

1985, chapter 23

AN ACT TO AMEND VARIOUS LEGISLATION RESPECTING SOCIAL AFFAIRS

Bill 41

Introduced by Mr Guy Chevrete, Minister of Social Affairs

Introduced 9 May 1985

Passage in principle 17 June 1985

Passage 20 June 1985

Assented to 20 June 1985

Coming into force: 20 June 1985, except sections 1, 2 and 4, which will come into force by proclamation of the Government

Acts amended:

Health Insurance Act (R.S.Q., chapter A-29)

Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)

Act respecting the Ministère des Affaires sociales (R.S.Q., chapter M-23)

Youth Protection Act (R.S.Q., chapter P-34.1)

Public Health Protection Act (R.S.Q., chapter P-35)

Act respecting health services and social services (R.S.Q., chapter S-5)

Act repealed:

Public Exhibitions Act (R.S.Q., chapter E-21)



CHAPTER 23

An Act to amend various legislation respecting social affairs

[Assented to 20 June 1985]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

HEALTH INSURANCE ACT

c. A-29, s.
3, am.

1. Section 3 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing the word and figure “section 4” in the fifth line of each of the third and fourth paragraphs by the words and figures “sections 4, 4.1 and 4.2”.

c. A-29, s.
4, replaced,
ss. 4.1, 4.2,
added
List of
medications

2. Section 4 of the said Act is replaced by the following sections:

“4. The Minister shall prepare a list of the medications of which the Board assumes the cost under the third and fourth paragraphs of section 3.

Recognized
manufac-
turer

The Minister shall take into consideration for entry on the list only medications whose manufacturer he has recognized according to the conditions determined by regulation of the Minister. Where a medication is unique and essential, the Minister may enter it on the list although he has not recognized its manufacturer.

Content of
list

The list shall indicate in particular the generic name, brand name, manufacturer's name, the availability of supplies, the price or method of fixing the price of each medication and the maximum amount, where such is the case, of which the Board assumes payment in such cases, conditions or circumstances as the Minister may determine.

- Consultation** “**4.1** Such list shall be kept up to date periodically following consultation with the Conseil consultatif de pharmacologie established by section 39.
- Publication** The Board shall publish the list and each revision of it, which come into force on the date of publication, in the *Gazette officielle du Québec* or on any later date fixed therein, of a notice of the Minister indicating that the list has been drawn up or revised and that the list or the revision has been published by the Board.
- Price** “**4.2** The price of a medication the payment of which is assumed by the Board is the price of the manufacturer or wholesaler recognized by the Minister according to the conditions determined by regulation of the Minister and established in accordance with the method shown on the list, or the price indicated on the list for each medication.
- Maximum price** In no case may the price exceed the maximum amount indicated on the list, where that is the case.”
- c. A-29, s. 69, am. **3.** Section 69 of the said Act is amended by adding, at the end of paragraph *g*, the words: “and fix the age of beneficiaries who may receive insured services required by orthotics;”.
- c. A. 29, s. 69.1, added **4.** The said Act is amended by adding, after section 69, the following section:
- Regulations** “**69.1** After consulting the Conseil consultatif de pharmacologie, the Minister may make regulations
- (a) to determine the conditions on which a manufacturer of medications shall be recognized;
- (b) to determine the conditions on which a wholesaler who distributes medications shall be recognized.”
- c. A-29, s. 88, am. **5.** Section 88 of the said Act is amended by replacing the second paragraph by the following paragraph:
- Permit** “The scholars shall furnish such services, after obtaining a permit to practise one of the health sciences or a specialist’s certificate, or after two years of post-doctoral training in general practice, in a territory and for a period fixed by the Minister.”
- c. A-29, s. 91, am. **6.** Section 91 of the said Act is amended by replacing the first paragraph by the following paragraphs:

Reimburse-
ment

“91. A scholar who abandons the studies agreed to or who otherwise fails to keep his engagement must reimburse to the Board, within six months of the date of the abandonment or failure, all sums of money received by him as a scholarship, with interest from the date they were paid to him.

Reimburse-
ment

A scholar who fails to keep his engagement by ceasing to provide services before the expiry of the period fixed by the Minister shall reimburse to the Board all sums of money received as a scholarship pro rata to the period remaining to him to cover.

