



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-THIRD LEGISLATURE

Bill 46

**An Act to improve the protection
of children receiving educational
childcare services**

Introduction

**Introduced by
Madam Suzanne Roy
Minister of Families**

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EXPLANATORY NOTES

This bill amends mainly the Educational Childcare Act to improve the protection of children receiving childcare services covered by that Act.

To that end, the bill revises the process for investigations establishing that no impediment exists applicable in the field of educational childcare services. In addition to specifying the persons who must be investigated and those who may apply for an investigation, the bill specifies the role of the various stakeholders in the process, in particular the role of police forces, the information they are called on to collect or assess and the documents they may issue.

The bill establishes new potential impediments, such as the impediment for permit applicants or permit holders, or for one of their directors or shareholders or their chief officer having exhibited behaviour that could reasonably cause one to fear that the person does not have the required integrity to manage subsidies paid out of public funds, in the case where the childcare services are subsidized.

Furthermore, the bill prescribes specific standards applicable to investigations establishing that no impediment exists in respect of persons who have been residing in Canada for less than one year or who have resided outside Canada for one year or more, mainly with regard to the information that they must provide. It establishes a Comité d'examen des empêchements, whose responsibility is, in certain cases, to provide opinions as to whether an impediment exists and to communicate them to the third person responsible for assessing the content of an attestation of a potential impediment. The bill prescribes the period of validity of attestations establishing that no impediment exists and determines the situations in which a new investigation is required or conditions on which a person may be exempted from a new investigation.

Furthermore, the bill requires every permit holder to immediately suspend a staff member in certain situations where the health, safety or well-being of the children could be seriously compromised. It also requires the person who has been suspended to declare that fact, in certain cases.

The bill allows the Minister to refuse to issue a childcare centre permit or a day care centre permit, to suspend or revoke the permit or to refuse to renew it if the permit applicant or permit holder, or a director or shareholder of the applicant or holder, is likely lending their name to a person whose application for a permit would be refused. It also allows the Minister to suspend, revoke or refuse to renew a permit if the permit holder fails to inform the Minister that they, or a director or shareholder of the permit holder, are charged with or have been found guilty of a new criminal offence, makes a false declaration with a view to being granted a subsidy or acts in such a way as to falsely suggest that the childcare services they provide are subsidized. It also provides for the revocation by operation of law of a permit if a permit holder provides childcare services while their permit is suspended.

The bill also allows the evacuation of children receiving educational childcare services from all or part of a permit holder's facility if the health, safety or well-being of the children could be seriously compromised, and specifies that the order of evacuation suspends the permit by operation of law if the order relates to the whole facility. The bill also introduces measures that protect persons having filed a complaint with the Minister or having cooperated in an inspection or an investigation against reprisals.

The bill allows children of school age to be present in an educational childcare provider's centre in certain circumstances, more particularly in certain situations where educational childcare services are provided according to an atypical schedule, if a home educational childcare provider receives their grandchildren or their assistant's grandchildren or if an agreement is entered into as regards certain children of an Indigenous community who are not offered childcare at school.

The bill contains various measures mainly to allow the Government to make a regulation governing mandatory training activities for home educational childcare providers and to authorize certain additional situations in which occasional childcare may be provided by non-profit organizations as well as to allow the Minister to establish various standard agreement models for childcare services, in particular in situations where the services are provided on a sporadic or irregular basis.

Lastly, the bill introduces amendments to penal provisions and contains consequential and transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting labour standards (chapter N-1.1);
- Educational Childcare Act (chapter S-4.1.1);
- Act to amend the Educational Childcare Act to improve access to the educational childcare services network and complete its development (2022, chapter 9).

REGULATIONS AMENDED BY THIS BILL:

- Regulation respecting the application of the Consumer Protection Act (chapter P-40.1, r. 3);
- Educational Childcare Regulation (chapter S-4.1.1, r. 2).

Bill 46

AN ACT TO IMPROVE THE PROTECTION OF CHILDREN RECEIVING EDUCATIONAL CHILDCARE SERVICES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

EDUCATIONAL CHILDCARE ACT

1. Section 2.2 of the Educational Childcare Act (chapter S-4.1.1) is amended by inserting “, except in a situation referred to in section 53.1 or 101.2.1” at the end.

2. Section 6 of the Act is amended by replacing subparagraphs 3 and 4 of the second paragraph by the following subparagraphs:

“(3) non-profit community organizations that offer support and assistance to families in the pursuit of their mission and that, incidentally to that mission, provide occasional childcare in situations other than those referred to in subparagraph 4;

“(4) non-profit legal persons that provide, in an educational institution or, within the scope of an agreement entered into with the institution, near such an institution, occasional childcare exclusively to children of students attending that institution while the latter are pursuing their studies and where the latter can make themselves available if needed; or”.

3. Section 8 of the Act is amended by inserting “and, if applicable, in section 101.2.1” at the end of paragraph 1.2.

4. Section 11 of the Act is amended by inserting “and, if applicable, in section 101.2.1” at the end of subparagraph 1.1.1 of the first paragraph.

5. Section 16.2 of the Act is amended, in the first paragraph,

(1) by replacing “may authorize, for a specified period,” by “may, for a specified period, authorize”;

(2) by replacing “ou à le” in the French text by “ou le”.

6. Section 26 of the Act is amended

(1) by replacing paragraphs 2 and 3 by the following paragraph:

“(2) the applicant or a director or a shareholder of the applicant does not hold an attestation establishing that no impediment exists issued under Division I of Chapter VI.1;”;

(2) by replacing “convicted” in paragraph 4 by “found guilty”;

(3) by striking out “under paragraph 4 or 5 of section 28” in paragraph 5;

(4) by replacing “convicted” in paragraph 5.1 by “found guilty”;

(5) by adding the following paragraph at the end:

“(7) the Minister considers that a reasonable person would conclude that the applicant or a director or a shareholder of the applicant is lending their name to a person whose application for a permit would be refused.”

