



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

Bill 38

An Act respecting the Health and Welfare Commissioner

Introduction

**Introduced by
Mr. Philippe Couillard
Minister of Health and Social Services**

**Québec Official Publisher
2003**

EXPLANATORY NOTES

This bill provides for the appointment of a Health and Welfare Commissioner by the Government for a five-year term, which may be renewed once.

The bill provides that, with a view to improving the health and welfare of the population, the Commissioner is responsible for assessing the results achieved by the health and social services system and providing the Government and the public with the necessary background for a general understanding of the major issues in the health and social services arena.

To this end, the Commissioner must, among other functions, disseminate information to enable public debate, propose changes, and submit advisory opinions to the Minister of Health and Social Services on the state of health and welfare of the population and on the major issues facing the health and social services system.

The bill gives the Commissioner certain powers, including the power to call on outside experts, the power to hold public hearings and the power to secure access to certain documents or information.

Lastly, the bill provides that the Commissioner is substituted for the Conseil de la santé et du bien-être and the Conseil médical du Québec.

LEGISLATION AMENDED BY THIS BILL:

- Financial Administration Act (R.S.Q., chapter A-6.001).

LEGISLATION REPEALED BY THIS BILL:

- Act respecting the Conseil de la santé et du bien-être (R.S.Q., chapter C-56.3);
- Act respecting the Conseil médical du Québec (R.S.Q., chapter C-59.0001).

Bill 38

AN ACT RESPECTING THE HEALTH AND WELFARE COMMISSIONER

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

APPOINTMENT, RESPONSIBILITIES AND ORGANIZATION

1. The Government appoints the Health and Welfare Commissioner.

2. With a view to improving the health and welfare of the population, the Commissioner is responsible for assessing the results achieved by the health and social services system taking into account the range of systemic factors that interplay within the system, and for providing the Government and the public with the necessary background for a general understanding of the major issues in the health and social services arena.

The Commissioner exercises these responsibilities with regard to such matters as the quality, accessibility, integration, insurability and funding of services, the ethical aspects of health and welfare, medications and technology.

3. The Commissioner is appointed for a five-year term, which may be renewed once. At the end of the term, the Commissioner remains in office until replaced or reappointed.

When appointing the Commissioner, the Government determines the Commissioner's remuneration, employment benefits and other conditions of employment.

The Commissioner exercises the functions of office on a full-time basis.

4. The Commissioner may appoint one or more Deputy Commissioners from among the Commissioner's personnel.

5. If the Commissioner is absent or unable to act, the Government may designate one of the Deputy Commissioners or, if none were appointed, any other person to exercise the Commissioner's responsibilities, functions and powers for as long as the Commissioner is absent or unable to act. The Government determines the person's salary or fees and other conditions of employment.

6. Before entering into office, the Commissioner must take the following oath:

“I declare under oath that I will fulfill my duties with honesty, impartiality and justice. I further declare under oath that I will not reveal or disclose, unless authorized by law, any confidential information that may come to my knowledge in the exercise of my functions.”

The Commissioner takes the oath before the Minister of Health and Social Services.

7. The Commissioner’s personnel is appointed in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

The Commissioner defines the powers and duties of the Commissioner’s personnel and directs their work. The Commissioner may delegate in writing the exercise of any of the powers of office.

8. The Commissioner’s secretariat is situated within the territory of Ville de Québec, at the place determined by the Government.

Notice of the location or of any change of location is published in the *Gazette officielle du Québec*.

9. The Commissioner must establish a code of ethics and professional conduct applicable to any outside experts called upon in the exercise of the Commissioner’s functions.

CHAPTER II

FUNCTIONS OF THE HEALTH AND WELFARE COMMISSIONER

10. To fully exercise the responsibilities of office, the Health and Welfare Commissioner, among other functions,

(1) periodically assesses the results achieved by the health and social services system in light of the resources allocated to it and of reasonable expectations given these resources;

(2) informs the Minister and the public of the overall performance of the health and social services system, the changes proposed by the Commissioner to improve the effectiveness or efficiency of the system, and the issues and implications associated with the proposed changes;

(3) releases information to enable public debate on and a general understanding of the issues to be addressed and the choices to be made to ensure the sustainability of the health and social services system;

(4) submits advisory opinions to the Minister on the state of health and welfare of the population in light particularly of retrospective analysis of the impact of government policy on that state and accordingly proposes broad guidelines for the development of a health and welfare policy; and

(5) submits advisory opinions to the Minister on the major issues facing the health and social services system, the policy directions to be considered to ensure the continued and cohesive development of the system, and the options open to the Government given the available financial resources.

11. The Government or the Minister may entrust the Commissioner with any special mandate on a matter within the Commissioner's competence. In no case may such a special mandate take precedence over the other functions assigned to the Commissioner under this Act.

