

c. S-4.2, r.0.0001

## **Regulation respecting certain terms of employment applicable to officers of agencies and health and social services institutions**

### **An Act respecting health services and social services**

(R.S.Q., c. S-4.2, ss. 487.2 and 507, 1<sup>st</sup> par., subpar. 1 and 2<sup>nd</sup> par.)

O.C. 1218-96; T.B. 193821, s. 1; S.Q. 2005, c. 32, s. 309.

#### **CHAPTER 1** GENERAL

#### **DIVISION 1** SCOPE

**1.** This Regulation applies to an officer of an agency and of a public institution or a private institution covered by section 475 of the Act respecting health services and social services.

It also applies, with the exception of section 23 and of Subdivision 7 of Chapter 3, to the officer physicians contemplated in section 8.1.

O.C. 1218-96, s. 1; T.B. 196312, s. 2; 2005, c. 32, s. 309.

**2.** A person who, while not appointed to a position of officer with the employer, temporarily carries out the duties of an officer shall benefit from the conditions listed below:

- the professional contribution, management policies and leave for activities in the North prescribed in Chapter 1;
- the remuneration prescribed in Chapter 3, except for sections 16 to 23 inclusively;
- the collective insurance plans prescribed in Chapter 4, for the duration of the employment, if the person temporarily holds a position of officer at more than 25 % of full-time for an anticipated period of at least twelve months. In all other cases, a person carrying out the duties of an officer shall be eligible only for the monetary compensation provided for in the second paragraph of section 37;
- the parental rights plan prescribed in Chapter 4.1 for the duration of the employment;
- the development measures prescribed in Chapter 4.4;
- the right of appeal prescribed in Divisions 1 and 3 of Chapter 6.

If the person contemplated in the first paragraph is a union member or unionizable non-member employed by the employer, the person shall continue to benefit from all applicable terms of employment. However, such person shall benefit from the remuneration prescribed in the first paragraph of section 23 if the employment conditions governing that person do not provide for reinstatement into a position of officer.

O.C. 1218-96, s. 2; T.B. 196312, s. 3; M.O. 2006-018, s. 1.

## DIVISION 2

### INTERPRETATION

**3.** In this Regulation, unless otherwise indicated by the context:

“administrative reorganization” means an administrative operation resulting from the effect of an Act or of a decision on the part of the Minister or a concerned employer and involving the elimination of one or more positions of officer; this includes, among other things, the amalgamation of employers, the integration of one or more employers with another employer, a grouping of employers, a pooling of supervisory resources or the services of several employers, a grouping of an employer's administrative units or the closure of an employer; ( *réorganisation administrative* )

“continuous service” means the duration of the employment relationship with one or more employers in the public and parapublic sectors, including start-up institutions, as a senior administrator or officer without interruption in the employment relationship for a period of more than 6 months; ( *service continu* )

“demotion” means the moving of an officer to a position in a lower evaluation class; ( *rétrogradation* )

“dismissal” means the termination by an employer of the contractual employment of an officer, at any time and for just and sufficient cause; ( *congédiement* )

“employer” means an agency or a public or private institution covered by section 475 of the Act; ( *employeur* )

“employers' association” means the Association des centres jeunesse du Québec, Association québécoise d'établissements de santé et de services sociaux, the Association des établissements privés conventionnés – santé et services sociaux, the Association des établissements de la réadaptation en déficience physique du Québec, the Fédération québécoise des centres de réadaptation pour personnes alcooliques et autres toxicomanes, and the Fédération québécoise des centres de réadaptation pour personnes en déficience intellectuelle; ( *association d'employeurs* )

“evaluation class” means a ranking unit of the classification system used for the positions of senior administrators and officers that corresponds to an evaluation point range reflecting the relative value of positions; ( *classe d'évaluation* )

“home base” means the home base determined by the employer according to the following criteria:

- (1) the place where the officer usually carries out his duties;
- (2) the place where the officer regularly receives his instructions;
- (3) the place where the officer reports his activities; ( *port d'attache* )

“intermediate officer” means a person whose position is considered to involve an intermediate level of supervision based on the tasks of the position in the employer's organization plan, and whose evaluation class is consistent with the classification terms and conditions established by the Minister; ( *cadre intermédiaire* )

“non-renewal of engagement” means the termination by the employer of the contractual employment relationship with the officer at the end of an engagement, but excludes a layoff; ( *non-renouvellement* )

“officer” means a person having line, staff or advisory responsibilities related to the planning, organization, direction, coordination and control functions who is appointed to a regular full-time or part-time management position; ( *cadre* )

“officers' association” means the Association des cadres supérieurs de la santé et des services sociaux, the Association des gestionnaires des établissements de santé et des services sociaux and the APER santé et services sociaux; ( *association de cadres* )

“on reserve” means the situation of an officer who has chosen the reinstatement option following the elimination of his position in accordance with Chapter 5 on employment stability measures; (*disponibilité*)

“parapublic sector” means all public institutions as defined in section 98 of the Act respecting health services and social services, private institutions covered by section 475 of the Act, agencies referred to in section 339 of the Act, school boards and general and vocational public colleges; (*secteur parapublic*)

“parental leave” means any leave prescribed in Chapter 4.1 on the parental rights plan; (*congé parental*)

“position” means a set of tasks provided for in the employer’s organization plan and classified in accordance with the evaluation system for senior administrator or officer positions established by the Minister; a position may be full-time or part-time; (*poste*)

“probation” means the period during which an employer verifies whether the officer exhibits skill and an ability to adapt in carrying out his duties; (*probation*)

“promotion” means the transfer of an officer to a position in a higher evaluation class; (*promotion*)

“public sector” means government departments or public agencies whose staff is governed by the Public Service Act (R.S.Q., c. F-3.1.1); (*secteur public*)

“recall list” means a recall list, a reserve list, a list of substitute persons or any other list that serves as such in accordance with the collective agreements in force with the employer; (*liste de rappel*)

“reinstatement” means the transfer of an officer to whom the employment stability measures apply to another position of senior administrator, officer, union member or unionizable non-member; (*replacement*)

“retirement plan” means the Government and Public Employees Retirement Plan (RREGOP) instituted pursuant to the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10), the Teachers Pension Plan (RRE) instituted pursuant to the Act respecting the Teachers Pension Plan (R.S.Q., c. R-11) or the Civil Service Superannuation Plan (RRF) instituted pursuant to the Act respecting the Civil Service Superannuation Plan (R.S.Q., c. R-12) and the Pension Plan of Management Personnel (RRPE) instituted pursuant to the Act respecting the pension plan of management personnel (R.S.Q., c. R-12.1); (*regime de retraite*)

“salary” means the portion of direct monetary compensation of an officer corresponding to the salary class established for the position, including adjustments to salary classes and salary progression; (*salaire*)

“senior administrator” means an executive director, an assistant executive director or a senior managerial advisor; (*hors-cadre*)

“senior officer” means an officer appointed by the board of directors of an employer whose position is considered to involve a higher level of supervision based on the tasks of the position in that employer’s organization plan, and whose evaluation class is consistent with the classification terms and conditions established by the Minister; (*cadre supérieur*)

“suspension without pay” means a temporary stoppage of the work loads of an officer, of the corresponding salary and of the related indemnities, premiums and allowances, as a result of a decision by the employer, for disciplinary reasons; (*suspension sans solde*)

“termination of engagement” excludes a layoff and means the severance by the employer, during the course of the engagement, of the contractual employment relationship with a person as an officer, as well as the transfer of a senior officer, without severance of the contractual employment relationship and during the course of the engagement, to a position of intermediate officer, and the transfer of an

officer decided by the employer and involving a reduction of the weekly work load; (*résiliation d'engagement*)

“transfer” means the transfer of an officer to a position in the same evaluation class. (*mutation*).

O.C. 1218-96, s. 3; T.B. 196312, s. 4; S.Q. 2005, c. 32, s. 309; M.O. 2006-018, s. 2; M.O. 2007-007, s. 1.

## **DIVISION 2.1**

### **ASSOCIATIONS**

#### *§ 1. Professional relations*

**3.1.** Two professional relations advisory committees are hereby created, to discuss problems related to the interpretation and application of terms of employment, proposed modifications to the terms of employment and any other related matter.

T.B. 196312, s. 5.

**3.2.** The 2 committees shall be composed of representatives of the employers' associations and of the Minister. The first shall include representatives of the Association des cadres supérieurs de la santé et des services sociaux and the second shall include representatives of the Association des gestionnaires des établissements de santé et de services sociaux and the APER santé et services sociaux. A committee may be convened at the request of any party.

T.B. 196312, s. 5; M.O. 2006-018, s. 3.

#### *§ 2. Professional contribution of senior officers*

**3.3.** On April 1st of each year, the employer shall provide the Association des cadres supérieurs de la santé et des services sociaux with an up-to-date list of the senior officers employed by it, indicating the following information for each such senior officer:

- surname, given name and social insurance number;
- place of work;
- position held;
- the evaluation class of that position.

The list may be an update of the list sent to the association in the previous year.

T.B. 196312, s. 5.

**3.4.** The employer shall deduct, from the salary of every senior officer employed by it, the amount of the professional contribution fixed by the Association des cadres supérieurs de la santé et des services sociaux. However, a senior officer may pay the said contribution in another way, provided he notifies the association in writing, with a copy to the employer.

T.B. 196312, s. 5.

**3.5.** The employer shall, within fifteen days after the end of each of the 13 accounting periods in the financial year, pay the amounts collected during that period to the Association des cadres supérieurs de la santé et des services sociaux, indicating, for each senior officer from whom a contribution has been collected, his surname, given name and social insurance number, the position held, the period covered by the contribution and the amount collected.

T.B. 196312, s. 5.

**3.6.** A senior officer is not required to pay the contribution prescribed in section 3.4 for a period of 30 days following the date on which he is appointed.

Before the expiry of the period stipulated in the first paragraph, a senior officer who does not intend to contribute to the association shall notify the association of his decision in writing. The officer shall send a copy of the notice to his employer.

The employer shall begin to deduct the contribution from the senior officer's salary during the first complete salary period following the period prescribed in the first paragraph, unless the senior officer has stated his intention not to contribute in accordance with the second paragraph.

T.B. 196312, s. 5.

**3.7.** The situation of existing senior officers as contributors or non-contributors on 25 April 2001 is hereby continued.

T.B. 196312, s. 5.

**3.8.** A senior officer may, at any time, decide not to pay the contribution by means of a written notice sent to the association, with a copy to the employer.

Subject to receipt of the notice prescribed in the first paragraph, the employer shall cease to deduct the contribution from the senior officer's salary in the first complete salary period following the 90th day after receipt of the notice.

T.B. 196312, s. 5.

**3.9.** A senior officer who does not pay the contribution may change his decision at any time by notifying the association in writing. He shall send a copy of the notice to the employer.

An employer who receives a copy of the notice provided for in the first paragraph shall begin to deduct the contribution from the senior officer's salary in the first complete salary period following receipt of the copy of the notice.

T.B. 196312, s. 5.