7. Section 27 of the Act is repealed.

8. Section 28 of the Act is amended

(1) by replacing paragraphs 3 and 4 by the following paragraphs:

“(3) the permit holder fails to establish, with respect to themselves or to a director or a shareholder of the permit holder, that no impediment exists under Division I of Chapter VI.1;

“(3.1) the permit holder fails or neglects to inform the Minister that, since the last time the permit holder was issued an attestation establishing that no impediment exists, the permit holder has been charged with or found guilty of a criminal offence related to the elements referred to in the second paragraph of section 81.2.4 or that a director or shareholder of the permit holder has notified the latter that they have been so charged or found guilty;

“(4) the permit holder makes a false declaration or distorts a material fact in the application for the issue or renewal of a permit, in a document required by the Minister, when communicating information to the Minister or with a view to being granted a subsidy by the Minister.

“(4.1) the permit holder acts in such a way as to falsely suggest that the childcare services the permit holder provides are subsidized;”;

(2) by inserting “or 74 or with an evacuation order made under section 81.0.3” at the end of paragraph 7;

(3) by adding the following at the end:

“(9) the permit holder fails to establish that they, or a director or a shareholder of the permit holder are not lending their name to a person whose application for a permit would be refused; or

“(10) the permit holder fails to show that a person who is a candidate for the office of chief officer of a childcare centre or day care centre or who holds that office has the required integrity to manage subsidies paid out of public funds, where the educational childcare services provided are subsidized.

The Minister may attach conditions to the suspension of a permit as well as time limits to be complied with to have the suspension lifted.

In the case of a childcare centre permit, the suspension, revocation or refusal to renew the permit may concern one or more facilities indicated on the permit.”

9. The Act is amended by inserting the following section after section 28.1:

“**28.2.** A permit is revoked by operation of law if the permit holder provides childcare services while their permit is suspended.”

10. Section 29 of the Act is replaced by the following section:

“**29.** Before refusing to issue or renew a permit or suspending or revoking a permit, the Minister must notify the prior notice prescribed by section 5 of the Act respecting administrative justice (chapter J-3) to the permit applicant or permit holder and give the applicant or holder at least 15 days to submit observations and to produce documents in support of them. The Minister’s decision, with reasons, is communicated to the applicant or holder in writing.

The Minister may, however, if the decision is made in urgent circumstances or to prevent serious or irreparable injury or damage to persons, suspend a permit without having to comply with the prior obligations set out in the first paragraph. In such situations, the Minister grants the permit holder 15 days from the suspension to submit observations in advance of a review of the decision.”

11. Section 53.1 of the Act, amended by section 32 of chapter 9 of the statutes of 2022, is replaced by the following section:

“**53.1.** If they are present while childcare is being provided, children under nine years of age who are the home educational childcare provider’s own children, the children of the provider’s assistant, if applicable, as well as the children under nine years of age who ordinarily live with the provider or with the assistant are included, for the purpose of the calculation of the number of children to whom they may provide childcare under sections 52 and 53. The same applies with respect to their grandchildren.

However, the children and grandchildren of the persons referred to in the first paragraph are not included for the purpose of that calculation if the children are present in the following circumstances:

(1) the child is present only outside school hours, on days on which the child receives preschool education services or elementary school instructional services provided for by the Education Act (chapter I-13.3); or

(2) the child participates, in a place other than in the residence, in an activity beginning in the morning and continuing in the afternoon and is present only outside the hours of that activity.

For the purposes of this section, “grandchild” means the home educational childcare provider’s own grandchild or their assistant’s grandchild, the grandchild of a person ordinarily living with the provider or with the assistant as well as the child of a person who ordinarily lives with their child in a place other than the residence where the childcare services are provided.”

12. The Act is amended by inserting the following section before section 81.1:

“81.0.3. If an inspector or an investigator has reasonable grounds to believe that the health, safety or well-being of children receiving childcare from a permit holder in a facility may have been, is or could be seriously compromised, in particular if the inspector or investigator considers that the state of a facility or part of a facility constitutes an imminent danger for the children, the inspector or the investigator may, in addition to any other measure that may be taken by the inspector or the investigator or by the Minister and after having notified the parents, order the evacuation of the children from all or part of the facility.

If the evacuation is ordered for the whole facility, the permit holder’s permit is suspended by operation of law for that facility.”

13. The Act is amended by inserting the following chapter after section 81.2:

“CHAPTER VI.1

“PREVENTION MEASURES FOR THE SAFETY OF CHILDREN

“DIVISION I

**“INVESTIGATION ESTABLISHING THAT NO
IMPEDIMENT EXISTS**

“§1.—*Investigation*

“81.2.1. The following persons must be the subject of an investigation establishing that no impediment exists:

- (1) a permit applicant or a permit holder, in the case of a natural person;
- (2) a director or a shareholder of a permit applicant or of a permit holder;
- (3) a person of full age who works in a permit holder’s facility while childcare is being provided;
- (4) a trainee or a volunteer who is of full age and who is regularly present in a permit holder’s facility while childcare is being provided;

- (5) a person who regularly transports children on behalf of a permit holder;
- (6) a person applying for recognition or who is recognized as a home educational childcare provider;
- (7) a person of full age living in the private residence where childcare is, or is expected to be, provided by a person referred to in paragraph 6;
- (8) a trainee or a volunteer who is of full age and who is regularly present in a residence where childcare is provided by a home educational childcare provider as well as the latter's assistant or occasional replacement; and
- (9) a staff member of a home educational childcare coordinating office whose function is to manage the office, to recognize or to monitor home educational childcare providers, or to provide technical and educational support to the home educational childcare providers recognized by that coordinating office.

“81.2.2. The investigation establishing that no impediment exists must be conducted by a Québec police force, which may require payment of the fees determined by regulation to conduct the investigation.

The purpose of the investigation is to determine whether information exists that would make it possible to establish the existence of an impediment.

An application for an investigation is made, as applicable,

- (1) by a person referred to in paragraph 1 or 6 of section 81.2.1, for an investigation establishing that no impediment exists regarding that person personally;
- (2) by a permit applicant or a permit holder, for an investigation establishing that no impediment exists regarding any person referred to in paragraphs 2 to 5 of section 81.2.1, unless that person is part of the staff provided by a legal person providing replacement childcare staff;
- (3) by a person who applies for recognition or is recognized as a home educational childcare provider, for an investigation establishing that no impediment exists regarding any person referred to in paragraphs 7 and 8 of section 81.2.1;
- (4) by a home educational childcare coordinating office, for an investigation establishing that no impediment exists regarding any person referred to in paragraph 9 of section 81.2.1; or
- (5) by a legal person providing replacement childcare staff members, for an investigation establishing that no impediment exists regarding the staff it provides to a permit holder.

