the words “a day care centre, nursery school or home day care service”;

(3) by replacing the words “day care centre, nursery school or stop-over centre” in the second and third lines of subparagraph 8 by the words “day care centre, nursery school or stop over centre”;

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

“(9) identifying the books and accounts that the holder of a day care centre or agency permit, except a municipality or a school board, must keep, and establishing rules for the keeping and maintenance of those books and accounts;”;

(5) by inserting “or 10.0.1” after “10” in the second line of subparagraph 10.1;

(6) by replacing subparagraph 11 by the following subparagraphs:

“(11) determining the cases and conditions in or on which a stop over centre is operated on a permanent basis;

“(11.1) determining the cases and conditions in or on which children are received on a casual basis in a stop over centre;”;

(7) by replacing, in the French text, the word “requérant” in the first line of subparagraph 12 by the word “demandeur”;

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

“(15) determining the cases and conditions in or on which grants may be awarded pursuant to section 41.6, prescribing, in cases where an application for a grant is made by a permit holder that is a natural person, a partnership or a profit-seeking legal person, that it must include proof that the parents committee has approved the purposes for which application for a grant is made and determining the nature of the proof;”;

(9) by replacing, in the French text, the words “du service de garde en garderie, en jardin d’enfants, en halte-garderie” in the second and third lines of subparagraph 16.1 by the words “de la garderie, du jardin d’enfants, de la halte-garderie”;

(10) by replacing subparagraph 17 by the following subparagraph:

“(17) establishing standards of qualification for persons working in a day care centre, in a nursery school, in a stop over centre, in a home day care service or in a school day care service, and prescribing the requirements they must satisfy;”;

(11) by replacing the word “establishment” in the second line of subparagraph 18 and of subparagraph 19 by the words “centre, a nursery school, a stop over centre, a home day care service or a school day care service”;

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

“(20) determining the persons, other than the parent, from whom the amount of a contribution fixed under section 38 or 39 may be required;”;

(13) by replacing the words “, terms and conditions in or according to” in the first line of subparagraph 21 by the words “and conditions in or on”;

(14) by adding, at the end, the following subparagraph:

“(24) determining, from among the provisions of a regulation made under this section, those the infringement of which constitutes an offence punishable under section 74.9.”

53. The said Act is amended by inserting, after section 73, the following section:

“73.1 Where the standards established pursuant to subparagraph 2 of the first paragraph of section 73 cannot reasonably be applied, the applicant for or holder of a permit may propose alternate measures. The bureau may accept such measures if it considers that they are adequate and would, to the same degree, safeguard the health and safety and foster the well-being of the children to be received.”

54. Section 74 of the said Act is replaced by the following sections:

“74. Every person that contravenes any provision of section 3, the first paragraph of section 4, section 7.2 or the second paragraph

of section 8 is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

“74.1 Every holder of a day care centre permit that contravenes any provision of the first or second paragraph of section 11.1 or holder of a nursery school permit that contravenes any provision of the first or third paragraph of section 11.1 is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

Furthermore, every holder of a stop over centre permit that contravenes any provision of the first paragraph of section 11.1 or holder of an agency permit that contravenes any provision of the fourth paragraph of section 11.1 is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

“74.2 Every holder of a day care centre or nursery school permit that contravenes any provision of section 10, 10.2 or 10.6 or holder of an agency permit that contravenes any provision of section 10.0.1, 10.2 or 10.6 is liable to a fine of \$250 to \$1,000.

“74.3 Every permit holder that contravenes any provision of section 14, 16 or 18 is liable to a fine of \$250 to \$1,000.

“74.4 Every holder of a day care centre, nursery school or stop over centre permit that contravenes any provision of the first paragraph of section 17 or any provision of section 17.1 or 17.3 is liable to a fine of \$250 to \$1,000.