**3.10.** An employer is relieved of the obligation to deduct the contribution from the salary of a senior officer as soon as it ceases to pay that salary or an amount in lieu thereof, in particular following termination of the employment relationship, suspension without pay or leave without pay. The employer shall inform the Association des cadres supérieurs de la santé et des services sociaux that it has ceased to deduct the contribution from the senior officer's salary at the same time as it sends the amounts collected for the accounting period in which the stoppage occurred.

T.B. 196312, s. 5.

### *§ 3. Professional contribution of intermediate officers*

**3.11.** On April 1 of each year, the employer shall provide every intermediate officers' association that so requests with an up-to-date list of the intermediate officers employed by it, indicating the following information for each such intermediate officer:

- surname, given name and social insurance number;
- place of work;
- position held;

- the evaluation class of that position.

The list may be an update of the list sent to all associations of intermediate officers in the previous year.

T.B. 196312, s. 5.

**3.12.** The employer shall deduct, from the salary of every intermediate officer employed by it, the amount of the professional contribution fixed by an association of intermediate officers in accordance with this subdivision, provided the said association can prove that at least 50 % of the intermediate officers employed by the employer were members of that association of intermediate officers on April 1 of the current year.

Before continuing to deduct the professional contribution, the employer shall ensure that, on February 1st of each year, at least 50 % of the intermediate officers employed by it are members of the association.

An officer may pay the contribution in another way, provided he notifies the association in writing, with a copy to the employer.

T.B. 196312, s. 5.

**3.13.** An employer that does not deduct the professional contribution from the salaries of the intermediate officers employed by it, in accordance with the provisions of the first and second paragraphs of section 3.12, shall, at the request of the association of intermediate officers, collect the professional contribution required by the association from the salary of every intermediate officer who is a member of the said association of intermediate officers, provided the officer has authorized such a deduction from his salary by notifying the association in writing of his intention to contribute, and has sent a copy of the notice to the employer.

T.B. 196312, s. 5.

**3.14.** Sections 3.5 to 3.10 apply, adapted as required, to the deduction of the professional contributions of intermediate officers by the employer for payment to the appropriate association of intermediate officers, in accordance with the provisions of section 3.12 or section 3.13.

T.B. 196312, 5.

### **DIVISION 3**

#### **MANAGEMENT POLICIES**

**4.** An employer shall have management policies pertaining to the terms of employment of its officers, subject to the terms of employment established by regulation. Such policies must be approved by the board of directors.

O.C. 1218-96, s. 4; T.B. 196312, s. 6.

**5.** The management policies shall pertain in particular to the following elements:

- (1) fill a position of officer;
- (2) performance appraisal;
- (3) developement;
- (4) the officer's record;

- (5) annual vacation;
- (6) personal leave;
- (7) public holidays;
- (8) leave without pay, leave for professional business and leave for public office;
- (9) compensation for overtime in exceptional circumstances;
- (10) an appeal from the application of the management policies.

O.C. 1218-96, s. 5; T.B. 196312, s. 7.

**5.1.** The management policies pertaining to annual vacation, public holidays and leave without pay, as prescribed in section 5, shall comply with the following guidelines:

(1) For the purpose of calculating annual vacation and notwithstanding section 3, continuous service shall include service as a senior administrator, as an officer or as a union member or unionizable non-member, with one or more employers including start-up institutions, without interruption of the employment relationship for a period of more than 6 months.

(2) For the purposes of annual vacations and public holidays, a part-time officer shall receive a compensatory indemnity in addition to the salary paid on each payday. The indemnity, expressed as a percentage, shall correspond to the amounts prescribed for full-time officers.

(3) For the purposes of leave without pay, if it is consistent with the leave provided for in the collective agreements governing the health services and social services sector, measures concerning contributions to the pension plan consistent with the measures provided for in the collective agreements applied by the employer must be provided.

T.B. 196312, s. 8.

**5.2.** The employer, its officers and their representatives acknowledge that the workplace must be free of all forms of violence, and in order to achieve this, they agree to work together to avoid or obtain the cessation of violence, using all appropriate means including the preparation of a policy.

T.B. 196312, s. 8.

**5.3.** The employer, its officers and their respective representatives shall work together, using appropriate means, in order to avoid or obtain the cessation of any sexual harassment brought to their knowledge.

Sexual harassment consists in repetitive and undesired behaviour of a sexual nature, expressed in words, actions or gestures, that is of a type likely to compromise the dignity or the physical or psychological integrity of a person, or to lead, for the person, to unfavourable working conditions or dismissal.

T.B. 196312, s. 8.

**5.4.** In compliance with the Charter of Human Rights and Freedoms (R.S.Q., c. C-12), the employer, its officers and their respective representatives shall work together, using appropriate means, in order to obtain the cessation of discrimination against officers.

Discrimination exists wherever a distinction, exclusion or preference has the effect of destroying, compromising or limiting a right conferred on an officer by this Regulation or by the Act.

Notwithstanding the foregoing, a distinction, exclusion or preference based on the skills or qualities required to carry out the tasks of a position is deemed to be non-discriminatory.

T.B. 196312, s. 8.

**6.** The employer shall consult its officers and their representatives prior to determining or modifying the management policies prescribed in sections 5, 5.1 and 5.2.

O.C. 1218-96, s. 6; T.B. 196312, s. 9.

#### **DIVISION 4**

##### **LEAVE FOR ACTIVITIES IN THE NORTH**

**6.1.** Upon agreement with his employer, an officer may obtain leave without pay to temporarily hold a position in one of the following institutions:

- Centre de santé de la Basse Côte-Nord;
- Centre de santé Innulitsivik;
- Centre de santé Tulattavik de l'Ungava;
- Centre hospitalier Chisasibi;
- Cree Board of Health and Social Services of James Bay;
- Centre de santé de l'Hématite (Schefferville and Kawawachikamac centres).

T.B. 193821, s. 3.

**6.2.** The leave without pay, for a maximum of 12 months, must be applied for 30 days in advance. It may be renewed for a maximum of 12 months.

T.B. 193821, s. 3.

**6.3.** The terms of employment applicable to an officer during his stay in the North are those provided for in section 2.

T.B. 193821, s. 3.

**6.4.** If the duration of the leave without pay is one year and if, during that period, an officer holds another officer position, his participation in the group insurance plans shall be maintained in accordance with the second paragraph of section 2. In other cases, the officer's participation in the group insurance plans shall be maintained according to the provisions of the second, fourth and fifth paragraphs of section 33.

Should an officer become disabled, the leave ends and the officer shall resume his position with his original employer in accordance with section 6.7. He shall benefit from the salary insurance plans in accordance with Division 5 of Chapter 4. Notwithstanding the foregoing, the officer and the employers involved may conclude an agreement whereby the officer shall stay on leave without pay and continue to hold the temporary position, in accordance with section 6.2.

The agreement provided for in the second paragraph shall contain the name of the employer responsible for the short-term salary insurance plan and of the employer responsible for the other group insurance plan measures referred to in Chapter 4.

T.B. 193821, s. 3.

**6.5.** During an officer's leave without pay, the provisions of the pension plans in question shall apply.

T.B. 193821, s. 3.

**6.6.** An officer's annual vacation, accumulated until the effective date of the leave without pay, may be paid upon agreement with the original employer. Accumulated statutory or mobile holidays shall be treated as accumulated annual vacation.

T.B. 193821, s. 3.

**6.7.** Upon return from leave without pay, an officer shall resume his position with his original employer, subject to the provisions respecting employment stability provided for in Chapter 5. His terms of employment shall be the same as those to which he would have been entitled had he remained at work.

T.B. 193821, s. 3.

## **DIVISION 5**

### **COMPENSATORY LEAVE**

**6.8.** From 1 January 2000, compensatory paid leave shall be introduced for certain officers. The leave shall correspond to 0.83 % of the number of hours paid for work as an officer during the period from 1 January to December 31 in a given year. The leave may not exceed 2 days each year.

The leave shall be used with the agreement of the employer or shall be replaced, in whole or in part, by a lump sum where it has not been used in the 12 months following the year in which it was earned. In the latter case, for each day of unused leave, the lump sum shall correspond to 0.415 % of the salary or benefits received for work as an officer during the year in which the leave was earned or of the salary that the officer would have received had he not been participating in the deferred salary leave plan.

If the employee dies, the employer shall pay an amount equivalent to the days of leave earned but not used, without exceeding 4 days.

T.B. 196312, s. 10.

**6.9.** The leave contemplated in section 6.8 applies to an officer who participates in the Régime de retraite des employés en fonction au Centre hospitalier Côte-des-Neiges.

The leave contemplated in section 6.8 also applies to an officer who is reinstated or assigned to a position other than an officer's position after 31 December 2000 if he participates in a pension plan other than Government and Public Employees Retirement Plan for non-unionizable employees or the Régime de retraite de l'administration supérieure (RRAS). In such a case, the leave applies from the effective date of the reinstatement or assignment, for such time as the officer continues to participate in the insurance plans provided for in Chapter 4.

T.B. 196312, s. 10.

**6.10.** The leave contemplated in section 6.8 also applies to any officer who, where applicable, participates in the Pension Plan of Peace Officers in Correctional Services (RRAPSC).

T.B. 196312, s. 10.

## **DIVISION 6**

### **GROUP RRSP**

**6.11.** Within 30 days of the request for a salary deduction, the employer shall deduct the amount indicated by the officer as a deduction for the purposes of contributing to a group registered retirement savings plan proposed by the relevant officers' association.

The deduction may be for a specified amount or percentage from each salary payment, or a single annual amount. The employer shall also make the necessary adjustments to the income taxes deducted at source, as permitted by the tax regulations.

The employer shall cease to deduct such amounts 30 days after receiving a written notice to that effect from the officer.

T.B. 196312, s. 10.

**6.12.** The employer shall remit the contributions on a monthly basis to the body designated by the officers' association concerned and shall attach a statement indicating the name, address, date of birth, social insurance number and amount collected for each officer.

T.B. 196312, s. 10.

## **CHAPTER 2**

### **ACCESSIBILITY TO POSITIONS OF OFFICER AND PROBATION**

#### **DIVISION 1**

##### **ACCESSIBILITY TO POSITIONS OF OFFICER**

**7.** Deleted.

O.C. 1218-96, s. 7; T.B. 196312, s. 11.

#### **DIVISION 2**

##### **PROBATION**

**8.** Upon the appointment of a person to a position of officer or upon the promotion of a person to a position of senior management officer, the employer shall establish a probation period, not exceeding 1 year, and so notifies the officer in writing.

O.C. 1218-96, s. 8.

#### **DIVISION 3**

##### **OFFICER PHYSICIANS**

###### *§ 1. Appointment*

**8.1.** To hold the position of professional services director, professional and hospital services director, public health director, assistant professional services director, assistant professional and hospital services director, assistant clinical professional and hospital services director, assistant public health director or emergency medical coordinator, an officer must be a physician and must be appointed in accordance with the provisions of sections 173, 202 or 372 of the Act.

T.B. 196312, s. 12.

**8.2.** All officers contemplated in section 8.1, except for public health directors, are appointed for a term not exceeding 4 years. An appointment may be renewed for a further period not exceeding 4 years, unless the board of directors notifies the appointee in writing of its intention not to renew the appointment, at least 60 days before the date on which the term expires.

T.B. 196312, s. 12.