The application made to the police force must be accompanied by the written consent of the person being investigated to having all the information specified in the second paragraph of section 81.2.4 investigated and to having the results of the investigation communicated in accordance with section 81.2.5.

An educational childcare provider, a coordinating office or a permit applicant may not cause a staff member or an aspiring staff member to pay the fees for the investigation, whether directly or indirectly.

“81.2.3. In this Act, unless the context indicates otherwise, the following constitute an impediment:

(1) the fact that the person exhibits or has exhibited behaviour that could reasonably pose a threat for the physical or emotional safety of the children to whom the person proposes to provide childcare or, as applicable, among whom the person wants to carry out a role, a function or work;

(2) the fact that the person is charged with or has been found guilty of a criminal offence related to the abilities and conduct required to operate a childcare centre or a day care centre or to provide home educational childcare services or, as applicable, to carry out a role, a function or work among children to whom childcare is provided;

(3) the fact that the person is the subject of a court order that subsists against the person and that is related to the abilities and conduct required to operate a childcare centre, a day care centre or, as applicable, to carry out a role, a function or work among children to whom childcare is provided; and

(4) for a permit applicant or a permit holder whose childcare services are subsidized, for a director or shareholder of such an applicant or holder, or for a person who is a candidate for or who holds the office of chief officer of a childcare centre or day care centre whose childcare services are subsidized, the fact that the person exhibits or has exhibited behaviour that could reasonably cause one to fear that the person does not have the required integrity to manage subsidies paid out of public funds.

“81.2.4. Every Québec police force is required to conduct the investigations establishing that no impediment exists that are applied for.

The verifications carried out by the police force must be concerned with any sexual misconduct, failure to provide necessities of life, criminal operation of a motor vehicle, violent behaviour, criminal negligence, fraud, theft, arson and drug- or narcotic-related offence. However, they are to exclude any criminal offence other than the offences listed in Schedule 2 to the Criminal Records Act (Revised Statutes of Canada, 1985, chapter C-47), for which the person has obtained a pardon.

“81.2.5. If the verifications carried out in the databases available to the police force do not reveal any information that could establish the existence of an impediment, the police force issues an attestation establishing that no impediment exists to the person being investigated and sends a copy to the person who applied for the investigation.

If the verifications reveal such information, the police force issues an attestation of a potential impediment to the person being investigated. The attestation must state the information that is needed to assess whether or not an impediment exists.

“81.2.6. A person referred to in paragraphs 1 to 6, 8 or 9 of section 81.2.1 to whom a police force issues an attestation of a potential impediment must decide whether they wish to continue the investigation process. If so, the person must send the attestation of a potential impediment to the third person designated by section 81.2.8.

“81.2.7. A person referred to in paragraph 7 of section 81.2.1 to whom a police force issues an attestation of a potential impediment must decide whether they consent to the police force communicating it to the person who resides with them and who has applied for recognition or who is recognized as a home educational childcare provider.

If such is the case, the latter must then decide whether they wish to continue the investigation process. If so, with the consent of the person concerned by the attestation of a potential impediment, the person who resides with the latter and who has applied for recognition or who is recognized as a home educational childcare provider must send the attestation to the third person designated by section 81.2.8.

“81.2.8. The content of an attestation of a potential impediment must be assessed by one of the following third persons:

(1) the Minister, after having obtained the opinion of the Comité d’examen des empêchements established by section 81.2.26, for an attestation concerning a person referred to in paragraph 1 or 2 of section 81.2.1 and for an attestation issued following an application for an investigation establishing that no impediment exists made by a legal person providing replacement childcare staff;

(2) a permit applicant or a permit holder, for an attestation concerning a person referred to in paragraph 3, 4 or 5 of section 81.2.1, after having obtained the opinion of the Comité d’examen des empêchements if the attestation concerns a person who is a candidate for the office of chief officer of a childcare centre or day care centre or who holds that office; or

(3) a coordinating office, for an attestation concerning a person referred to in paragraphs 6 to 9 of section 81.2.1.

Despite subparagraphs 2 and 3 of the first paragraph, every attestation is to be assessed by the Minister, after having obtained the opinion of the Comité d'examen des empêchements, where the person concerned by the attestation of a potential impediment is a person related, within the meaning of subparagraph *a* of paragraph 2 of section 3, to any natural person otherwise called upon to assess the content of the attestation.

“81.2.9. The third person to whom an attestation of a potential impediment is sent must, after having obtained the opinion of the Comité d'examen des empêchements where section 81.2.8 so provides, assess its content and determine whether an impediment exists.

If the third person determines that an impediment exists, the third person issues a notice of impediment to the person concerned by the attestation.

Otherwise, the third person issues an attestation establishing that no impediment exists to the person concerned by the attestation.

If the attestation concerns a person who is a candidate for the office of chief officer of a childcare centre or day care centre or holds that office, the third person responsible for assessing the content of the attestation must inform the Minister in writing and without delay of their decision to issue an attestation in accordance with the third paragraph and must send the Minister the reasons for the decision as well as a copy of the committee's opinion.

Any notice of impediment or any attestation establishing that no impediment exists issued under this section is to be communicated in writing to the person concerned by the attestation. A copy is also communicated to the person who applied for the investigation or is kept by that person if they assessed the attestation themselves.

The issue of any notice or any attestation by a permit applicant, a permit holder or a coordinating office under this section must first be authorized by resolution of the board of directors.

“§2.—Responsibilities

“81.2.10. Where the permit holder is a natural person, they must at all times hold a valid attestation establishing that no impediment exists and ensure that the persons referred to in paragraphs 2 to 5 of section 81.2.1 also hold the same.

The same applies to a person who is recognized as a home educational childcare provider with regard to the persons referred to in paragraphs 7 and 8 of section 81.2.1 and to a coordinating office with regard to the persons referred to in paragraphs 6 and 9 of section 81.2.1.