12. Within one year from (*insert the date of coming into force of this section*), the Commissioner issues an advisory opinion on the most appropriate way for the Minister and health services and social services institutions to inform the public of their rights under the law with respect to health and social services and to sensitize the public to their attendant responsibilities as regards their health and their use of the services offered.

CHAPTER III

POWERS OF THE HEALTH AND WELFARE COMMISSIONER

13. In the exercise of the functions of office, the Health and Welfare Commissioner may, whenever necessary,

(1) call on outside experts to report on one or more specific points determined by the Commissioner;

(2) conduct or commission studies, research or surveys to obtain background on a matter on which the Commissioner must issue an advisory opinion;

(3) request the collaboration of the Minister or the bodies or councils under the Minister's authority by asking them to furnish any expertise they have that is necessary to the Commissioner or to produce an analysis, advisory report or opinion on a matter on which the Commissioner must issue an advisory opinion; and

(4) establish working committees, hold consultations, seek opinions, and receive and hear applications.

14. The Commissioner may hold public hearings anywhere in Québec.

The Commissioner may hold several public hearings simultaneously and determine how they are conducted.

15. Public bodies within the meaning of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1) must provide the Commissioner with any information or documents that the Commissioner requests and that are necessary for the exercise of the functions of office.

They must allow the Commissioner to have access to and make copies of the information or documents they have, whatever their form.

16. The Commissioner may hold an inquiry if expedient for the exercise of the functions of office.

For the purposes of an inquiry, the Commissioner or any other person appointed by the Commissioner to conduct the inquiry is vested with the powers and immunity provided for in the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

17. Not later than 31 October each year, the Commissioner sends the Minister a report on the exercise of the function assigned to the Commissioner under paragraph 2 of section 10.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is referred to the appropriate committee of the National Assembly for consideration.

18. As soon as the Commissioner is ready to submit findings or an advisory opinion on a matter that falls within the Commissioner's purview, the Commissioner may send a special report to the Minister or choose to include the findings or advisory opinion in the report referred to in section 17.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption.

CHAPTER IV

MISCELLANEOUS PROVISIONS

19. The Health and Welfare Commissioner adopts internal management by-laws.

20. No civil action may be instituted by reason of the publication of any report or advisory opinion of the Commissioner or the publication in good faith of an extract from or a summary of any such report or advisory opinion.

21. Except on a question of jurisdiction, no remedy under article 33 of the Code of Civil Procedure (R.S.Q., chapter C-25) or extraordinary recourse within the meaning of that Code may be pursued and no injunction may be granted against the Commissioner, a Deputy Commissioner or the Commissioner's personnel in the exercise of their functions.

A judge of the Court of Appeal, on a motion, may summarily annul any decision rendered or any order or injunction granted contrary to the first paragraph.

22. The fiscal year of the Commissioner ends on 31 March.

23. Not later than 30 June each year, the Commissioner sends the Minister a report on the Commissioner's activities for the preceding fiscal year.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption.

24. The Commissioner is deemed to be an agency for the purposes of the law.

CHAPTER V

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

25. Schedule 1 to the Financial Administration Act (R.S.Q., chapter A-6.001) is amended

(1) by striking out “Conseil de la santé et du bien-être” and “Conseil médical du Québec”;

(2) by inserting “Health and Welfare Commissioner” in the appropriate position in the list, according to alphabetical order.

26. The Act respecting the Conseil de la santé et du bien-être (R.S.Q., chapter C-56.3) is repealed.

27. The Act respecting the Conseil médical du Québec (R.S.Q., chapter C-59.0001) is repealed.

28. The Health and Welfare Commissioner is substituted for the Conseil de la santé et du bien-être and the Conseil médical du Québec. The Commissioner acquires their rights and property and assumes their obligations, and any proceedings to which they were a party may be continued by the Commissioner without continuance of suit.

29. The term of office of the members of the Conseil de la santé et du bien-être and the Conseil médical du Québec ends on (*insert the date of coming into force of this section*).

Members of those councils are entitled only to the transition allowance applicable to them, if any.

30. Employees of the Conseil de la santé et du bien-être and the Conseil médical du Québec appointed and remunerated in accordance with the Public Service Act who are in office on *(insert the date of coming into force of this section)* become employees of the Commissioner.

31. The records and documents of the Conseil de la santé et du bien-être and the Conseil médical du Québec become the records and documents of the Commissioner, without further formality.

32. Not later than *(insert the date occurring five years after the date of coming into force of this section)*, the Commissioner reports to the Minister on the implementation of this Act.

The Minister lays the report before the National Assembly within 30 days of its receipt or, if the Assembly is not sitting, within 30 days of resumption. The report is referred to the appropriate committee of the National Assembly for consideration.

33. The Minister of Health and Social Services is responsible for the administration of this Act.

34. This Act comes into force on *(insert the date of assent to this Act)*, except sections 2, 10 to 18, 20, 21, 23 and 25 to 32, which come into force on the date or dates to be fixed by the Government.