**8.3.** An officer contemplated in section 8.2 may leave his position 60 days after sending a written notice to that effect to board of directors.

T.B. 196312, s. 12.

§ 2. *Exclusivity*

**8.4.** Subject to the rules and standards established by the board of directors pursuant to section 234 of the Act and to the agreements entered into by the minister and the Fédération des médecins spécialistes du Québec or the Fédération des médecins omnipraticiens du Québec, an officer contemplated in section 8.2 whose services have been engaged on a full-time basis may, with the authorization of the institution's board of directors, dispense medical services outside the periods for which his services have been engaged, after fulfilling the requirements of his position. Such authorization shall be the subject of a resolution of the board of directors, and may include other conditions.

The board of directors of an institution shall not authorize an officer contemplated in the first paragraph, whose services have been engaged on a full-time basis, to dispense medical services in the institution unless the institution has a shortage of physicians.

An officer contemplated in the first paragraph whose services have been engaged on a part-time basis may dispense medical services in the institution in which he holds a position of officer outside the periods for which his services have been engaged, after fulfilling the requirements of his position and with the authorization of the institution's board of directors. Such authorization shall be the subject of a resolution of the board of directors, and may include other conditions.

T.B. 196312, s. 12.

**CHAPTER 3**  
REMUNERATION

**DIVISION 1**  
GENERAL

**9.** An officer may not receive from his employer, and an employer may not give an officer, for the carrying out of his duties as an officer, any form of remuneration other than the remuneration provided for by this Regulation.

O.C. 1218-96, s. 9.

**10.** In general, no remuneration or compensation shall be paid to an officer for the overtime occasionally required in carrying out his regular duties.

An officer who is required by his employer or by circumstances to work overtime beyond his regular working hours shall receive, in the form of leave, compensation equal to the number of overtime hours worked.

An officer who agrees to replace another officer or non-officer outside his regular working hours shall be paid according to the provisions that apply to the position of the person he replaces.

O.C. 1218-96, s. 10; T.B. 196312, s. 13.

**DIVISION 2**  
EVALUATION CLASSES AND SALARY CLASSES

§ 1. *Evaluation classes*

**11.** The evaluation class of a position of senior officer consistent with a standard position is determined by the executive director of the institution, in accordance with the evaluation system and

with the classification and evaluation conditions for officer and senior administrator positions established by the Minister.

If the senior officer considers that the conditions set out in the first paragraph have not been complied with, he may, within 10 days following receipt of the evaluation class of his position, ask the Minister to make a ruling. The Minister shall determine the evaluation class of the position or shall order a third party to determine the evaluation class. There is no appeal from the decision made by the Minister or the third party.

O.C. 1218, s. 11; O.C. 926-97, s. 2; T.B. 196312, s. 14.

**11.1.** The evaluation class of a position of senior officer that is consistent with a standard position must be confirmed by the Minister where the result of the evaluation of the position determined in accordance with the first paragraph of section 11 is Class 23 or higher or Class C or higher if the position evaluated is an officer's position contemplated in section 8.1

T.B. 196312, s. 14.

**11.2.** The evaluation class of a position of senior officer that is not consistent with a standard position shall be determined in a draft evaluation forwarded by the executive director of the institution to the senior officer together with the data relating to the application of the factors and sub-factors used to determine the evaluation class of the position.

Within 30 days following the transmission of the draft evaluation, the senior officer may make representations to the executive director. He may be accompanied by a representative. On or before the expiry of the 30 days, the draft evaluation and the representations of the senior officer, if any, shall be presented to the Minister by the executive director. The Minister shall then determine the evaluation class of the position. The decision shall be binding upon the senior officer and the executive director and there shall be no appeal from the decision.

T.B. 196312, s. 14.

**11.3.** The evaluation class for a position of intermediate officer consistent with a standard position shall be determined by the executive director of the institution or of the agency, if the employer is an agency. The evaluation class shall be determined in accordance with the evaluation system and with the classification conditions for officer and senior administrator positions prescribed by the Minister.

If intermediate officer considers that the conditions set out in the first paragraph have not been complied with, he may, within 10 days following receipt of the evaluation class of his position, ask the Minister to make a ruling. The Minister shall determine the evaluation class of the position or shall order a third party to determine the evaluation class. There is no appeal from the decision made by the Minister or the third party.

T.B. 196312, s. 14; S.Q. 2005, c. 32, s. 309.

**11.4.** The evaluation class of a position of intermediate officer that is not consistent with a standard position shall be determined in a draft evaluation. The draft evaluation shall be forwarded to the intermediate officer by the executive director of the institution or of the agency, if the employer is an agency. The data relating to the application of the factors and sub-factors used to determine the evaluation class of the position shall be forwarded at the same time as the draft evaluation.

Within 30 days following the transmission of the draft evaluation, the intermediate officer may make representations to the executive director. He may be accompanied by a representative. If the intermediate officer accepts the draft evaluation, the executive direction shall make the evaluation class effective for that position in the manner set out in section 17.1.

At the expiry of the 30 days, if an agreement has not been reached by the executive director and the intermediate officer, the draft evaluation and the representations of the intermediate officer, if any, shall be presented to the Minister by the executive director. The Minister shall then determine the

evaluation class of the position. The decision shall be binding upon the senior officer and the executive director and there shall be no appeal from the decision.

T.B. 196312, s. 14; S.Q. 2005, c. 32, s. 309.

**11.5.** The evaluation class of a position of officer physician contemplated in section 8.1, or for a position of senior officer in an agency, shall be determined by the Minister.

T.B. 196312, s. 14; S.Q. 2005, c. 32, s. 309.

#### *§ 2. Salary classes and annual adjustment*

**12.** The salary classes determined in accordance with subdivision 1 of division 2 of this chapter correspond to the salary classes adjusted by 2 % on 1 April of 2006, 2007, 2008 and 2009. The adjusted salary classes are listed in Schedule 1.

For part-time officers, the salary determined in the first paragraph is reduced proportionally to the hours of the position.

O.C. 1218-96, s. 12; O.C. 926-97, s. 3; T.B. 194784, s. 1; T.B. 196312, s. 14; T.B. 196627, s. 1; M.O. 2003-005, s. 1; M.O. 2006-018, s. 4.

**12.1.** For officers contemplated in section 8.1, a salary rate corresponding to the evaluation classes established in accordance with section 11.5 shall be adjusted by 2 % on 1 April of 2006, 2007, 2008 and 2009. The resulting salary rates are listed in Schedule 2.

The salary rate of an officer contemplated in section 8.1 is reduced, when the officer holds a part-time position, proportionally to the time for which his services are engaged by the employer, without such services being less than 20 % of full time.

T.B. 194784, s. 1; T.B. 196312, s. 14; T.B. 196627, s. 2; M.O. 2003-005, s. 2; M.O. 2006-018, s. 5.

**12.2.** The salary rate of an officer contemplated in section 8.1 who holds a specialist certificate issued by the Collège des médecins du Québec and who exercises his duties in an isolated region referred to in section 1.1.1 of Schedule 19 to the Framework Agreement dated 1 October 1995 between the Minister and the Fédération des médecins spécialistes du Québec is increased by 45 % from 1 October 2003. If, instead, he exercises his duties in a remote region contemplated in section 1.2.4 of the Appendix or in another region contemplated in section 1.3.3 of the Appendix, the salary rate of the officer is then increased by 45 %, 30 %, 25 %, 15 % or 7 % depending on whether he exercises his duties in territory 5, 4, 3, 2 or 1. An electronic version of the Framework Agreement, updated by the Régie de l'assurance maladie du Québec, is available on the Régie's website at [www.ramq.gouv.qc.ca](http://www.ramq.gouv.qc.ca).

T.B. 196312, s. 14; M.O. 2006-018, s. 6.

**12.3.** The increases established pursuant to section 12.2 shall be paid, up to a maximum of 210 000 \$ per calendar year, to an officer holding a specialist certificate issued by the Collège des médecins du Québec who also dispenses medical services in accordance with section 8.4. The amount includes both the increased salary of the officer and the remuneration for medical acts.

The amount stipulated in the first paragraph is increased to \$219,000 from 1 January 2003 and to \$228,000 from 1 January 2004.

T.B. 196312, s. 14; M.O. 2006-018, s. 7.

**12.4.** The salary rate of an officer contemplated in section 8.1 who is a general physician and who carries out his duties in one of the territories with insufficient numbers of health professionals referred to in section 1 of Schedule XII to the General Agreement dated 1 September 1976 between the

Minister and the Fédération des médecins omnipraticiens du Québec is increased by 35 % if he carries out his duties in the territory 2 group, by 30 % if he carries out his duties in the territory 1 or 3 groups, by 20 % if he carries out his duties in the territory 4 or 5 groups and by 15 % if he carries out his duties in the territory 6 group. An electronic version of the General Agreement, updated by the Régie de l'assurance maladie du Québec, is available on the Régie's website at [www.ramq.gouv.qc.ca](http://www.ramq.gouv.qc.ca).

The salary rate of an officer contemplated in section 8.1 who is a general physician and who carries out his duties in one of the territories referred to in section 1 of Schedule XII-A to the General Agreement referred to in the first paragraph is increased by 15 % ; it is increased by 5 % if he carries out his duties in an institution contemplated in section 3 or 4 of the Schedule, with regard to the mission indicated therein and, if applicable, in the facility specified beside the name of the institution.

The salary rate increases stipulated in the first paragraph shall be increased by 5 % from the fourth year of continuous service in the territory 1, 2 or 5 groups and from the twentieth year of continuous service for the territory 4 group. They shall be increased by 10 % from the seventh year of continuous service in the territory 5 group, and from the twentieth year of continuous service for the territory 1 group.

The salary rate paid pursuant to the first and second paragraphs shall apply from 1 October 2003, except in the case of an officer who exercises his duties within an institution whose name was introduced in section 3 or 4 of Schedule XII-A to the General Agreement referred to in the first paragraph by Amendment No. 88 to the General Agreement, in which case the salary rate shall apply from 1 February 2005.

T.B. 196312, s. 14; M.O. 2006-018, s. 8.

**12.5.** For the purposes of the third paragraph of section 12.4, continuous service in the case of an officer physician means, notwithstanding section 3, the consecutive years in which he carries out his duties as an officer or the continuous years in which, as a physician, his main continuous is carried out in one of the territories with insufficient numbers of health professionals covered in Schedule XII to the General Agreement dated 1 September 1976 between the Minister and the Fédération des médecins omnipraticiens du Québec.

T.B. 196312, s. 14; M.O. 2006-018, s. 9.

**12.6.** For the purposes of sections 12.2 and 12.4, the geographical boundaries referred to in these sections are those in force on 3 August 2006 notwithstanding any amendment to Schedules 19 and 20 to the Framework Agreement dated 1 October 1995 or to Schedules XII and XII-A to the General Agreement dated 1 September 1976.

M.O. 2006-018, s. 10.

### **DIVISION 3**

#### **ANNUAL INCREASE OF INDIVIDUAL SALARIES**

##### *§ 1. Increase due to the adjustment of salary classes*

**13.** At the time the salary classes are adjusted, the salary of an officer shall be increased, where applicable, by a rate equal to the rate of adjustment of the salary classes as determined pursuant to section 12 or 12.1. The increase shall not have the effect of taking the officer's salary above the maximum for the salary class of the position he holds.