“§3. — *Validity of attestations establishing that no impediment exists and new investigation*

“**81.2.11.** An attestation establishing that no impediment exists is valid for a period of three years after being issued, on the conditions set out in section 81.2.12.

A new application for an investigation, made at least three months before the expiry of an attestation establishing that no impediment exists, extends the period of validity of the latter as long as a new attestation has not been issued.

Sections 81.2.1 to 81.2.9 apply to a new application for an investigation, with the necessary modifications.

The issue of a notice of impediment puts an end to the validity of any attestation establishing that no impediment exists.

“**81.2.12.** Subject to section 81.2.16, an attestation establishing that no impediment exists is valid only so that the attestation holder may, as applicable,

(1) hold a permit or be recognized as a home educational childcare provider after having made an application under subparagraph 1 of the third paragraph of section 81.2.2;

(2) carry out a role, a function or work for the permit applicant, the educational childcare provider or the coordinating office having made the application for the investigation concerning the attestation holder under subparagraphs 2 to 4 of the third paragraph of section 81.2.2;

(3) be in the presence of the children received in the residence of the home educational childcare provider in which the attestation holder lives and having made the application for an investigation concerning the attestation holder under subparagraph 3 of the third paragraph of section 81.2.2; or

(4) act as staff member in any permit holder’s centre within the scope of a relationship between the latter and a legal person providing replacement childcare staff members having made an application for an investigation concerning the attestation holder under subparagraph 5 of the third paragraph of section 81.2.2.

“**81.2.13.** Despite section 81.2.10, when there is a change of director or shareholder, the permit applicant or the permit holder has 60 days from the day of the change to ensure that the new director or shareholder holds an attestation establishing that no impediment exists.

“81.2.14. The holder of an attestation establishing that no impediment exists who has been charged with or found guilty of a criminal offence related to the elements referred to in the second paragraph of section 81.2.4 must immediately notify the person who may apply for an investigation establishing that no impediment exists in respect of the attestation holder in accordance with section 81.2.2. If the holder of an attestation establishing that no impediment exists is a permit applicant or a permit holder, the person must immediately inform the Minister of that fact.

The applicant or holder must also immediately inform the Minister of any notice given to them under the first paragraph by a director or a shareholder of the applicant or holder, if applicable.

“81.2.15. The Minister may require that a new application for an investigation establishing that no impediment exists be made in accordance with sections 81.2.2 to 81.2.9 for any holder of an attestation establishing that no impediment exists where the Minister is informed of a change relating to the information that could establish the existence of an impediment regarding the attestation holder. Any person referred to in section 81.2.2 may do the same for the holder of an attestation establishing that no impediment exists in respect of whom the person may make an application for an investigation in accordance with that section.

Failure of the holder of an attestation establishing that no impediment exists to follow up on an application made under the first paragraph within the time indicated by the Minister or by the person who may make an application for an investigation in respect of the attestation holder puts an end to the validity of the attestation establishing that no impediment exists.

“§4.—Persons exempt from an investigation

“81.2.16. Despite section 81.2.12, an educational childcare provider may exempt a person referred to in paragraph 3, 4 or 8 of section 81.2.1 from being the subject of a new investigation establishing that no impediment exists on the following conditions:

(1) the person holds an attestation establishing that no impediment exists issued in the last three years; and

(2) the person provides a sworn statement indicating that, since the attestation was issued, the person has not been charged with or found guilty of a criminal offence related to the elements referred to in the second paragraph of section 81.2.4 or has not been suspended or dismissed by an educational childcare provider.

“81.2.17. A permit holder or a home educational childcare provider must ensure, when a minor works in the provider’s facility or in the residence where childcare is provided, that the minor is accompanied at all times by a person of full age who holds an attestation establishing that no impediment exists when in the presence of the children receiving childcare.

“§5.—*Persons who have been residing in Canada for less than one year*

“81.2.18. The investigation establishing that no impediment exists in respect of a person referred to in section 81.2.1 who has been residing in Canada for less than one year is governed by this subdivision.

“81.2.19. The investigation is applied for by the person who may make an application for an investigation in accordance with the third paragraph of section 81.2.2. It consists in the assessment, by that person, of the content of a statement provided by the person being investigated, to determine whether an impediment exists.

The statement referred to in the first paragraph

(1) contains the information concerning any behaviour the person exhibited in Canada or abroad, any criminal offence the person has been charged with or found guilty of in Canada or abroad and any court order that subsists against the person in Canada or abroad which would make it possible to establish the existence of an impediment; and

(2) addresses all the elements listed in the second paragraph of section 81.2.4.

“81.2.20. In the case where the statement contains no information that would make it possible to establish the existence of an impediment, the person who applied for the investigation issues an attestation establishing that no impediment exists to the person who was investigated and keeps a copy of it.

“81.2.21. In the case where the statement contains information that would make it possible to establish the existence of an impediment, sections 81.2.8 and 81.2.9 apply, with the necessary modifications and subject to the second paragraph.

With the consent of the person being investigated, a permit applicant, a permit holder or a coordinating office may, even where section 81.2.8 does not provide for it, ask the Comité d’examen des empêchements to examine the information contained in the statement and give them its opinion as to whether an impediment exists.

“81.2.22. An attestation establishing that no impediment exists issued under this subdivision is valid until the person concerned by the attestation has resided in Canada for one year.

An application for an investigation made in accordance with the process provided for in sections 81.2.2 to 81.2.9 during the month preceding the expiry of an attestation establishing that no impediment exists issued in accordance with this subdivision extends the period of validity of the attestation until a new attestation is issued. However, the issue of a notice of impediment puts an end to the validity of any attestation establishing that no impediment exists.

Section 81.2.12 applies, with the necessary modifications, to the validity of that attestation.

“81.2.23. The Minister may require that a new application for an investigation establishing that no impediment exists be made for a person who is the holder of an attestation establishing that no impediment exists issued in accordance with the process provided for in this subdivision, following that process or the process provided for in sections 81.2.2 to 81.2.9, if the Minister is informed of a change relating to the information that would make it possible to establish the existence of an impediment with respect to the attestation holder. Any person referred to in section 81.2.19 may do the same for the holder of an attestation establishing that no impediment exists in respect of whom the person may make an application for an investigation in accordance with that section.