“74.5 Every permit holder that fails to submit the report referred to in section 13.3 or holder of a day care centre or agency permit that fails to keep the books and accounts referred to in section 13 or to submit, whenever so required, the report referred to in section 13.2 is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

Furthermore, such a permit holder that includes false or inaccurate information in a report referred to in the first paragraph is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

“74.6 Every holder of a day care centre, nursery school or stop over centre permit, person responsible for home day care or school board providing day care that fails to keep the registration and

attendance card referred to in the first paragraph of section 22 or enters false or misleading information on the card is liable to a fine of \$250 to \$1,000.

“74.7 Every holder of a day care centre permit or school board providing school day care that contravenes any provision of the second paragraph of section 38, or holder of an agency permit who, after having received the notice provided for in section 39, fails to notify the bureau in the manner and within the time limit prescribed in that section, is liable to a fine of \$250 to \$1,000.

Furthermore, every holder of a day care permit or school board that, in the notice provided for in section 38, declares an inaccurate amount, or holder of an agency permit that, in the notice provided for in section 39, knowingly declares an inaccurate amount is liable to a fine of \$500 to \$5,000 and, in the case of a second or subsequent conviction, to a fine of \$1,000 to \$10,000.

“74.8 Every person that contravenes any provision of section 35 or the first paragraph of section 41.1.1 is liable to a fine of \$250 to \$1,000 and, in the case of a second or subsequent conviction, to a fine of \$500 to \$2,000.

Furthermore, every holder of a day care centre permit or person responsible for home day care that contravenes a provision of the second paragraph of section 41.1.1 is liable to a fine of \$250 to \$1,000 and, in the case of a second or subsequent conviction, to a fine of \$500 to \$2,000.

“74.9 Every person that contravenes any regulatory provision determined under subparagraph 24 of the first paragraph of section 73 is liable to a fine of \$250 to \$1,000 and, in the case of a second or subsequent conviction, to a fine of \$500 to \$2,000.

“74.10 Where a legal person contravenes any of sections 74 to 74.9, every director or other officer, employee or representative of the legal person who authorized or permitted the commission of the offence, or who consented thereto, is liable to the fines provided for in the said sections.”

55. Section 76 of the said Act is amended by replacing “section 4, 5 or 6” in the second line by “sections 3 and 4”.

56. Section 95 of the said Act is repealed.

57. Section 97 of the said Act is repealed.

58. Section 98 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

“98. The council of a local municipality may by regulation, notwithstanding any zoning by-laws and subject to the conditions imposed by the council, authorize the granting of permits for the use of land or the construction, alteration or occupation of buildings for the purposes of day care centres within the meaning of this Act.”;

(2) by replacing the words “day care in a day care centre provided” in the first line of subparagraph 2 of the second paragraph by the words “a day care centre operated”.

59. Section 99 of the said Act is amended by replacing the words “the Legislature” in the last line by the word “Parliament”.

CITIES AND TOWNS ACT

60. Section 29 of the Cities and Towns Act (R.S.Q., chapter C-19), amended by section 23 of chapter 23 of the statutes of 1994 and by section 4 of chapter 34 of the statutes of 1995, is again amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) of a person providing or offering to provide day care in a day care centre, nursery school or stop over centre within the meaning of the Act respecting child day care (chapter S-4.1), for the purpose of installing the day care centre, nursery school or stop over centre therein.”

61. Section 412 of the said Act is amended by replacing the words “day care centres, nursery schools or stop-over centres” in the first and second lines of the first paragraph of paragraph 46 by the words “day care centres, nursery schools or stop over centres”.

MUNICIPAL CODE OF QUÉBEC

62. Article 7 of the Municipal Code of Québec (R.S.Q., chapter C-27.1), amended by section 23 of chapter 23 of the statutes of 1994 and by section 25 of chapter 34 of the statutes of 1995, is again amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) of a person providing or offering to provide day care in a day care centre, nursery school or stop over centre within the meaning of the Act respecting child day care (chapter S-4.1), for the purpose of installing the day care centre, nursery school or stop over centre therein.”