In the case of an officer contemplated in section 24, the salary adjustment shall take into account the salary adjustment paid pursuant to this section for the current year.

O.C. 1218-96, s. 13; O.C. 926-97, s. 4; T.B. 196312, s. 15; M.O. 2006-018, s. 11.

##### *§ 2. Increase for satisfactory performance*

**14.** A salary increase shall be granted to an officer on April 1 of each year, unless his performance for the year ending on March 31 is judged to be unsatisfactory. The employer's evaluation, with reasons, shall be sent to the officer in writing during the reference period. There is no appeal from the evaluation.

The salary increase shall be 4 % of the officer's salary on March 31, provided such increase does not take the officer's salary above the maximum for the salary class of the position he holds.

An officer available for reinstatement who carries out the activities stipulated in the reinstatement plan shall be entitled to a salary increase as though he had worked for the employer on a full-time basis.

An officer whose position has been eliminated and who has elected for pre-retirement leave shall not receive a salary increase.

The salary increase of an officer who has held his position for less than one year on the date on which the salary increase applies, or who has changed employers during the reference period, shall be established according to the time actually worked in that position or in another officer or senior administrator position with the same employer or another employer during the year preceding April 1.

An officer who has not worked for the whole of the year preceding April 1 because he is disabled, on leave without pay, on leave with deferred pay or on phased retirement, shall be eligible for the salary increase according to the time actually worked during that year. However, for the purposes of computing the percentage of salary increase, a disabled officer is considered to have been at work for the first 6 months of disability.

For an officer holding a part-time position on April 1 who has worked for less than 50 % of the time in the reference period, the salary increase shall be equal to 2 % of his salary on March 31.

O.C. 1218-96, s. 14; O.C. 926-97, s. 5; T.B. 196312, s. 16.

## **DIVISION 4**

### **INTEGRATION INTO A SALARY CLASS**

#### *§ 1. Appointment to a position of officer*

**15.** Where a person accedes to a position of officer from a position of union member or unionizable non-member, or from outside the health and social services sector, that person shall receive as a salary the higher of the following two amounts:

- the minimum for the salary class to which the person accedes; or
- 110 % of the annual salary the person received before the appointment, taking into account the parameters established in the second, third and fourth paragraphs; however, this amount, subject to section 24, shall not exceed the maximum for the salary class of the position to which the person accedes.

For the purpose of determining the appointee's new salary, his regular annual salary at the time of the appointment shall be used as a basis, with the addition, where applicable, of any responsibility bonuses, supplements and additional remuneration related to post-school education received by the person. The employer shall also take into account the experience of the person at the time of the appointment, by granting the pay increase that the person would have received, proportionally to the time elapsed between the date of the last pay increase and the time of the appointment.

If the person appointed is already employed by an employer and his employment title as a union member or unionizable non-member before his appointment does not take into account his academic training, the employer shall place the person at the salary step corresponding to his experience and education in the appropriate salary scale for employees who are union members or unionizable non-members in the sector on the date of the appointment, provided that the ensuing salary is higher than

the salary the person was receiving before the appointment. Otherwise, the salary the person was receiving at the time of the appointment is used as a basis for establishing the new salary.

For the purpose of determining the salary of an appointee person who was not employed by an agency or health services and social services sector institution, the employer shall place the person at the salary step corresponding to his experience and education in the appropriate salary scale for employees who are union members or unionizable non-members in the sector on the date of the appointment.

If there is no appropriate salary scale for the purposes of the third and fourth paragraphs, the employer shall determine the person's salary from within the salary class for the position to which the person is appointed.

O.C. 1218-96, s. 15; T.B. 196312, s. 17; S.Q. 2005, c. 32, s. 309.

**15.1.** The salary of a person who accedes to a position of senior officer is fixed by the board of directors from within the salary class for the position to which the person is appointed.

For officer physicians contemplated in section 8.1, the board of directors shall apply the salary rate corresponding to the evaluation classes applicable to the positions of the officer physicians.

T.B. 196312, s. 17.

*§ 2. Change in the evaluation class for a position*

**16.** Where the evaluation class for a position of officer is raised, the employer shall increase the salary of the officer holding that position by a percentage equal to 5 %, provided that this increase does not make the salary of the senior administrator higher than the maximum for the new salary class. However, the employer shall ensure to the senior administrator the minimum for the new salary class. This salary shall be adjusted, if applicable, in accordance with division 3 of this chapter.

O.C. 1218-96, s. 16.

**17.** Where the evaluation class for a position of officer is lowered, the salary of the officer holding that position shall either be decreased, if needed, to reach the maximum for the corresponding salary class, or maintained, if it is already within the range of this salary class.

When the salary of an officer is thus decreased because the evaluation class of the position he holds has been lowered:

- the officer shall receive as a lump sum the total difference between the salary he received prior to the new evaluation of his position and the new annual salary he is entitled to, for the first 3 years following the new evaluation;
- the officer shall receive in the same manner two thirds of the difference between the salary he received prior to the new evaluation of his position and the new annual salary he is entitled to for the fourth year, during that fourth year;
- the officer shall receive in the same manner one third of the difference between the salary he received prior to the new evaluation of his position and the new annual salary he is entitled to for the fifth year, during that fifth year.

O.C. 1218-96, s. 17.

**17.1.** The date on which a modification to an evaluation class for a position of officer comes into force shall be fixed according to one or other of the following criteria:

- (1) . the date established by the Minister, if the modification is the result of a change made to the classification and evaluation system and conditions for senior administrator and officer positions;

(2) the date on which the officer is appointed, if the modification is the result of an administrative reorganization;

(3) the date of the event, if the modification is the result of a change made by the employer to the duties of the position of officer;

(4) the date of the request for a modification made by the officer following changes in his responsibilities.

Notwithstanding the foregoing, the results of the updating of the evaluation class for a position of intermediate officer consistent with a standard position shall come into force on March 31 if the classification of the position is established according to a factual or verifiable variable confirmed in the annual statistical reports produced by the employer.

T.B. 196312, s. 18.

### § 3. *Change of position*

## **Promotion**

**18.** The salary of a promoted intermediate officer shall be the higher of the following two amounts:

- the minimum for the salary class of the position to which he accedes;
- 110 % of the salary he was receiving before the promotion; however, this amount, subject to section 24, shall not exceed the maximum point for the salary class of the position to which he accedes.

O.C. 1218-96, s. 18; T.B. 196312, s. 19.

**18.1.** The salary of a promoted senior officer is fixed by the board of directors within the senior salary class.

T.B. 196312, s. 19.

## **Transfer**

**19.** The salary of an officer shall not change following a transfer.

O.C. 1218-96, s. 19.

## **Demotion**

**20.** Where an officer is demoted, his salary shall either be decreased, if needed, to reach the maximum for the salary class for his new position, or maintained, if his salary is already within the range of this salary class.

When the salary of an officer is thus decreased following such a demotion:

- the officer shall receive as a lump sum the total difference between the salary he received prior to the demotion and the new annual salary he is entitled to, for the first 3 years following the demotion;
- the officer shall receive in the same manner two thirds of the difference between the salary he received prior to the demotion and the new annual salary he is entitled to for the fourth year, during that fourth year;

- the officer shall receive in the same manner one third of the difference between the salary he received prior to the demotion and the new annual salary he is entitled to for the fifth year, during that fifth year.

O.C. 1218-96, s. 20.

## **Reassignment to a non-officer position**

O.C. 1218-96; T.B. 196312, s. 20.

**21.** An officer reassigned to a position of union member or unionizable non-member shall receive a salary corresponding to the classification established by the employer in compliance with the salary provisions applicable to the position.

If the salary the officer was receiving before the reassignment is higher than the salary established pursuant to the first paragraph, the former salary is maintained provided it falls within the salary scale for the new position and does not exceed the maximum of the scale; in this latter case, the salary shall be reduced to the maximum of the scale.

If the salary of the officer is reduced following the reassignment:

- for the first three years following the reassignment, the officer shall receive, in the form of lump sum payments, the full difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled;

- for the fourth year following the reassignment, the officer shall receive, in the form of a lump sum payment, two-thirds of the difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled in that fourth year;

- for the fifth year following the reassignment, the officer shall receive, in the form of a lump sum payment, one-third of the difference between the salary he was receiving prior to the reassignment and the new annual salary to which he is entitled in that fifth year.

O.C. 1218-96, s. 21; T.B. 196312, s. 21.

## **DIVISION 5**

### **PLURALITY OF POSITIONS**

**22.** An officer who agrees, temporarily and in addition to his regular position, to hold another full-time or part-time position of officer or senior administrator with the same employer or another employer shall receive lump sum remuneration, provided however that the positions held in plurality are separate positions in the employer's organization plan. The lump sum remuneration shall be established by the employer in question, taking into account the extent and similarity of the tasks and the difference between the evaluation class of the second position and that of the regular position held by the officer. It may vary between 14 % and 24 % of the officer's salary.

The officer may not hold a second position that falls under his own direct or indirect authority.

The plurality of positions may be held by more than one officer. In such a case, the total amount of the remuneration contemplated in the first paragraph shall not, under any circumstances, exceed 24 % of the maximum for the salary scale of the second position.

There is no appeal from the lump sum remuneration established for a plurality of positions held by one or more officers. The same applies where the plurality is divided among several officers.

The plurality of positions may last for a period ranging from 2 to 18 months. However, where an officer replaces a senior administrator or officer on disability leave or parental leave, the replacement may be for the duration of the period of absence.

O.C. 1218-96, s. 22; T.B. 196312, s. 22.

## **DIVISION 6**

### **INTERIM**

**23.** An officer holds an interim position when he agrees to hold a position temporarily for his employer in an operational hierarchical line where it is necessary for the position to be held continuously. The salary class for such a position shall be higher than that for his regular position. The officer cannot simultaneously hold his own position during that period. For the interim period, the officer shall receive a lump sum payment representing the difference between his salary and the higher of the following 2 amounts:

- 110 % of the his salary, not exceeding the maximum for the salary class of the interim position;
- the minimum for the salary class of the interim position.

An officer may hold an interim position for a period ranging from 2 to 18 months. However, where he is replacing a senior administrator or officer on disability leave or parental leave, the replacement may be for the duration of the period of absence.

O.C. 1218-96, s. 23; T.B. 196312, s. 23.

## **DIVISION 6.1**

### **PERFORMANCE PREMIUM**

**23.1.** The terms and conditions of the performance premium are established annually by the Minister, taking into account the parameters fixed by the Conseil du trésor.

T.B. 193821, s. 4; T.B. 196312, s. 24.

## **DIVISION 7**

### **SALARY GAPS**

#### *§ 1. Salary gaps between an officer and his profession*

**24.** In spite of the determination of a maximum for each salary class, the maximum salary which can be reached by an officer is established at 110 % of the maximum rate of the salary scale in force including any additional remuneration related to continuing education, if any, in the health and social services sector for his profession where the new possible maximum is higher than the maximum of the salary class established for his position, provided that this profession is generally required for the position held. In such a case, the officer's salary is not deemed to be outside the class.