Reimburse-
ment

A scholar who fails to go to the territory determined by the Minister to provide services there shall, before the next 31 December after the date of receipt of the Minister's letter determining his territory, reimburse to the Board all sums of money received by him as a scholarship.”

ACT RESPECTING THE COMMISSION
DES AFFAIRES SOCIALES

c. C-34, s.
21, am.

7. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is amended by inserting, after paragraph *j*, the following paragraph:

“(j.1) the appeals respecting indemnities for victims of immunization brought under section 16.7 of the Public Health Protection Act (R.S.Q., chapter P-35);”.

c. C-34, s.
28, am.

8. Section 28 of the said Act is amended by inserting “*j, j.1,*” after “*h.1*” in the third line of the first paragraph.

c. C-34, s.
29, am.

9. The third paragraph of section 29 of the said Act is replaced by the following paragraph:

Quorum

“In the case of an appeal contemplated in paragraph *g, j.1, l* or *aa* of section 21 or of a motion contemplated in paragraph *z* of the said section, three members, including one assessor who is a physician, constitute a quorum.”

PUBLIC EXHIBITIONS ACT

c. E-21,
repealed

10. The Public Exhibitions Act (R.S.Q., chapter E-21) is repealed.

ACT RESPECTING THE MINISTÈRE
DES AFFAIRES SOCIALES

c. M-23, title, replaced **11.** The title of the Act respecting the Ministère des Affaires sociales (R.S.Q., chapter M-23) is replaced by the following:

“Act respecting the ministère
de la santé et des services sociaux”.

c. M-23, s. 1, am. **12.** Section 1 of the said Act is amended by replacing the words “social affairs” in the second line of the second paragraph, by the words “health and social services”.

c. M-23, s. 2, am. **13.** Section 2 of the said Act is amended by replacing the first paragraph by the following paragraph:

Functions **“2.** The functions of the Minister shall be to prepare and propose to the Government policies respecting health and social services.”

c. M-23, s. 3, am. **14.** Section 3 of the said Act is amended

(1) by replacing paragraph *d* by the following paragraph:

“(d) promote study and scientific research in the field of health and social services;”;

(2) by replacing paragraph *f* by the following paragraph:

“(f) promote the participation of individuals and groups in devising means to meet their needs in the field of health and social services;”;

(3) by replacing paragraph *i* by the following paragraph:

“(i) establish standards for services, equipment, finance and personnel in the use of government grants in the field of health and social services, and supervise the use of such grants;”;

(4) by replacing paragraph *j* by the following paragraph:

“(j) secure the setting up and maintenance of establishments in the field of health and social services, either by himself or by another;”.

YOUTH PROTECTION ACT

c. P-34.1, s. 33.1, am. **15.** Section 33.1 of the Youth Protection Act (R.S.Q., chapter P-34.1) is amended by striking out the words “and take over responsibility for the situation of a child” in the second line.

c. P-34.1, s. 53.1, am. **16.** Section 53.1 of the said Act is amended by replacing the first paragraph by the following paragraph:

Referral to the Court **“53.1** The director shall refer the matter to the Court where the child, if he is 14 years of age or older, withdraws or his parents withdraw from the agreement and where the security or development of the child remains endangered.”

c. P-34.1, s. 57.2, am. **17.** Section 57.2 of the said Act is amended by adding, at the end of paragraph *b*, the words “or his parents;”.

PUBLIC HEALTH PROTECTION ACT

c. P-35, ss. 16.1-16.9, added **18.** The Public Health Protection Act (R.S.Q., chapter P-35) is amended by inserting, after section 16, the following division:

“DIVISION III.1

“INDEMNITIES FOR VICTIMS OF IMMUNIZATION

Definitions **“16.1** In this division, unless the context indicates otherwise,

“victim” (a) “victim” means an immunized person, a person who contracts a disease from an immunized person, the foetus of one of those persons or, in case of death, a person who is entitled to a death benefit;

“personal damage” (b) “personal damage” means any serious permanent damage, whether physical or mental, including death.

Indemnity **“16.2** The Minister shall indemnify, without considering the liability of any person, every victim of personal damage resulting from a voluntary immunization against a disease determined by regulation or from a compulsory immunization determined under section 8.

Rules applicable **“16.3** The rules prescribed in the Automobile Insurance Act (R.S.Q., chapter A-25) and in the regulations thereunder, adapted as required, apply to the computation of the indemnity provided for in section 16.2.

