



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 36

**An Act to amend the Act respecting
health services and social services as
regards joint procurement**

Introduction

**Introduced by
Mr. Yves Bolduc
Minister of Health and Social Services**

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EXPLANATORY NOTES

This bill proposes a review of the rules applicable to joint procurement of goods and services for health and social services agencies and institutions, in particular by introducing the notion of “joint procurement centre” to replace that of “joint procurement group”.

The Minister of Health and Social Services is to determine the number of joint procurement centres in Québec and the regions they serve. The manner in which the centres are to be constituted, their purpose and functions and the composition of their board of directors are provided for.

Each centre has the obligation to enter into a management and accountability agreement with the agencies whose region it serves, and agencies have certain obligations with respect to joint procurement.

Lastly, the Minister is to draw up a multi-year joint procurement plan and an action plan for its implementation.

LEGISLATION AMENDED BY THIS BILL:

- Building Act (R.S.Q., chapter B-1.1);
- Act respecting contracting by public bodies (R.S.Q., chapter C-65.1);
- Act respecting the governance and management of the information resources of public bodies and government enterprises (R.S.Q., chapter G-1.03);
- Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1);
- Act respecting health services and social services (R.S.Q., chapter S-4.2).

Bill 36

AN ACT TO AMEND THE ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES AS REGARDS JOINT PROCUREMENT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING HEALTH SERVICES AND SOCIAL SERVICES

1. Section 383 of the Act respecting health services and social services (R.S.Q., chapter S-4.2) is replaced by the following sections:

“383. The agency must ensure that the institutions in its region use the services of the joint procurement centre established under section 435.2 and that the multi-year plan and action plan drawn up by the Minister under section 435.1 and the second paragraph of section 436 are complied with.

To the extent it considers warranted by an institution’s needs, the agency may require the institution to use the centre’s services or to participate in a tendering process conducted by such a centre.

“383.1. A joint procurement centre must enter into a management and accountability agreement containing at least the following elements with the agencies whose region it serves:

(1) the centre’s operational objectives, the measures to be taken to achieve them, policy directions for joint procurement, the staffing plan, an assessment of the financial resources at its disposal and the main indicators to be used in measuring results; and

(2) the manner in which periodic reports are to be filed.

The agency designated under the second paragraph of section 435.2 must ensure compliance with the agreement and the achievement of the centre’s objectives. The agreement is a public document.”

2. The Act is amended by inserting the following after section 435:

“CHAPTER I.0.1

“JOINT PROCUREMENT

“**435.1.** To ensure the effective and efficient management of the joint procurement of goods and services for health and social services agencies and institutions, the Minister shall draw up a multi-year joint procurement plan comprising the strategic policy directions and the objectives pursued with respect to joint procurement, the results expected by the end of the period covered by the plan and the performance indicators used to measure those results. The plan must take into account all the elements determined under section 435.2.

“**435.2.** The Minister shall determine the number of joint procurement centres in Québec and the regions served by those centres. The Minister may also specify that a joint procurement centre may provide services to the types of persons or bodies determined by the Minister that are not agencies and institutions, even if those persons or bodies are situated in regions different from those served by the centre. The Minister shall inform the agencies and the joint procurement centres of the Minister’s decision.

If a joint procurement centre serves more than one region, an agency is designated by and from among the agencies concerned to be responsible for the centre.

“**435.3.** A joint procurement centre is a non-profit legal person constituted under the laws of Québec whose purpose is to manage the joint procurement of goods and services for agencies and institutions. It may also, if so authorized by the Minister, have complementary or accessory purposes.

The members of the legal person are the health and social services agencies and institutions of the regions determined under the first paragraph of section 435.2.

“**435.4.** A joint procurement centre is administered by a board of directors composed of 9 to 12 persons designated in the following manner, who become members on being designated:

(1) the president and executive director of the agency for the region served by the centre or, if more than one region is served by the centre, not more than three president and executive directors designated by all the president and executive directors of the agencies concerned;

(2) executive directors or senior management officers of the institutions in the regions served by the centre, designated by all the executive directors of those institutions; the executive directors so designated must outnumber the senior management officers; and

(3) a physician designated by one or more president and executive directors of the agency or agencies for the regions served by the centre.

The executive director of the joint procurement centre does not sit on the board of directors but attends its meetings.

Sections 260 to 265, 278 to 280, 282, 289 to 292, 294 to 297, 316, 468, 469, 485, 486, 489, 499 and 500 apply, with the necessary modifications, to a joint procurement centre. The agency designated under the second paragraph of section 435.2 exercises, in respect of the centre, the responsibilities devolved to an agency under those sections.

The auditor appointed by the joint procurement centre under section 290 shall, for the fiscal year for which the auditor was appointed, audit the financial report of the joint procurement centre and carry out the other elements of the audit mandate determined by the joint procurement centre, the agency or the Minister.

“435.5. In keeping with the multi-year plan described in section 435.1 and the action plan referred to in the second paragraph of section 436, the functions of a joint procurement centre are

(1) to assist the agencies and institutions in defining their procurement needs in order to increase the efficiency and effectiveness of procurement;

(2) to specify the joint procurement needs of the agencies and institutions in the regions it serves;

(3) to plan and carry out joint procurement operations for the agencies, institutions and any other persons or bodies to whom it provides services;

(4) to liaise with the agencies in the regions it serves in order to keep them informed of the needs of the institutions in their respective regions;

(5) to ensure coordination between the agencies and the institutions to which it offers services in order to optimize its performance;

(6) to collaborate with the other joint procurement centres in order to achieve the objectives of the multi-year plan and implement the action plan;

(7) to carry out any procurement mandate agreed on with another joint procurement centre or, exceptionally and as applicable, with an agency or an institution served by another centre;

(8) to follow up on mandates agreed on under paragraph 7 with the parties concerned;

(9) to carry out any complementary or accessory purposes authorized by the Minister under section 435.3; and

(10) to carry out any other procurement mandate entrusted to it by the Minister.