In such a case, this rule shall apply on the date of annual individual salary increases as prescribed in section 3 of this chapter. However, where an increase in the salary scale for his profession has the effect of reducing the gap in percentage established under this rule between the officer's salary and the maximum of the salary scale in force for his profession including, if any, any remuneration related to continuing education, the officer's salary shall be adjusted on the date of the increase in the salary scale in order to maintain the gap that existed on the day before the increase.

O.C. 1218-96, s. 24.

#### *§ 2. Salary gaps between an officer and his hierarchy line*

**25.** Where the application of the rule prescribed under section 24 no longer allows to maintain a gap of 7 % between the salaries of officers at different levels in the same hierarchy line and that the officer at the higher level has reached the maximum for his salary class, the employer shall add an amount to this officer's salary in order to maintain a gap of 7 %. In such a case, the officer's salary is not deemed to be outside the class.

This rule does not apply to assistants, except to administrative assistants of local community service centres.

O.C. 1218-96, s. 25.

## **DIVISION 8**

### **COMPENSATIONS, BONUSES AND ALLOWANCES**

**26.** The compensations, bonuses and allowances prescribed in this division and in Division 9 do not form part of the officer's salary.

O.C. 1218-96, s. 26; T.B. 196312, s. 25.

#### *§ 1. Compensation for availability*

**27.** An employer who demands that an officer be available outside his work schedule shall pay a lump sum compensation to the officer corresponding to one hour of work at the regular rate per shift of availability or, where applicable, a proportion of this amount per shift of availability.

AAAn officer who is required to work during the period of availability shall be paid or compensated in accordance with the provisions of section 10.

O.C. 1218-96, s. 27; T.B. 196312, s. 26.

#### *§ 2. Evening, night and weekend bonuses*

**28.** Notwithstanding the leaves prescribed in the union members' collective agreements, an officer shall be entitled to the evening bonus, the night bonus or the week-end bonus in accordance with the terms and conditions prescribed in the collective agreements for the payment of those bonuses. Under this section, the word «seniority» shall be replaced by «continuous service» and this continuous service shall also include the duration as a non-officer employee.

O.C. 1218-96, s. 28.

#### *§ 3. Allowances for regional disparities*

**29.** An officer shall be entitled to the allowances for regional disparities according to the same terms and conditions as those prescribed in the collective agreements in force in the health and social services sector.

O.C. 1218-96, s. 29.

## **DIVISION 9**

### **FLOATING HOLIDAYS AND PREMIUNS**

**29.1.** An officer who, on a regular basis, directly supervises a large group of employees working in psychiatry, secure custody, intensive supervision or the assessment of information shall receive the same holidays and premiums as those employees. The terms and conditions of the collective agreements in the health and social services sector for such holidays and premiums shall apply, adapted as required, to the officer.

T.B. 194784, s. 2; T.B. 196312, s. 27.

## **CHAPTER 4**

### **GROUP INSURANCE PLANS AND SICK-LEAVE FUND**

## **DIVISION 1**

### INTERPRETATION

**30.** In this chapter, unless the context indicates otherwise:

«benefits» means the benefits that an officer receives as short-term salary insurance or the benefits he would have received had he been eligible to the mandatory basic long-term salary insurance plan; (*prestation*)

«date of taking over duties» means the date on which a person is appointed to a position of officer; (*date de l'entrée en fonction*)

«disability» means the following: For the purposes of the short-term salary insurance plan, disability means a state of incapacity resulting from an illness, an accident, or serious complications of pregnancy or surgery related to birth planning requiring medical treatment and making the officer totally incapable of carrying out the normal tasks of his employment or of any other employment with similar remuneration that is offered to the officer by the employer. For the purposes of the long-term salary insurance plan, disability corresponds to the definition of total disability provided for in the management employees group insurance plans master policy; (*invalidité*)

«disability period» means the following: For the purposes of the short-term salary insurance plan, disability period means a continuous period of disability or successive periods of disability resulting from a single illness or accident, separated by less than 15 working days actually worked full-time or part-time according to the officer's position. Annual vacations, statutory holidays, leaves without pay, parental leaves or any other absence, paid or not, are not included in the calculation of the 15 working days. A subsequent disability period which the officer declares to be due to an illness or accident which is totally unrelated to the previous disability is deemed to be a different disability period. A disability period resulting from an illness or injury caused voluntarily by the officer himself, from alcoholism or drug addiction, from service in the armed forces or from active participation in a riot, insurrection, violation or criminal action is not deemed to be a disability period. However, in the case of alcoholism or drug addiction, the period during which the officer receives medical care or treatment in view of his rehabilitation is deemed to be a disability period. For the purposes of the long-term salary insurance plan, disability period corresponds to the definition provided for in the management employees group insurance plans master policy; (*période d'invalidité*)

«insurer» means an insurance company having concluded a contract with the Québec Government for the purposes of insuring management employees in the public and parapublic sectors; (*assureur*)

«position» means a position that the officer is deemed reasonably able to hold based on his education, training and experience; this position may be the position he held before his disability, an officer position, or a position equivalent to the one he held before his appointment to a position of officer, unionizable non-member or union member; (*poste*)

«salary» means an officer's regular salary or the salary to which the officer is entitled during a period of disability covered by the short-term salary insurance plan prescribed by division 5 of this chapter, including:

- (1) remuneration paid for annual vacations, floating holidays and statutory holidays;
- (2) the lump sum resulting from the application of sections 17, 20 and 21 and sections 104.1 to 104.3;
- (3) the lump sum paid in the case of plurality of positions in accordance with section 22 and allowances for regional disparities paid in accordance with section 29.

O.C. 1218-96, s. 30; T.B. 196312, s. 28.

## **DIVISION 2**

### GENERAL

**31.** For the purpose of calculating the benefits payable under this chapter, the salary of an officer holding a part-time position of officer is computed on the basis of the officer's average salary for the 12 weeks preceding the event giving entitlement to a benefit and for which no disability period, annual vacation, leave without pay or parental leave has been authorized.

O.C. 1218-96, s. 31; T.B. 196312, s. 29.

**32.** An officer reassigned to a position of union member or unionizable non-member may, on the date of the reassignment and provided he has held a position of officer or senior administrator for at least 12 months, conserve his group insurance plans.

O.C. 1218-96, s. 32; T.B. 196312, s. 30.

**33.** Where a leave without pay or partial leave without pay staggers over a period of less than 30 days, the officer shall maintain his participation in the insurance plans and pay the contribution he would normally pay if he were at work.

When a leave without pay staggers over a period of 30 days or more, or during any other absence without pay, the participation of the officer in the uniform life insurance plan shall be maintained. Also, the officer shall maintain his participation in the mandatory basic health-accident insurance plan by paying his premiums as well as the employer's contribution in the plan. He may, provided that he applies to the employer for that purpose before the planned date of the leave or absence, maintain his participation in the insurance plans listed in subsections 1 and 2 of section 51 that he owned before the leave or the absence, in accordance with the provisions of the master policy.

During a partial leave without pay that staggers over a period of 30 days or more, the participation of the officer in the insurance plans shall be maintained based on the time worked during the leave, with the officer paying his premiums and the employer paying his contribution to the plans. However, the officer may maintain his participation in the plans based on the time worked before the partial leave without pay. In this case, he shall pay his premiums and the employer's contribution to the plans based on the time not worked, except for the employer's contribution to the mandatory basic health-accident plan which shall continue to be paid by the employer.

The officer of leave without pay or on partial leave without pay who maintains his participation in the insurance plans which he owned before the leave or the absence without pay shall also maintain his participation in the survivor's pension plan in accordance with the provisions prescribed for this plan.

For the purposes of the short-term salary insurance plan, a disability beginning during the leave without pay or the absence without pay is deemed to begin on the date of the end of the leave or absence.

An officer benefiting from a deferred Salary leave plan shall continue to participate in the group insurance plans listed in subsections 1 and 2 of section 51. The sharing of the contributions paid to the mandatory basic plans shall be maintained during the deferred salary leave plan, including during the leave period, according to the terms that would be applicable to the officer if he were not beginning from the deferred salary leave plan. Throughout the deferred salary leave plan, the contributions of the officer and of the employer shall be based on the total salary, as shall the coverage, and not on the salary paid under the chosen option.

O.C. 1218-96, s. 33; O.C. 926-97, s. 6.

**34.** An officer whose disability began after 31 March 1994 shall maintain his employment relationship with his employer for as long as he is disabled and may not be subject to dismissal, non-renewal or termination of engagement for the reason that he is disabled.

An officer whose disability began before 1 April 1994 shall maintain his employment relationship with his employer for a period of at least 5 years from the beginning of a single disability period and shall not be subject to dismissal, non-renewal or termination of employment except for gross negligence.

O.C. 1218-96, s. 34.

**34.1.** Subdivisions 2 and 3 of division 7 of this chapter shall not apply to an officer who has chosen reinstatement under section 94 or to a disabled officer whose position is eliminated. However, where the officer disagrees with the decision of the insurer to the effect that he does not satisfy the definition of disability, the officer may submit his disagreement to the Tribunal d'arbitrage médical prescribed in the master policy.

O.C. 1218-96, s. 34.1.

**34.2.** An officer who files a complaint for his dismissal, non-renewal of his appointment or termination of his employment shall maintain his participation in the uniform life insurance plan but may not benefit from the short-term salary insurance plan prescribed in division 5 of chapter 4. Also, he shall maintain his participation in the mandatory basic health-accident insurance plan by paying his premiums as well as the employer's contribution in the plan. He may maintain his participation in the other insurance plans prescribed in subsections 1 and 2 of section 51, except however for the long-term salary insurance plans, until the date on which the arbitrator's decision is delivered or the date of the agreement between himself and his employer and provided that he so applies to the concerned insurance company in accordance with the provisions of the master policy. The officer who maintains his participation in these insurance plans shall also maintain his participation in the survivor's pension plan in accordance with the provisions prescribed for this plan.

An officer who is suspended without pay shall maintain his participation in the group insurance plans in accordance with the conditions for maintenance stipulated in the second, fourth and fifth paragraphs of section 33.

Following an arbitrator's decision in his favour, the officer is entitled to be reimbursed for the contribution normally paid by the officer for the plans in which he maintained his participation and, where applicable, to be reimbursed for the premium he paid to maintain his participation in the survivor's pension plan, retroactively to the date of his dismissal, non-renewal of engagement or termination of engagement.

If, pursuant to sections 130.12 and 130.14, the decision orders the reintegration of the officer in his position, and if a disability has begun since the date of the date of the dismissal, non-renewal of engagement or termination of engagement, the disability shall then be recognized and the officer shall pay his premiums for the long-term salary insurance plans retroactively to that same date.

O.C. 926-97, s. 8; T.B. 196312, s. 31.

### **DIVISION 3**

#### **ELIGIBILITY**

**35.** An officer holding a position of officer at 70 % or more of full-time is eligible for the benefits of the insurance plans prescribed in this chapter, at the expiry of 1 month from the date he takes over his duties, provided that he is then working. If he is not working on that date, he is eligible for the plans on the date he returns to work.

O.C. 1218-96, s. 35.