63. Article 552 of the said Code is amended by replacing the words “day care centres, nursery schools or stop-over centres” in the second and third lines of the first paragraph by the words “day care centres, nursery schools or stop over centres”.

ACT RESPECTING MUNICIPAL TAXATION

64. Section 204 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 75 of chapter 2 of the statutes of 1994, by section 23 of chapter 23 of the statutes of 1994, by section 1 of chapter 7 of the statutes of 1995, by section 122 of chapter 65 of the statutes of 1995 and by section 2 of chapter 73 of the statutes of 1995, is again amended by replacing the words “permit, a nursery school permit or a stop-over centre permit issued under the Act respecting child day care (chapter S-4.1) and in which day care under the permits” in the second, third and fourth lines of subparagraph *c* of paragraph 14 by the words “, nursery school or stop over centre permit issued under the Act respecting child day care (chapter S-4.1) and in which day care under the permit”.

65. Section 236 of the said Act, amended by section 76 of chapter 2 of the statutes of 1994, by section 23 of chapter 23 of the statutes of 1994, by section 3 of chapter 7 of the statutes of 1995, by section 123 of chapter 65 of the statutes of 1995 and by section 6 of chapter 73 of the statutes of 1995, is again amended by replacing the words “day care centre permit, nursery school permit, stop-over centre permit or home day care agency” in subparagraph *g* of paragraph 1 by the words “day care centre, nursery school, stop over centre or home day care agency”.

EDUCATION ACT

66. Section 256 of the Education Act (R.S.Q., chapter I-13.3) is amended

(1) by striking out the words “and receive, for such purposes, any grant that may be made to it under the said Act” in the third and fourth lines of the first paragraph;

(2) by replacing, in the French text, the words “Elle peut aussi organiser des services de garde en” in the first line of the second paragraph by the words “Elle peut aussi tenir une”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

67. Section 114 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is amended by replacing the words “day-care agency” in the first line of paragraph 1 by the words “day care agency or operate a day care centre, nursery school or stop over centre”.

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES FOR CREE NATIVE PERSONS

68. Section 135.1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., chapter S-5), amended by section 20 of chapter 23 of the statutes of 1994, is again amended by replacing the word “agency,” in the first line of paragraph *a* by the words “agency or operate a day care centre, nursery school or stop over centre”.

CHARTER OF THE CITY OF QUÉBEC

69. Section 4 of the Charter of the city of Québec (1929, chapter 95), amended by section 1 of chapter 85 of the statutes of 1966-67, by Order in Council 3653-78 adopted on 30 November 1978 under section 2 of the Cities and Towns Act (R.S.Q., chapter C-19), by section 194 of chapter 38 and section 1 of chapter 61 of the statutes of 1984, by section 134 of chapter 27 of the statutes of 1985 and by section 2 of chapter 116 of the statutes of 1986, is again amended

(1) by replacing the words “offering or proposing to offer day care in a day care centre, a stop-over centre or a nursery school” in subparagraph 4.1 of the second paragraph by the words “providing or offering to provide day care in a day care centre, nursery school or stop over centre”;

(2) by replacing the words “purposes of the installation of such services” in subparagraph 4.1 of the second paragraph by the words “purpose of installing the day care centre, nursery school or stop over centre therein”.

CHARTER OF THE CITY OF MONTRÉAL

70. Article 9 of the Charter of the city of Montréal (1959-60, chapter 102), amended by section 3 of chapter 71 of the statutes of

1964, by section 210 of chapter 38 of the statutes of 1984, by section 143 of chapter 27 of the statutes of 1985 and by section 1 of chapter 74 of the statutes of 1995, is again amended by replacing the words "offering or proposing to offer day care in a day care centre, a stop-over centre or a nursery school, within the meaning of the Act respecting child day care (R.S.Q., chapter S-4.1), for the purposes of the installation of such services" in paragraph c.2 by the words "providing or offering to provide day care in a day care centre, stop over centre or nursery school within the meaning of the Act respecting child day care (R.S.Q., chapter S-4.1), for the purpose of installing the day care centre, nursery school or stop over centre therein".