Right to indemnity **“16.4** The right to an indemnity, pursuant to this division, is prescribed by three years from the date of immunization and, in the case of a death benefit, from the date of death.

Time limit Where the personal damage becomes apparent gradually, the time limit runs from the day the damage first became apparent.

Proceedings **“16.5** The victim may institute civil proceedings against any person responsible for the personal damage.

Subrogation “**16.6** The Minister is subrogated of right to the rights and actions of the victim against the person responsible for the personal damage up to the amount of the indemnity paid by him or of the capital representing the pension he is called upon to pay.

Appeal “**16.7** Every claimant who believes he is wronged by a decision of the Minister pursuant to sections 16.2 and 16.3 may bring an appeal from the decision before the Commission des affaires sociales which shall dispose of the appeal according to its rules of evidence, procedure and practice.

Suspension “**16.8** Appeal does not suspend the payment of an indemnity paid as a pension.

Consolidat-
ed revenue
fund “**16.9** The amounts necessary to the application of this Act shall be taken out of the consolidated revenue fund.”

c. P-35, s.
34, am. **19.** Section 34 of the said Act, amended by section 117 of chapter 47 of the statutes of 1984, is again amended by adding, at the end of the first paragraph, the words “or section 69, as the case may be.”

c. P-35, s.
59, am. **20.** Section 59 of the said Act is amended by replacing the word “university” in the third line of the first paragraph by the words “physician in charge”.

c. P-35, s.
69, am. **21.** Section 69 of the said Act is amended

(1) by replacing paragraph *g* by the following paragraph:

“(g) establish, after consultation with the Bureau of the Ordre des médecins du Québec, what diseases must be declared within the meaning of section 4, what diseases entail compulsory immunization within the meaning of section 8, what diseases entail compulsory treatment within the meaning of section 10 and the diseases contemplated in section 16.2;”;

(2) by inserting, after paragraph *g*, the following paragraph:

“(g.1) determine the conditions a person claiming an indemnity provided for in Division III.1 shall observe;”.

ACT RESPECTING HEALTH SERVICES AND
SOCIAL SERVICES

c. S-5, s.
152, am. **22.** Section 152 of the Act respecting health services and social services (R.S.Q., chapter S-5) is amended by replacing the first paragraph by the following paragraphs:

Receipt of
moneys

“152. No reception centre may receive moneys out of the consolidated revenue fund or paid by a social service centre for services supplied to children or young persons who have not been entrusted to it through a social service centre or in accordance with the Youth Protection Act (R.S.Q., chapter P-34.1) or the Young Offenders Act (Statutes of Canada, 1982, chapter 110).

Contribu-
tion

Where a young person is placed in accordance with the Young Offenders Act, the contribution for a minor recipient established pursuant to section 159 of this Act applies, and every person from whom the contribution is required is bound to pay it unless he is exempted from paying the contribution in accordance with the provisions of sections 160 and 162.”

c. S-5, s.
157,
repealed

23. Section 157 of the said Act is repealed.

TRANSITIONAL AND FINAL PROVISIONS

Substitution
of
expressions

24. In any Act, in any statutory instrument, and in contracts and other documents, the expressions “Minister of Social Affairs”, “Deputy Minister of Social Affairs” and “Ministère des Affaires sociales” shall be replaced by the expressions “Minister of Health and Social Services”, “Deputy Minister of Health and Social Services” and “Ministère de la Santé et des Services sociaux”, respectively.

Use of
documents

25. The Ministère de la Santé et des Services sociaux is authorized to use all documents or means of identification already prepared with the name of the Ministère des Affaires sociales until it replaces them by documents or means of identification prepared with its new name.

Applica-
bility

26. Section 13 of this Act applies to Nathalie Lapierre, Jacques Boisjoly and Olivier Godin whose cause of action for immunization arose before 20 June 1985.

Indemnity

Notwithstanding the first paragraph, the indemnity shall be computed from 20 June 1985.

Effect

27. The first regulation contemplated in section 16.2 of the Public Health Protection Act enacted by section 18 of this Act may have effect from a date not earlier than the date of coming into force of section 18.

Exception

28. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Effect **29.** Section 3 has effect from 1 March 1985 and section 22 from 2 April 1984.

Coming into
force **30.** This Act comes into force on 20 June 1985, except sections 1, 2 and 4, which will come into force on any later date fixed by proclamation of the Government.