**36.** An officer holding a position of officer at more than 25 % but less than 70 % of full-time is eligible for the benefits of the insurance plans prescribed in this chapter, at the expiry of 3 months from the date he takes over his duties, provided that he is then working. If he is not working on that date, he is eligible for the plans on the date he returns to work.

O.C. 1218-96, s. 36.

**37.** An officer who holds a regular position of officer at 25 % or less of full-time is not eligible for the group insurance plans provided for in this chapter, unless he is appointed temporarily, in addition to

his regular position, to a position of officer at more than 25 % of full-time with the same employer, for an anticipated period of at least 12 months. In such a case he shall be eligible for the insurance plans for all his work over the duration of his employment.

An officer who is not eligible for the group insurance plans shall receive a compensatory lump sum equivalent to 6 % of the salary he receives for all his work.

O.C. 1218-96, s. 37; O.C. 926-97, s. 9; T.B. 193821, s. 5; T.B. 196312, s. 32.

**38.** Notwithstanding sections 35 and 36 and subject to the specific provisions to that effect prescribed in the master policy for the insurance plan listed in subsections 1 and 2 of section 51, an officer who, before becoming an officer governed by this Regulation, was employed by an employer in the public and parapublic sectors and was eligible for a group insurance plan applicable to the employees of those sectors, is eligible for the insurance plans provided for in this chapter on the date he takes over his duties as an officer covered by this Regulation, provided that his previous employment ended less than 30 days before the date he takes over his duties and he provides proof of his previous employment.

O.C. 1218-96, s. 38; O.C. 926-97, s. 10.

#### **DIVISION 4**

##### **UNIFORM LIFE INSURANCE PLAN**

**39.** An officer is entitled to 6 400 \$ of life insurance payable to his estate. That amount is reduced by 50 % for an officer holding a position of officer at less than 70 % full-time.

Where an officer holds a position of officer with several employers and that those positions amount to more than 70 % of full-time, he is deemed to be an officer holding a full-time position of officer.

The maximum amount of life insurance that an officer holding more than one position with several employers may receive is 6 400 \$.

O.C. 1218-96, s. 39.

**40.** Subject to sections 32 and 34.2, the an officer's adherence to the uniform insurance plan ends on the earlier of the following dates:

- (1) the date on which he ceases to be subject to the provisions of this chapter;
- (2) the date of his retirement.

O.C. 1218-96, s. 40; T.B. 196312. s. 33.

#### **DIVISION 5**

##### **SHORT-TERM SALARY INSURANCE PLAN**

**41.** The short-term salary insurance plan covers the first 104 weeks of a disability period.

O.C. 1218-96, s. 41.

**42.** During the first week of disability, the officer shall receive the salary to which he would have been entitled had he been at work.

O.C. 1218-96, s. 42.

**43.** From the second week of disability and up until the 26<sup>th</sup> week from the beginning of the disability, the officer shall receive a salary insurance benefit equal to 80 % of the salary to which he would have been entitled had he been at work.

From the 27<sup>th</sup> week of disability and up until the 104<sup>th</sup> week from the beginning of the disability, the officer shall receive a salary insurance benefit equal to 70 % of the salary to which he would have been entitled had he been at work.

O.C. 1218-96, s. 43.

**44.** The salary prescribed in section 42 and the benefit prescribed in section 43 shall be reduced by the amount of disability benefits or retirement benefits paid under the Automobile Insurance Act (R.S.Q., c. A-25), the Act respecting industrial accidents and occupational diseases (R.S.Q., c. A-3.001), the Crime victims compensation Act (R.S.Q., c. I-6) of the Act to promote good citizenship (R.S.Q., c. C-20), the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) or any other retirement plan to which the employer contributes, without regard to subsequent increases in benefits consequent upon their indexation.

An officer benefiting from a disability benefit or a retirement benefit covered by the first paragraph shall so advise the employer immediately.

O.C. 1218-96, s. 44.

**45.** A disabled officer shall continue to contribute to his retirement plan and to be entitled to the benefits of the group insurance plans. From the second week of disability, an officer receiving a salary insurance benefit is exempted from paying contributions to the insurance plans and to the retirement plan where the plan prescribes such an exemption.

O.C. 1218-96, s. 45.

**46.** For the duration of the disability period that falls within the first 104 weeks, short-term salary insurance plan benefits shall be paid to the officer by the employer upon presentation of vouchers establishing the disability.

The officer shall immediately notify the employer if he cannot be present at work because of a disability, and shall agree to submit to any medical examination to be performed by the employer's physician. The cost of such an examination shall be borne by the employer.

An officer who has been disabled for a period of at least 5 months shall also allow the employer or the employer's representative, the insurer or any other consulting firm to disclose the vouchers establishing the disability for the purpose of assessing the possibility of offering him a position in accordance with the provisions of this chapter.

O.C. 1218-96, s. 46; T.B. 196312, s. 34.

**46.1.** If the employer decides to interrupt payment of the short-term salary insurance plan benefit to an intermediate officer following a medical opinion issued by the employer's physician in accordance with the provisions of the second paragraph of section 46, he shall notify the intermediate officer in writing. The intermediate officer then has ten days from receipt of the notice in which to express his disagreement, also in writing.

The intermediate officer or employer can then, within 5 days, request that the employer's physician and the intermediate officer's physician reconcile their opinions. The 2 physicians have 15 days from the date of the request of the employer or the intermediate officer to produce a written report. If they fail to agree or if the 15-day deadline has expired, the intermediate officer and the employer have 7 days to agree on the choice of an expert physician from a list of names drawn up under section 130.22 or, if both agree, whose name does not appear on the list. If the parties fail to agree on the choice of an expert physician, either may ask the Minister in writing to designate an expert physician. The Minister shall appoint an expert physician from the list or whose name does not appear on the list within 10 days after receiving the request. The expert physician appointed shall perform his duties in accordance with a procedure and time limits that may differ from those prescribed in Division 1 of Chapter 6, provided his decision is made not later than 15 days after his appointment.

The expert physician may base his decision on the documents forwarded to him, and may meet and examine the senior administrator if he considers it relevant. His decision is final, without appeal and binding on the employer and the intermediate officer.

The costs of the parties and the fees and honorarium of the expert physician shall be paid in accordance with the provisions of section 130.24 for cases covered by Division 1 of Chapter 6. The intermediate officer shall be on leave without pay for the duration of the procedures described in the first and second paragraphs until a final decision is made by the expert physician.

This procedure differs from the arbitration procedure used to establish invalidity after 104 weeks, as stipulated in section 65, and must in no case be confused with that procedure.

T.B. 196312, s. 35; M.O. 2007-007, s. 2.

**47.** Subject to sections 48, 60 and 61, a disabled officer ceases to accumulate vacation days after a continuous disability period of at least 6 months.

O.C. 1218-96, s. 47.

**48.** An officer receiving a short-term salary insurance plan benefit may, in agreement with his employer benefit from a period of progressive return to work provided that, during that period, he carries out all the duties of the position he held before his disability or of any other position offered to him by the employer that corresponds to his training and experience and involves a similar remuneration.

During such period of progressive return to work, the officer shall be deemed to be disabled and shall continue to be subject to his salary insurance plan. The officer shall receive, for the proportion of time he works, the salary of the position and any bonus, allowance, compensation or lump sum, if any, and he shall accumulate vacation time and continuous service. For the proportion of time he does not work, he shall receive the applicable salary insurance benefit.

A period of progressive return to work shall not normally exceed 6 consecutive months and may not have the effect of extending the disability period beyond 104 weeks.

O.C. 1218-96, s. 48.

**49.** An officer's participation in the short-term salary insurance plan and his right to receive benefits shall end on the earliest of the following dates:

- (1) subject to section 32, the date on which he ceases to be subject to the provisions of this chapter;
- (2) the date on which use of his sick leaves begins in order to fully compensate the work load prescribed in the progressive retirement agreement and which immediately precedes the actual retirement;
- (3) the date on which his pre-retirement leave begins or the date on which begins the 12-month period preceding the coming into force of his pre-retirement leave as prescribed in section 121;
- (4) the date of his retirement.

O.C. 1218-96, s. 49; T.B. 196312, s. 81.

## **DIVISION 6**

### **SURVIVOR'S PENSION PLAN**

**50.** An officer shall be entitled to the survivor's pension plan in accordance with the Directive concernant le régime des rentes de survivants adopted by decision of the Conseil du trésor on 5

December 1995, and bearing the number C.T. 188102 subject to the fact that the words «civil servant» be replaced by the word «officer».

O.C. 1218-96, s. 50.

## **DIVISION 7**

### **PLANS ISSUED BY AN INSURANCE COMPANY AND REHABILITATION**

#### *§ 1. Plans issued by an insurance company*

**51.** Besides the plans that are issued by the Québec Government and prescribed in divisions 4, 5 and 6 of this chapter, an officer shall also be protected by plans issued by an insurance company.

The guaranties offered by these plans as well as the provisions governing them are those contained in the master policy of the management employees group insurance plans.

These plans are the following:

- (1) mandatory basic plans:
  - (a) a health-accident insurance plan;
  - (b) a long-term salary insurance plan;
  - (c) a life insurance plan;
- (2) additional plans:
  - (a) *deleted*;
  - (b) a mandatory long-term salary insurance plan;
  - (c) an optional additional life insurance plan.

O.C. 1218-96, s. 51; T.B. 196312, s. 36.

**52.** The cost of the mandatory basic plans shall be shared between the Government and all the participants in the plans, according to the terms of the agreement between the Québec government and the associations representing participants in the group insurance plans for management employees in the public and parapublic sectors, for the duration of the agreement.

The cost of the additional plans shall be paid entirely by the participants in the plans.

O.C. 1218-96, s. 52; T.B. 196312, s. 37.

#### *§ 2. Rehabilitation*

**53.** An officer shall be eligible to rehabilitation as prescribed in the master policy provided that he meets the following eligibility criteria:

- (1) the disability began after 31 March 1994, and the officer has been disabled for 6 months or more;
- (2) the officer's disability began more than 24 months prior to the earlier of the following dates:
  - (a) his sixty-fifth birthday;
  - (b) the earlier date on which he becomes eligible to:

(i) a retirement benefit without actuarial deduction based on 35 years of service credited to his retirement plan or on 32 years of service credited to the Pension plan of peace officers in correctional services (RRAPSC);

(ii) a retirement benefit with actuarial deduction the amount of which would correspond to the amount of a retirement benefit without actuarial deduction based on 35 years of service credited to his retirement plan or on 32 years of service credited to the Pension plan of peace officers in correctional services (RRAPSC).

O.C. 1218-96, s. 53.

**54.** However, an officer shall not be eligible to rehabilitation in either of the following circumstances:

(1) the treating physician or the insurer confirms that the officer is able to return to work without rehabilitation;

(2) the insurer confirms that the officer will not return to work;

(3) the insurer confirms that the officer is not capable of rehabilitation.

O.C. 1218-96, s. 54.

**55.** An officer who is offered in writing by the employer a position which is in relation with his rehabilitation plan shall notify the employer in writing of his acceptance or refusal of this position, whether the rehabilitation begins before or after the end of the first 104 weeks of disability. This position shall not involve a weekly work load which is lower than the work load of the position he held at the beginning of his disability.