“435.6. If the Minister considers it warranted by the public interest and after consulting with the agencies concerned and giving the targeted centres the opportunity to submit observations, the Minister may request the enterprise registrar to amalgamate joint procurement centres and issue letters patent to that effect.”

3. Section 436 of the Act is amended

(1) by replacing “groups” in the first paragraph by “centres”;

(2) by inserting the following sentence at the beginning of the second paragraph: “The Minister shall draw up an action plan for the implementation of the multi-year plan described in section 435.1.”;

(3) by inserting “also” after “may” in the second paragraph.

4. Section 485 of the Act is amended by replacing “groups” in the first paragraph by “centres”.

CONSEQUENTIAL PROVISIONS

BUILDING ACT

5. Section 65.4 of the Building Act (R.S.Q., chapter B-1.1) is amended by replacing “a legal person or a joint procurement group referred to in section 383” in subparagraph 5 of the first paragraph by “a joint procurement centre defined in section 435.3”.

ACT RESPECTING CONTRACTING BY PUBLIC BODIES

6. Section 4 of the Act respecting contracting by public bodies (R.S.Q., chapter C-65.1) is amended by replacing “legal persons and joint procurement groups referred to in section 383” in subparagraph 6 of the first paragraph by “joint procurement centres defined in section 435.3”.

ACT RESPECTING THE GOVERNANCE AND MANAGEMENT OF THE INFORMATION RESOURCES OF PUBLIC BODIES AND GOVERNMENT ENTERPRISES

7. Section 2 of the Act respecting the governance and management of the information resources of public bodies and government enterprises (R.S.Q., chapter G-1.03) is amended by replacing “legal persons and joint procurement groups referred to in section 383” in subparagraph 5 of the first paragraph by “joint procurement centres defined in section 435.3”.

ACT RESPECTING HÉMA-QUÉBEC AND THE HAEMOVIGILANCE COMMITTEE

8. Section 3 of the Act respecting Héma-Québec and the haemovigilance committee (R.S.Q., chapter H-1.1) is amended by replacing “a body managing

joint supplies to institutions” in subparagraph 8 of the second paragraph by “a joint procurement centre defined in section 435.3 of the Act respecting health services and social services (chapter S-4.2)”.

9. Section 38 of the Act is amended by replacing “a body to manage joint supplies to institutions” in the first paragraph by “a joint procurement centre defined in section 435.3 of the Act respecting health services and social services (chapter S-4.2)”.

TRANSITIONAL AND FINAL PROVISIONS

10. A joint procurement group established under the second paragraph of section 383 of the Act respecting health services and social services (R.S.Q., chapter S-4.2), as it read before being replaced by section 1, is deemed to be a joint procurement centre defined in section 435.3 of that Act, enacted by section 2.

11. A joint procurement centre constituted under Part III of the Companies Act (R.S.Q., chapter C-38) must take the necessary measures before (*insert the date that is six months after the coming into force of this section*) to ensure that its objects, the composition of its board of directors, its constituting act, all its documents and all its activities are in compliance with sections 435.2 to 435.5 of the Act respecting health services and social services. Section 316 of that Act applies, with the necessary modifications, to such an operation.

If a joint procurement centre fails to ensure such compliance, the Minister may, without further formality, determine that the regions that would have been served by that centre are to be served by another joint procurement centre identified by the Minister. The latter centre has all the rights, acquires all the property and assumes all the obligations of the non-compliant centre and the proceedings to which the non-compliant centre is a party may be continued without continuance of suit. The Minister subsequently requests the enterprise registrar to revoke the constituting act of the non-compliant centre.

12. For the purpose of complying with the Minister’s decision under section 435.2 of the Act respecting health services and social services, enacted by section 2, and despite any legislative provision to the contrary, the enterprise registrar may, on a joint application by a joint procurement centre that, on (*insert the date of introduction of this bill*), is a cooperative to which the Cooperatives Act (R.S.Q., chapter C-67.2) applies and one or more joint procurement centres that, on the same date, are constituted under Part III of the Companies Act, issue letters patent to amalgamate those centres, in accordance with that application, into a legal person constituted under Part III of the Companies Act and subject to sections 435.2 to 435.5 of the Act respecting health services and social services. Section 316 of that Act applies, with the necessary modifications, to that operation.

The joint application must set out all the procedures or measures necessary to carry out the amalgamation and provide for its smooth operation.

If an application for amalgamation under the first paragraph has not been filed by (*insert the date that is nine months after the date of coming into force of this section*), the Minister may, under section 435.6 of the Act respecting health services and social services, request the amalgamation in accordance with this section.

Under the name given to it by the letters patent, the new legal person resulting from the amalgamation has all the rights, acquires all the property and assumes all the obligations of the amalgamated centres, and the proceedings to which those centres are a party may be continued without continuance of suit.

13. The provisions of this Act come into force on (*insert the date of assent to this Act*), except section 1, to the extent that it enacts section 383.1 of the Act respecting health services and social services, which comes into force on the date to be set by the Government.