Failure of the holder of an attestation establishing that no impediment exists to follow up on an application made under the first paragraph within the time indicated by the Minister or by the person who may make an application in respect of the attestation holder puts an end to the validity of the attestation establishing that no impediment exists.

“81.2.24. Sections 81.2.10, 81.2.12 to 81.2.14 and 81.2.17 apply in the situations and to the persons referred to in this subdivision, with the necessary modifications.

“§6. — Persons having resided outside Canada for one year or more

“81.2.25. Any person referred to in section 81.2.1 having resided outside Canada for a continuous period of one year or more since the date of their eighteenth birthday and who is not referred to in subdivision 5 must, in addition to complying with the provisions of subdivisions 1 to 4 that apply to the person, make a statement

(1) containing the information concerning any behaviour the person exhibited abroad, any criminal offence the person was charged with or found guilty of abroad and any court order subsisting against the person abroad that would make it possible to establish the existence of an impediment; and

(2) addressing all the elements listed in the second paragraph of section 81.2.4.

Before an attestation establishing that no impediment exists or a notice of impediment can be issued under section 81.2.8 to a person referred to in the first paragraph, the person's statement and the consent required for its communication must be sent to the person referred to in section 81.2.2 who applied for an investigation establishing that no impediment exists in respect of the person making the statement.

The statement must be taken into account by the third person responsible for assessing the content of an attestation of a potential impediment in accordance with section 81.2.8 and is added to the attestation for the purpose of establishing whether an impediment exists. The third person may ask the Comité d'examen des empêchements to examine the information contained in the statement and give them its opinion as to whether an impediment exists.

“§7.— *Comité d'examen des empêchements*

“**81.2.26.** The Comité d'examen des empêchements (“the committee”) is hereby established.

The function of the committee is to examine the information provided by a police force in an attestation of a potential impediment to be submitted to the committee under this division, and to give its opinion as to whether an impediment exists.

The committee gives reasons for the opinion in writing and communicates it to the third person responsible for assessing the content of an attestation of a potential impediment and to the person concerned by the attestation.

“**81.2.27.** The committee is composed of at least three members appointed by the Minister. From among the members, the Minister designates a lawyer who chairs the committee, presides at its meetings and sees to the committee's smooth operation, and another member who acts as vice-chair.

The members must have a marked interest in child protection and expertise or experience in that field or regarding investigations establishing that no impediment exists.

“**81.2.28.** The term of office of the committee members may not exceed two years.

When their term ends, members remain in office until replaced or reappointed.

“**81.2.29.** The secretariat of the committee is the responsibility of the Ministère de la Famille, des Aînés et de la Condition féminine.

“**81.2.30.** The quorum for meetings of the committee is at least half of its members.

The committee's opinions are decided by a majority of the members present. In the event of a tie, the chair has a casting vote.

“81.2.31. When the chair is absent or unable to act, the functions and powers of the chair are assumed by the vice-chair or, failing that, by a presiding member.

“81.2.32. The members of the committee shall receive no remuneration, except in such cases, on such conditions and to such extent as may be determined by the Government. They are, however, entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

“§8. — Agreement and information

“81.2.33. The Minister and the Minister of Public Security must enter into a framework agreement for establishing the procedures to be followed by Québec police forces when conducting an investigation establishing that no impediment exists in the area of childcare services.

The agreement specifies the measures to be put in place so that persons who require the services of a police force may know the processing time generally observed for applications for an investigation establishing that no impediment exists.

The agreement may include models for giving consent that comply with this division.

“81.2.34. The Minister prepares a guide on investigations establishing that no impediment exists for educational childcare providers and sees to its dissemination.

“DIVISION II

“SUSPENSION OF A STAFF MEMBER

“81.2.35. A permit holder must immediately suspend any staff member in the following cases:

(1) if the permit holder is informed that the staff member is implicated by a report that has been accepted for evaluation by the director of youth protection as well as if such a person is implicated by a report leading to a disclosure of confidential information by the director of youth protection to the Director of Criminal and Penal Prosecutions or to a police force provided for in section 72.7 of the Youth Protection Act (chapter P-34.1);

(2) if the staff member is the subject of an investigation conducted by the Minister with the knowledge of the permit holder on the basis of acts allegedly committed by the staff member that are such that, were they to continue or be repeated, the health, safety or well-being of the children to whom the permit holder provides educational childcare would be seriously compromised; or

(3) if the staff member is the subject of a complaint filed with the permit holder, which the latter considers justified, relating to acts allegedly committed by the staff member and which are such that, were they to continue or be repeated, the health, safety or well-being of the children to whom the permit holder provides educational childcare would be seriously compromised.

The permit holder must notify the person in writing and without delay of their suspension and give the person an opportunity to submit observations as soon as possible and, in all cases, within 10 days.

The suspension lasts until the permit holder makes a final decision about the alleged situation.

“81.2.36. Before taking up their employment, any person of full age called upon to work in the facility of a permit holder while childcare is being provided must declare to the permit holder any suspension the person is subject to under section 81.2.35 and any suspension the person was subject to in the last 12 months under that section if, in the latter case, sanctions were imposed following the suspension.”

14. Section 83.1 of the Act is amended by replacing “the childcare agreement referred to in the second paragraph of section 92” by “a childcare agreement referred to in section 92”.

15. Section 92 of the Act is amended

(1) by inserting the following paragraphs after the first paragraph:

“The subsidy agreement may, in particular, provide that the childcare provider is required, in the childcare provider’s contractual relationship with the parent of a child who occupies a subsidized childcare space, to use a standard agreement model for childcare services whose form, content, required elements, terms of renewal and any other mandatory clause are established by the Minister.

The Minister may, in the subsidy agreement, establish various childcare services agreement models and set out which model is to be used in which cases and on which conditions.

The Minister may, in particular, establish a childcare services agreement model for the provision of childcare services to a child on a sporadic or an irregular basis.”;

(2) by replacing “In such a subsidy agreement, the Minister may determine the form, content, required elements and any other mandatory clause of a childcare agreement between the educational childcare provider and the parent of a child who occupies a subsidized childcare space, and may also determine the terms of renewal of such an agreement. However, the childcare agreement may not, when intended for” in the second paragraph by “A childcare services agreement model may not, however, when intended to be used by”.