After the first 104 weeks of disability, the officer must accept the position or else the employer may terminate his engagement contract.

O.C. 1218-96, s. 55; T.B. 196312, s. 81.

**56.** The period during which the officer may hold, on trial, a position which is in relation with his rehabilitation plan shall not have the effect of extending the disability period beyond 104 weeks.

O.C. 1218-96, s. 56.

**57.** An officer whose rehabilitation takes place during the first 104 weeks of disability is deemed to be disabled during that period and he shall receive, for the time he works in a position in relation with his rehabilitation plan, a short-term salary insurance plan benefit equal to 90 % of the salary to which he would have been entitled had he been at work in his position and, for the time he does not work or the waiting period for such a position, if such is the case, a benefit equal to 70 % of that salary.

This benefit shall be subject to the provisions which apply to the waiver of insurance and retirement plans premiums and shall also be subject to the provisions governing the coordination of the benefit, in accordance with the terms and dispositions prescribed in division 5.

However, an officer whose rehabilitation takes place in his position shall receive his salary for the time he works and shall be governed by the provisions which apply to that position.

O.C. 1218-96, s. 57.

**57.1.** An officer already considered to be disabled who is forced to be absent from work for a second time due to a disability resulting from the same disease or accident, before the end of the first 104 weeks of disability but after successfully undergoing rehabilitation, is considered to have suffered a recurrence of the disability.

In such a case, the officer shall continue to receive a benefit equal to 90 % the salary to which he would have been entitled had he been at work in his position, up to 104 weeks from the beginning of the disability, and the provision set out in the second paragraph of section 57 shall apply.

T.B. 196312, s. 38.

**57.2.** Where a new disability begins before the end of the first 104 weeks of the first period of disability but after the officer has successfully undergone rehabilitation, the officer is considered to be disabled in the position he occupied at the beginning of the new period of disability. However, he shall continue to receive a benefit equal to 90 % of the salary to which he would have been entitled had he been at work in the position he occupied at the beginning of the first period of disability, up to 104 weeks from the beginning of the first period of disability, and the provision set out in the second paragraph of section 57 shall apply.

At the end of the first 104 weeks of the first period of disability, an officer whose rehabilitation takes place in a position related to his rehabilitation plan shall be reassigned to that position in accordance with the first paragraph of section 62.

The provisions of Division 5 apply from the date of the reassignment up to 104 weeks from the beginning of the new period of disability, for the salary of the position to which the officer is reassigned,

T.B. 196312, s. 38.

**58.** An officer whose rehabilitation takes place in part after the 104<sup>th</sup> week of disability shall be entitled to the provisions which apply to the first 104 weeks of disability, until the end of that period.

From the 105<sup>th</sup> week and until the end of the rehabilitation, the officer shall receive for the time he works the salary of the position in relation with his rehabilitation plan, which salary shall not be lower than the mandatory basic long-term salary insurance plan benefit. For the time he does not work, the officer shall receive a salary equal to that benefit. Moreover, an officer whose rehabilitation takes place in his position shall receive his salary for the time he works and a salary equal to the mandatory basic long-term salary insurance plan benefit for the time he does not work.

O.C. 1218-96, s. 58.

**59.** An officer whose rehabilitation takes place entirely after the 104<sup>th</sup> week of disability shall receive for the time he works the salary of the position in relation with his rehabilitation plan, which salary shall not be lower than the mandatory basic long-term salary insurance plan benefit.

O.C. 1218-96, s. 59.

**60.** An officer shall accumulate vacation time during the time he works in a position related to his rehabilitation plan.

O.C. 1218-96, s. 60; T.B. 196312, s. 39.

**61.** The training or development period scheduled in an officer's rehabilitation plan approved by the insurer is deemed to be time the officer works in a position in relation with his rehabilitation plan.

O.C. 1218-96, s. 61.

**62.** The officer shall be reassigned by an employer to a position related to his rehabilitation plan at the end of the 104th week of disability or, where applicable, at the end of his rehabilitation if the rehabilitation ends after the 104th week, and he shall receive the salary of that position from the date of the reassignment, and shall be governed, subject to section 32, by the provisions applicable to that position.

The premiums and contributions to the insurance and retirement plans shall be established based on that salary.

O.C. 1218-96, s. 62; T.B. 196312, s. 40.

**63.** A Sectorial Committee on Rehabilitation is hereby established. This Committee is composed of:

- 4 representatives designated jointly by the Association des directeurs généraux des services de santé et des services sociaux du Québec, the Association des cadres supérieurs de la santé et des services sociaux, the Association des gestionnaires des établissements de santé et de services sociaux and the APER santé et services sociaux;

- 1 representative designated by the employer's associations that represent the institutions;

- 1 representative designated by the health and social services agencies;

- 1 representative designated by the minister.

The committee may appoint resource persons, if needed.

O.C. 1218-96, s. 63; T.B. 196312, s. 41; S.Q. 2005, c. 32, s. 309; M.O. 2006-018, s. 12.

**64.** The Sectorial Committee shall carry out the following duties:

(1) at the request of one of the parties:

- analyze any particular problem pertaining to the return to work;

- intervene with the employer, the officer and the insurer by suggesting appropriate solutions, notably in cases where the return to work may involve the temporary use of the officer's services and in the situation prescribed in the second paragraph of section 68;

(2) evaluate the functioning of the rehabilitation programme and carry out the follow-up.

O.C. 1218-96, s. 64.

*§ 3. Disability after one hundred and 4 weeks*

**65.** When the employer receives notice from the insurer to the effect that the officer does not satisfy the definition of disability and that payment of the benefits shall be interrupted or refused, the employer may submit to the Tribunal d'arbitrage médical the disagreement that opposes the employer to the insurer in order to establish whether or not the officer satisfies the definition, in accordance with the medical arbitration convention agreed upon with the insurer and provided that the officer accepts that the disagreement be submitted to the arbitration court for final decision.

Where the employer and the officer agree with the decision of the insurer to the effect that the officer does not satisfy the definition of disability, the employer must offer an available position to the officer and the applicable provisions are those prescribed in section 68 in the case of the acceptance of a position or in section 69 during the waiting period for such a position.

The disagreement of the officer with the insurer's decision to the effect that he does not satisfy the definition of disability may be submitted to the arbitration court by the officer, under the conditions prescribed in the medical arbitration convention. In such a case, the employer shall pay no expenses.

O.C. 1218-96, s. 65.

**66.** The employer shall pay to the officer a salary equal to the benefit, for the period beginning on the date of interruption of payment of the benefit or the date the refusal to pay the benefit comes into

effect and ending on the date the decision of the Tribunal d'arbitrage médical is rendered, if the following conditions are met:

- (1) the officer has adhered to the medical arbitration convention agreed upon with the insurer;
- (2) the disagreement between the employer and the insurer or between the officer and the insurer has been submitted to the arbitration court for final decision, in accordance with the medical arbitration convention agreed upon with the insurer.

O.C. 1218-96, s. 66.

**67.** When the Tribunal d'arbitrage médical confirms that the officer does not satisfy the definition of disability, payment of the premiums and contributions to the insurance and retirement plans shall be made retroactively from the date of interruption of payment of the benefit or the date the refusal to pay the benefit came into effect and the employer continues to pay the officer a salary equal to the benefit, until the employer offers him a position. Where the disagreement was submitted to the arbitration court by the officer, the officer shall reimburse the salary that was paid to him to the employer.

When the arbitration court confirms the officer's disability, the employer shall continue to pay a salary equal to the benefit until the date on which the insurer pays the benefit. The insurer shall reimburse to the employer the amounts that are equivalent to the benefits paid to the officer by the employer. The employer shall reimburse to the officer the arbitration fees as well as the medical examination fees paid by him, if any.

O.C. 1218-96, s. 67.

**68.** An officer who does not satisfy the definition of disability after the first 104 weeks following the beginning of the disability must accept a position offered to him by an employer in his administrative region or by an employer in another administrative region located less than 50 kilometres by road from his home base and his residence, except during the period where he has submitted his disagreement to the insurer or to a medical arbitration court, or if the position does not involve a weekly work load that is less than that of the position he held at the beginning of his disability.

An officer reassigned to another position in accordance with the first paragraph shall receive the salary for that position and is governed, subject to section 32, by the provisions applicable to that position.

Premiums and contributions to the group insurance plans and retirement plans shall be established on the basis of the new salary.

If the officer refuses the position offered, the employer may terminate his employment 15 days after sending him a notice of intention. A copy of the notice shall be sent to the sectorial committee mentioned in section 63. During this period, the employer shall allow the sectorial committee to make any intervention that may be necessary pursuant to section 64.

O.C. 1218-96, s. 68; T.B. 196312, s. 42.

**69.** During the waiting period for a position, where the employer and the officer agree with the insurer's decision, or from the date on which the decision of the Tribunal d'arbitrage médical is rendered to the effect that the officer does not satisfy the definition of disability, the officer shall receive a salary equal to the benefit, and premiums and contributions to the insurance and retirement plans shall be established on the basis of that salary. During that period, the employer may temporarily use the services of the officer for duties that take into account the officer's training and experience. The officer shall accumulate vacation time and continuous service during the time worked.

O.C. 1218-96, s. 69; T.B. 196312, s. 43.

**70.** Payment to the officer of a salary equal to the benefit, under this subdivision, shall not go beyond the date on which the benefit ends according to the master policy.

O.C. 1218-96, s. 70.

**71.** Beside the situation prescribed in section 34, an officer shall maintain his employment relationship with his employer when the insurer refuses or ceases to pay to the officer long-term salary insurance benefits, until the decision of the Tribunal d'arbitrage médical, if such is the case.

Notwithstanding the foregoing, where the insurer is released from his obligations under this Division by paying a lump sum to the officer, the employer shall terminate the disabled officer's employment relationship.

O.C. 1218-96, s. 71; T.B. 193821, s. 6.

## **DIVISION 8**

### **SICK-LEAVE FUND**

#### *§ 1. General*

**72.** An officer who, at 31 December 1973, had a sick-leave fund acquired with 1 or more employers, may use the fund for the purposes of redeeming years of prior service for which no contributions were made to the Government and Public Employees Retirement Plan (RREGOP) for the purposes of pre-retirement, in the case of departure or death or for the purposes of making up the difference between the salary insurance benefit and the net salary.

O.C. 1218-96, s. 72.

**73.** At the officer's request, the employer shall give him a statement of the sick-leave fund accumulated at 31 December 1973, and authorized by the Department.

O.C. 1218-96, s. 73.

**74.** The sick leave days accumulated by a union member or by a unionizable non-member who is appointed as an officer after 31 December 1973 are governed by the provisions applicable to the group of employees of which he was or could have been a part before his appointment as an officer.

O.C. 1218-96, s. 74; T.B. 196312, s. 44.