TRANSITIONAL AND FINAL PROVISIONS

71. Every cooperative holding a day care centre permit on *(insert here the date immediately preceding the date of coming into force of this Act)* that is required, pursuant to section 10 of the Act respecting child day care as amended by section 7 of this Act, to form a parents committee, must do so not later than 15 October 1996.

72. Notwithstanding paragraph 1 of section 7 of the Act respecting child day care as amended by section 5 of this Act, any cooperative that, on *(insert here the date immediately preceding the date of coming into force of this Act)* is the holder of a home day care agency permit may obtain the renewal of its permit subject to the other provisions of that Act or the regulations.

The cooperative must, not later than 15 October 1996, form a parents committee in the manner set out in the first paragraph of section 10.0.1 of the Act respecting child day care, as enacted by section 7 of this Act, and to comply with the other provisions of that Act and the regulations concerning parents committees.

73. Any non-profit legal person holding a home day care agency permit that, on *(insert here the date of coming into force of this Act)* has formed a parents committee which does not satisfy the requirements of the first paragraph of section 10.0.1 of the Act respecting child day care, as enacted by section 7 of this Act, must comply with that section not later than 15 October 1996.

74. Any non-profit legal person holding a home day care agency permit that, on *(insert here the date of coming into force of this Act)*, has a board of directors which does not satisfy the requirements of

the last paragraph of section 7 of the Act respecting child day care, as amended by section 5 of this Act, has until the date of expiry of its permit to comply with that section.

75. Notwithstanding the first paragraphs of sections 40 and 41.6 of the Act respecting child day care, as amended by sections 35 and 37 of this Act, an applicant for a day care centre or home day care agency permit recognized as eligible for exemption, financial assistance or grants under a development plan of the bureau or following the fixing of places and their allotment as approved by the Government for fiscal years 1989 to 1994 and those persons to whom the bureau offered equity measures after 14 May 1992 shall remain eligible for exemption, financial assistance or grants, subject to the other provisions of the Act respecting child day care and the regulations.

76. Any cooperative holding a day care centre permit of which the majority of the members of the board of directors are not parents who are users of the day care services and which, on *(insert here the date immediately preceding the date of coming into force of this Act)*, was eligible for grants shall remain eligible for grants subject to the other provisions of the Act respecting child day care and the regulations.

77. Any natural person, partnership or profit-seeking legal person holding a day care centre permit and referred to in paragraph 2 of section 41.6 of the Act respecting child day care that applies for a grant under that section, as enacted by section 37 of this Act, must, where so required by regulation, include in the application proof of the approval of the parents committee as regards the purposes for which the grant is applied for and supply proof of that approval as determined by regulation.

78. Any natural person who, on *(insert here the date of coming into force of this Act)*, provides day care for remuneration in a private residence to at least seven but not more than nine children, including the person's children under nine years of age, has until *(insert here the date occurring one year after the date of coming into force of this Act)* to comply with the second paragraph of section 8 of the Act respecting child day care, as amended by section 6 of this Act.

79. Notwithstanding section 13.2 of the Act respecting child day care as enacted by section 14 of this Act, every permit holder having received one or more grants totalling \$25,000 or more must

produce, for the fiscal period ending on 31 March 1996 only, an audited financial report.

80. Every person who operates a nursery school on 31 December 1997 must obtain in the ensuing year the permit required under the Act respecting child day care.

Every person who, on 31 December 1998, operates a stop over centre for which a permit is required under the Act respecting child day care must obtain in the ensuing year the required permit.

81. Every person holding a day care centre permit on (*insert here the date of coming into force of this Act*) shall remain the holder of a day care permit.

82. This Act comes into force on (*insert here the date of assent to this Act*), except the provisions of section 5 which, to the extent that they relate to nursery schools, come into force on 31 December 1997 and, to the extent that they relate to stop over centres, come into force on 31 December 1998.