16. Section 95 of the Act is amended by inserting “, unless the latter are referred to in section 53.1 or 101.2.1” at the end.

17. The Act is amended by inserting the following chapter before Chapter VII.1:

“CHAPTER VII.0.1

**“CHILDCARE SERVICES OFFERED ACCORDING TO AN
ATYPICAL SCHEDULE TO CERTAIN CHILDREN OF SCHOOL AGE**

“101.2.1. An educational childcare provider may, with the Minister’s authorization, receive children admitted to preschool education services or elementary school instructional services, provided that the children are there at the same time as either

(1) a child referred to in the first paragraph of section 2 with whom the child of school age resides; or

(2) a staff member who is the parent of the child of school age or a person with whom the child ordinarily resides.

An authorization is granted if the applicant shows, to the satisfaction of the Minister,

(1) that the applicant has the facilities needed to ensure the health, safety and well-being of the children receiving childcare;

(2) that being granted such an authorization will not affect their ability, in the case of a permit holder, to comply with the rules otherwise applicable to the permit holder, in particular those relating to the ratio of staff to children receiving childcare or, in the case of a home educational childcare provider, the rules relating to the number of children to whom they may provide childcare; and

(3) that the services provided to those children are not intended to remedy the lack of childcare services at school or to replace them, but rather are intended to complete a childcare service supply according to atypical schedules with a view to facilitating, for the parents, the reconciliation of their parental responsibilities with their professional or student responsibilities.

“Atypical schedule” means a schedule during which the children receiving childcare are mostly present at the educational childcare provider’s centre outside the core hours of 7 a.m. to 6 p.m., from Monday to Friday, except in exceptional circumstances.

The Government may determine, by regulation, from among the standards set out in this Act and those established under section 106, the standards that apply to the children referred to in the first paragraph and establish new ones.”

18. Section 101.3 of the Act, amended by section 49 of chapter 9 of the statutes of 2022, is again amended by replacing “78, 81.0.1” in the first paragraph by “5.2, 78, 81.0.1, 81.2.10”.

19. The Act is amended by inserting the following chapter after section 101.34:

“CHAPTER VII.3

“COMPLAINTS AND PROTECTION AGAINST REPRISALS

“101.35. It is forbidden to take a reprisal against a person on the ground that the person has, in good faith, filed a complaint with the Minister and communicated to the Minister information that could show that a contravention of this Act has been committed or is about to be committed or that the person has cooperated in an inspection or investigation conducted by the Minister.

It is also forbidden to threaten to take a reprisal against a person so that the person abstains from filing a complaint with the Minister and communicating to the Minister information that could show that a contravention of this Act was committed or is about to be committed or abstains from cooperating in an inspection or investigation conducted by the Minister.

“101.36. The following are presumed to be a reprisal within the meaning of section 101.35:

(1) the demotion, suspension, dismissal or transfer of a person referred to in that section or any other disciplinary measure or measure that adversely affects such a person’s employment or conditions of employment; or

(2) if the person referred to in that section is the parent of a child to whom childcare services are provided by an educational childcare provider, depriving that person or the person’s child of any right or subjecting them to differential treatment, or suspending or expelling the person’s child.

“101.37. Any person who believes a reprisal referred to in section 101.35 has been taken against them may file a complaint with the Minister in order to have the Minister examine whether the complaint is well-founded and take, if applicable, any measure provided for by this Act that the Minister considers appropriate with regard to the educational childcare provider or home educational childcare coordinating office concerned by the reprisal.

However, if the reprisal a person believes has been taken against them constitutes a prohibited practice within the meaning of subparagraph 21 of the first paragraph of section 122 of the Act respecting labour standards (chapter N-1.1), the Minister refers that person to the Commission des normes, de l'équité, de la santé et de la sécurité du travail and puts an end to the examination of the complaint.”

20. Section 104 of the Act is amended by adding the following paragraph at the end:

“In the case of a permit suspended under the second paragraph of section 29, the 60-day period runs from the expiry of the time allotted to apply for a review of the suspension provided for in that paragraph. However, if such an application for a review has been made, the period runs from the review decision.”

21. Section 106 of the Act, amended by section 58 of chapter 9 of the statutes of 2022, is again amended, in the first paragraph,

(1) by striking out “, and determine which of the impediments or criminal or indictable offences referred to in paragraphs 2 and 3 of section 26 are to be retained” in subparagraph 7;

(2) by inserting the following subparagraph after subparagraph 7:

“(7.1) determine the fees payable to a police force to carry out an investigation establishing that no impediment exists;”;

(3) by replacing subparagraphs 18 and 18.1 by the following subparagraphs:

“(18) determine any other rules or terms and conditions applicable to the process for investigations establishing that no impediment exists referred to in sections 81.2.1 to 81.2.17, in particular the time within which the Comité d'examen des empêchements must give its opinions and the consequences of any failure to comply with that time, provide for the obligation for other persons to be the subject of an investigation establishing that no impediment exists and establish who plays a role in that respect;

“(18.1) establish rules or terms and conditions relating to an investigation establishing that no impediment exists that add to, clarify or complete those set out in subdivisions 5 and 6 of Division I of Chapter VI.1, if the person being investigated has been residing in Canada for less than one year or has resided outside Canada for one year or more, in particular as concerns persons carrying out a role or responsibilities within the context of the investigation process, and as concerns the documents and information that must be communicated by them or by the person being investigated;”;

(4) by inserting “and, if training activities are prescribed to that effect, determine the persons qualified to offer the training activities, identify any activity or course that must be participated in or taken or prescribe its content, its duration and the manner in which the activity or course must be offered, and the terms for maintaining the training of the persons having taken it” at the end of subparagraph 21;

(5) by inserting the following subparagraph after subparagraph 29.7:

“(29.8) determine the standards provided for by this Act and those established under this section that apply to the children referred to in the first paragraph of section 102.1 and establish new ones;”.

22. The Act is amended by inserting the following heading after section 107:

“CHAPTER X.1

“POWERS OF THE MINISTER”.

23. The Act is amended by inserting the following section after section 108:

“108.0.1. The Minister may, on the recommendation of the Minister of Health and Social Services, establish protocols or identify protocols concerning the administration of non-prescription medication or the application of a product to a child.

The protocols must be published by the Minister on the Internet. All protocols and each of the updates to them must be communicated by the Minister to permit holders and to home educational childcare coordinating offices. The permit holders and coordinating offices must notify without delay the staff members concerned or, as applicable, the home educational childcare providers they have recognized.

Where parental authorization is required under a regulation enacted under section 106 for the administration of a medication or for the application of a product and that medication or product is covered by a protocol, the authorization can only be given for an administration or application made in accordance with the protocol.”

24. The Act is amended by inserting the following sections after section 115.1:

“115.2. Any person responsible for assessing the content of an attestation in accordance with the fourth paragraph of section 81.2.9 who fails or neglects to inform the Minister in accordance with that paragraph is liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,500 to \$15,000 in other cases.

“115.3. Any person who contravenes section 81.2.10 is liable to a fine of \$500 to \$5,000 in the case of a natural person and \$1,500 to \$15,000 in other cases.

“115.4. Any person who fails or neglects to inform the Minister in accordance with section 81.2.14 or to provide the statement or make the declaration required under any of sections 81.2.19, 81.2.25 or 81.2.36 or who provides false or misleading information when informing the Minister or when providing a statement or declaration is liable to a fine of \$500 to \$5,000.

“115.5. A person that allows children to access a facility or part of a facility that is the subject of an order of evacuation made under section 81.0.3 is liable to a fine of \$5,000 to \$50,000.

“115.6. A permit holder who contravenes subparagraph 1 of the first paragraph of section 81.2.35 is liable to a fine of \$2,500 to \$12,500.”

25. The Act is amended by inserting the following section after section 121.1:

“121.2. The parties referred to in section 121.1 may reach an agreement to allow children admitted to preschool in an Aboriginal community that does not offer childcare provided at school to receive the services provided by an educational childcare provider governed by this Act. The agreement may specify the standards applicable to the childcare services so provided.”

26. Section 153.1 of the Act is repealed.

ACT RESPECTING LABOUR STANDARDS

27. Section 122 of the Act respecting labour standards (chapter N-1.1) is amended by adding the following subparagraph at the end of the first paragraph:

“(21) on the ground that the employee filed a complaint, communicated information or cooperated in an inspection or investigation under Chapter VII.3 of the Educational Childcare Act (chapter S-4.1.1).”

ACT TO AMEND THE EDUCATIONAL CHILDCARE ACT TO IMPROVE ACCESS TO THE EDUCATIONAL CHILDCARE SERVICES NETWORK AND COMPLETE ITS DEVELOPMENT

28. Section 58 of the Act to amend the Educational Childcare Act to improve access to the educational childcare services network and complete its development (2022, chapter 9) is amended by striking out paragraphs 8 and 9.

29. Section 108 of the Act is amended by replacing “paragraphs 8, 9 and 12 of section 58” in paragraph 2 by “paragraph 12 of section 58”.

REGULATION RESPECTING THE APPLICATION OF THE CONSUMER PROTECTION ACT

30. The Regulation respecting the application of the Consumer Protection Act (chapter P-40.1, r. 3) is amended by inserting the following section after section 15:

“15.0.1. Despite subparagraphs *e* and *f* of the first paragraph of section 190 of the Act, a childcare services contract involving sequential performance entered into by a subsidized educational childcare provider under the Educational Childcare Act (chapter S-4.1.1) and allowing the sporadic or irregular use of services need not indicate the number of hours, days or weeks over which the services are distributed nor the total amount the consumer must pay under the contract.”

EDUCATIONAL CHILDCARE REGULATION

31. Section 1 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2) is amended by striking out the definitions of “attestation establishing that no impediment exists”, “attestation of information that may establish an impediment” and “impediment”.

32. Sections 2 to 6 of the Regulation are revoked.

33. Section 10 of the Regulation is amended by replacing paragraph 7 by the following paragraph:

“(7) a copy of the attestation establishing that no impediment exists for the applicant and for each director or shareholder;”.

34. Section 25 of the Regulation is amended

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

“(2) for any person referred to in paragraph 3 or 4 of section 81.2.1 of the Act, a copy of the person’s valid attestation establishing that no impediment exists and, if applicable, a copy of the latest attestation of a potential impediment concerning that person, accompanied by a certified true copy of the board of directors’ resolution certifying that the person concerned by the attestation has no impediment;”;

(2) by replacing “the documents required under sections 4.2 and 20.1” in the second paragraph by “a valid attestation establishing that no impediment exists and the documents required under section 20.1”.

35. Section 48 of the Regulation is amended

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

“(2) for any person referred to in paragraph 9 of section 81.2.1 of the Act, a copy of the person’s valid attestation establishing that no impediment exists and, if applicable, a copy of the latest attestation of a potential impediment concerning that person, accompanied by a certified true copy of the board of directors’ resolution certifying that the person concerned by the attestation has no impediment;”;

(2) by striking out “and, if applicable, the documents certifying that the person designated pursuant to section 81 to occasionally replace the educational childcare provider meets the requirements of section 5” in subparagraph *a* of paragraph 5;

(3) by striking out subparagraph *b* of paragraph 5.

36. Section 51 of the Regulation is amended

(1) by striking out “do not have an impediment related to the abilities and the conduct required for home childcare and that they” in paragraph 10;

(2) by inserting the following paragraph after paragraph 10:

“(10.1) show that the natural person and the persons residing in the residence where the natural person proposes to provide childcare hold a valid attestation establishing that no impediment exists;”.

37. Section 60 of the Regulation is amended by replacing paragraph 13 by the following paragraph:

“(13) for the applicant and, if applicable, any assistant and any person of full age living in the private residence where the applicant intends to provide childcare, a copy of their attestation establishing that no impediment exists and, if applicable, of the attestation of a potential impediment concerning them;”.

38. Section 81 of the Regulation is amended by adding the following sentence at the end of the second paragraph: “In such a case, the home educational childcare provider must keep the copy of the attestation establishing that no impediment exists and, if applicable, of the attestation of a potential impediment concerning that person.”

39. Section 99 of the Regulation is amended

(1) by replacing “on the premises” by “in the facility”;

(2) by adding the following sentences at the end: “In the case of a home educational childcare provider, that obligation extends to the outdoor yard, if it is sometimes used while childcare is being provided, and to the outbuildings in the yard, if applicable. If the yard and outbuildings are shared, the home educational childcare provider must make sure no alcohol is consumed there by any person residing with the home educational childcare provider.”

40. The heading of Division II of Chapter IV of the Regulation is replaced by the following heading:

“MEDICATION AND OTHER PRODUCTS”.

41. Section 116 of the Regulation is amended

(1) by inserting “or natural product” after “medication” in the first paragraph;

(2) by inserting “and natural products” after “medication” in the second paragraph;

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

“In this division, “natural product” means any supplement, vitamin, essential oil, homeopathic or cosmetic product or other similar product in which active substances are found and that is meant to be ingested, to be applied on the skin or to come into contact with mucous membranes.”

42. Section 121 of the Regulation is replaced by the following section:

“**121.** Despite section 116 and the first paragraph of section 118, an educational childcare provider may supply, keep and administer medication or a natural product to any child without the authorization of a health professional, but only in accordance with a written authorization signed by the parent and only if the medication or the natural product is covered by a protocol established in accordance with section 108.0.1 of the Act.

If, in such a case, the medication or the natural product is provided by the parent, its container must be clearly marked with the name of the child for whom it is intended.”

43. Section 121.6 of the Regulation is amended

(1) by replacing “the protocol in Schedule II, duly signed by the parent” in the first paragraph by “a written authorization signed by the parent and only if the insect repellent is covered by a protocol established in accordance with section 108.0.1 of the Act”;

(2) by replacing “and medication” in the second paragraph by “, medication and natural products”.

44. Section 121.7 of the Regulation is amended by inserting “in accordance with section 121.6” at the end of the third paragraph.

45. Section 123.1 of the Regulation is amended by striking out “4, 4.1, 6,” in the first paragraph.

46. Section 124 of the Regulation is amended by striking out “4, 4.1, 6,”.

47. Schedule II to the Regulation is revoked.

48. The Regulation is amended by inserting “or natural products”, “or natural product”, “or a natural product”, “or of the natural product”, “or the natural product”, “and the natural products”, “and of the natural products” or “and natural products” after all occurrences of “medication” in sections 117 to 121.6 and in the headings of subdivisions 1 and 2 of Division II of Chapter IV, except in sections 120 and 121 and the third paragraph of section 121.2, with the necessary modifications.

TRANSITIONAL AND FINAL PROVISIONS

49. From (*insert the date of coming into force of section 13 of this Act*) until 31 August 2026,

(1) section 6.1 of the Educational Childcare Act (chapter S-4.1.1) is to be read as if “under paragraph 2 or 3 of section 26” in subparagraph 4 of the first paragraph were struck out;

(2) section 6.1 of the Educational Childcare Regulation (chapter S-4.1.1, r. 2) is to be read as if “second paragraph of section 27” in the second paragraph were replaced by “second paragraph of section 81.2.4”;

(3) sections 6.2 and 6.3 of the Educational Childcare Regulation are to be read as if all occurrences of “attestation of information that may establish an impediment” were replaced by “attestation of a potential impediment”; and

(4) in advance of the assessment the Minister is to make in accordance with section 6.2 of the Educational Childcare Regulation, the Minister may ask the Comité d'examen des empêchements established under section 81.2.26 of the Educational Childcare Act, enacted by section 13 of this Act, to examine any attestation of a potential impediment and give its opinion to the Minister as to whether an impediment exists.

50. As of (*insert the date of coming into force of section 13 of this Act*), the committee referred to in the third paragraph of section 27 of the Educational Childcare Act, as it read before that date, is dissolved, without further formality. The matters in respect of which it had not yet advised the Minister are forwarded, for analysis, to the Comité d'examen des empêchements established by section 81.2.26 of the Educational Childcare Act, enacted by section 13 of this Act. The latter analyses the matters in accordance with the Educational Childcare Act, as it read at the time the request was received.

51. An attestation establishing that no impediment exists issued under the Educational Childcare Act and the Educational Childcare Regulation, as they read on (*insert the date preceding the date of coming into force of section 13 of this Act*), serves as an attestation establishing that no impediment exists issued under the first paragraph of section 81.2.5 of the Educational Childcare Act, enacted by section 13 of this Act. Its date of issue remains the same.

An attestation of information that may establish an impediment issued under the Educational Childcare Act and the Educational Childcare Regulation, as they read on (*insert the date preceding the date of coming into force of section 13 of this Act*), serves as an attestation establishing that no impediment exists issued under the third paragraph of section 81.2.9 of the Educational Childcare Act, enacted by section 13 of this Act, insofar as the content of the attestation was assessed by a third person in accordance with the provisions applicable at the time it was issued, and that the latter considered that the person concerned by the attestation was not the subject of an impediment. Its date of issue is deemed to be the date on which the third person concluded that the person was not the subject of an impediment.

52. The Minister must, no later than (*insert the date of coming into force of section 47*), publish on the Internet the Protocol for administering acetaminophen to treat fever and the Protocol for applying insect repellent, as they read in Schedule II to the Educational Childcare Regulation on the previous day. The protocols so published are deemed to have been published under section 108.0.1 of the Educational Childcare Act, enacted by section 23 of this Act, as of the date of coming into force of that section.

53. This Act comes into force on (*insert the date that is one month after the date of assent to this Act*), except

(1) paragraph 5 of section 6, paragraphs 1, 2 and 3 of section 8 insofar as they respectively concern paragraph 4, paragraph 7 and paragraph 9 of the first paragraph of section 28 of the Educational Childcare Act, sections 9, 10, 12, 19 and 20, section 24 insofar as it enacts section 115.5 of that Act and section 27, which come into force on (*insert the date that is three months after the date of assent to this Act*);

(2) paragraphs 1, 2 and 4 of section 6, section 7, paragraph 1 of section 8 insofar as it enacts subparagraphs 3 and 3.1 of the first paragraph of section 28 of the Educational Childcare Act, sections 13 and 18, paragraphs 1 to 3 of section 21, section 24 insofar as it enacts sections 115.2 to 115.4 and 115.6 of that Act and sections 31 to 38, 45, 46 and 49, which come into force on (*insert the date that is six months after the date of assent to this Act*).