#### *§ 2. Use of the sick-leave fund*

**75.** An officer may use the sick-leave days in this fund in the following manner:

(1) for the purposes of redeeming years of prior service for which no contributions were made to the Government and Public Employees Retirement Plan (RREGOP), in accordance with the rules respecting retirement plans;

An officer may use his full sick-leave fund as follows:

- (a) the first 60 days at 100 % of their value;
- (b) the portion exceeding 60 days, without limit, at 50 % of their value;

(2) for the purposes of making up the difference between the salary insurance benefit and the officer's net salary:

In this case, the disabled officer may use his sick-leave fund to make up the difference between the short-term salary insurance benefit provided for in section 43 and the net salary he would be receiving if he were not on disability leave ; the net salary corresponds to the gross salary that he would be receiving if he were at work, less federal and provincial income taxes and contributions to the Q.P.P., the employment insurance plan and the retirement plan;

Days or parts of days used in accordance with the second paragraph shall be subtracted from the sick-leave fund;

(3) for the purposes of taking a pre-retirement:

In such case, the sick-leave fund may be used in full, at the rate of 1 day of pre-retirement for each day in the fund;

(4) in the case of departure or death:

An officer may be reimbursed up to a maximum of 120 days from his sick-leave fund, from which must be subtracted the number of days used under subparagraphs 1, 2 and 3; those days may be reimbursed as follows:

(a) the first 60 days at 100 % of their value, from which must be subtracted the number of days already used under subparagraphs 1, 2 and 3 of this section;

(b) the next 60 days at 50 % of their value, from which must be subtracted the number of days already used at 50 % for the purposes of redeeming years of prior service for which no contributions were made to the Government and Public Employees Retirement Plan (RREGOP);

(5) for the purpose of taking a pre-retirement leave to replace the long-term salary insurance benefit:

An officer who receives a benefit from the mandatory basic long-term salary insurance plan may elect to take a pre-retirement leave instead and in place in this benefit, provided that this pre-retirement does not exceed the date of the end of the benefit from this plan which would otherwise have been applicable to him; in such case, the sick leave fund may be used in full, at the rate of 1 day of pre-retirement for each day in the fund.

O.C. 1218-96, s. 75; T.B. 196312, s. 45.

**76.** The value of the sick-leave days is calculated on the basis of the officer's salary at the time they are used. The daily salary is obtained by dividing the officer's annual salary in force at the time of use by 260,9.

Notwithstanding the first paragraph of this section, where the officer is a long-term disability at the time of their use, his salary shall be equivalent to the salary he was receiving at the end of the first 104 weeks of disability, adjusted on 1 January of each year according to the same procedures that apply to the mandatory basic long-term salary insurance plan benefit.

O.C. 1218-96, s. 76.

## **CHAPTER 4.1**

### **PARENTAL RIGHTS PLAN**

**76.1.** Unless expressly stated otherwise, the provisions of this Chapter may not grant financial or non-financial benefits which the officer on leave would not have received had the officer remained at work.

T.B. 193821, s. 7.

## **DIVISION 1**

### **MATERNITY LEAVE**

*§ 1. General*

**76.2.** A pregnant officer is entitled to 20 weeks of maternity leave, which, subject to section 76.7, shall be consecutive.

Maternity leave may be less than 20 weeks. If the officer resumes work within 2 weeks following childbirth, she shall produce, upon the employer's request, a medical certificate attesting that she has sufficiently recovered to resume work.

T.B. 193821, s. 7.

**76.3.** The officer shall decide on the division of the maternity leave, that is, before and after childbirth, which shall include the day of delivery.

T.B. 193821, s. 7.

**76.4.** If the officer becomes pregnant while on leave without pay or on partial leave without pay as provided for in this Chapter, she is also entitled to maternity leave and to the benefits provided for in sections 76.20, 76.28 or 76.29, whichever applies.

T.B. 193821, s. 7.

**76.5.** An officer who gives birth to a stillborn child after the beginning of the twentieth week preceding the expected date of delivery is entitled to the maternity leave provided for in this Division.

T.B. 193821, s. 7.

**76.6.** Should an officer die after giving birth, the remainder of the 20 weeks of maternity leave and the rights and benefits attached thereto may be transferred to her spouse if he is an officer.

T.B. 193821, s. 7.

**76.7.** An officer may suspend her maternity leave and return to work if she has sufficiently recovered from delivery and the child is unable to leave the health institution. This also applies where the baby is hospitalized within 15 days of its birth. Notwithstanding the foregoing, the leave may be suspended only once and it shall be completed when the child goes home.

When the suspended maternity leave is resumed, the employer shall pay the officer the compensation to which she would have been entitled had she not availed herself of the suspension.

T.B. 193821, s. 7.

**76.8.** Where the child is born after the due date, the officer is entitled to an extension of her maternity leave equal to the delay, unless she already has at least 2 weeks of maternity leave remaining after the birth.

The officer may also benefit from an extension of 6 weeks in maternity leave where her child's health requires it.

During such extensions the officer shall not receive any compensation or salary.

T.B. 193821, s. 7.

## *§ 2. Granting of leave and expiry date*

**76.9.** To obtain maternity leave, an officer shall give notice in writing to the employer not less than 2 weeks before the date of departure. The notice shall be accompanied by a medical certificate certifying the pregnancy and the expected date of delivery. The time period for giving notice may be shorter if a medical certificate attests that the officer must leave her position earlier than expected.

In case of unforeseen events, the officer shall be exempt from giving notice, subject to submitting a medical certificate to the employer showing that she must leave her position immediately.

T.B. 193821, s. 7.

**76.10.** An employer shall send an officer, in the fifth week before the expiry of her maternity leave, a notice of the scheduled date of expiry of such leave.

An officer to whom the employer has sent the notice referred to in the first paragraph shall be at work on the date her maternity leave expires, unless it has been extended by means of a leave without pay or a partial leave without pay in accordance with Subdivision 4 of Division 3 of this Chapter.

An officer who does not comply with the second paragraph is deemed to be on leave without pay for a period not exceeding 4 weeks. At the end of that period, an officer who is not at work is deemed to have resigned.

T.B. 193821, s. 7.

**76.11.** At the end of her maternity leave, an officer shall resume work in her position with her employer, subject to the provisions respecting employment stability provided for in Chapter 5. Her terms of employment, including her salary, shall be the same as those to which she would have been entitled had she remained at work.

T.B. 193821, s. 7.

**76.12.** An officer who, for health reasons, is unable to resume work in her position upon the expiry of the period provided for in section 76.2 or 76.8 shall be considered absent due to illness and the provisions respecting group insurance plans provided for in Chapter 4 shall apply.

T.B. 193821, s. 7.

### *§ 3. Compensation*

**76.13.** Compensation for maternity leave is paid only as a supplement to employment insurance benefits or, in the cases provided for below, as payments during a period of unemployment caused by pregnancy that is not covered by the employment insurance plan.

Compensation for maternity leave shall be based on the salary of an officer including the lump sums paid pursuant to sections 17, 20 and 21 and sections 104.1 to 104.3, without any additional remuneration.

T.B. 193821, s. 7; T.B. 196312, s. 46.

**76.14.** The total of the amounts received by the officer during her maternity leave in employment insurance benefits, compensation and salary may not exceed 93 % of the salary paid by her employer or employers, as the case may be, in accordance with section 76.30.

Notwithstanding the foregoing, where an officer receives an allowance for regional disparities, she shall continue to receive the allowance during her maternity leave. In such cases, the total amount received by the officer in employment insurance benefits, compensation and allowances may not exceed 95 % of the sum of her salary and the allowance for regional disparities.

T.B. 193821, s. 7.

**76.15.** The compensation due for the first 2 weeks of maternity leave shall be paid by the employer within 2 weeks of the beginning of the leave. The subsequent compensation due shall be paid every 2 weeks, unless the salary is paid weekly.

T.B. 193821, s. 7.

**76.16.** Notwithstanding section 76.15, where the officer is eligible for employment insurance, the first compensation payment is due only 15 days after the employer obtains proof that the officer is receiving employment insurance benefits. Such proof may be a statement of benefits or a benefit slip, a payment slip or date processing information provided to the employer by Human Resources Development Canada.

T.B. 193821, s. 7.

**76.17.** The weekly salary of a part-time officer is the average weekly salary of the last 20 weeks preceding the maternity leave for which no leave without pay was authorized. If, during that period, the officer received benefits representing a percentage of her salary, it is the salary used to calculate the benefits that shall determine the compensation for maternity leave. These provisions constitute one of the provisions expressly referred to in section 76.1.

T.B. 193821, s. 7; T.B. 196312, s. 47.

**76.18.** Where the last 20 weeks before the maternity leave of a part-time officer include the salary adjustment date, the weekly salary is based on the salary in force on that date. If the salaries were adjusted during the maternity leave, the weekly salary shall be increased on that date in accordance with the applicable adjustment rules.

T.B. 193821, s. 7.

**76.19.** The employer shall not reimburse an officer for an amount that could be claimed from the officer by Human Resources Development Canada under the Employment Insurance Act (S.C., 1996, c. 23), where the officer's income exceeds one and a quarter times the maximum insurable earnings.

T.B. 193821, s. 7.

#### *§ 4. Eligibility for employment insurance*

**76.20.** An officer who has accumulated 20 weeks of service with her employer or with one of the employers referred to in section 76.30, and who is declared eligible following an application for benefits under the employment insurance plan, is entitled to receive during her maternity leave:

(1) for each week of the waiting period required under the employment insurance plan, compensation equal to 93 % of her weekly salary, given that, in such situation, she is exempt from contributions to the retirement and employment insurance plans, which corresponds to an average of 7 % of her salary;

(2) for each week in which she receives employment insurance benefits, supplementary compensation equal to the difference between 93 % of her weekly salary and the employment insurance benefit she receives; and

(3) for each week following the period mentioned in paragraph 2, compensation equal to 93 % of her weekly salary until the end of the twentieth week of maternity leave.

T.B. 193821, s. 7.

**76.21.** Calculation of the supplementary compensation provided for in paragraph 2 of section 76.20 is based on the employment insurance benefits to which an officer is entitled, excluding the amounts subtracted from such benefits for repayment of benefits, interest, penalties and other amounts recoverable under the employment insurance plan.

T.B. 193821, s. 7.

**76.22.** An officer who works for more than one employer, among those specified in section 76.30, shall receive supplementary compensation from each of her employers. In such case, the supplementary compensation is equal to the difference between 93 % of the salary paid by the employer and the percentage of the employment insurance benefit which corresponds to a proportion of the weekly salary paid by all the employers. For that purpose, the officer shall give each of her employers a statement of the weekly salary paid by each employer, along with the amount of the benefits paid to her by Human Resources Development Canada.

T.B. 193821, s. 7.

**76.23.** Where Human Resources Development Canada reduces the number of weeks of employment insurance benefits to which the officer would otherwise be entitled had she not received employment insurance benefits before her maternity leave, the officer shall continue to receive, for a period equal to the weeks subtracted, the supplementary compensation prescribed in paragraph 2 of section 76.20 as though she had received employment insurance benefits during that period.

T.B. 193821, s. 7.

**76.24.** The maternity leave allowance paid by the Gouvernement du Québec under the maternity allowance program is subtracted from the compensation determined in section 76.20. Notwithstanding the foregoing, where the provisions of section 76.22 apply, the amount to be subtracted is based on the stated terms and conditions of partition for subtraction purposes.

T.B. 193821, s. 7.

**76.25.** For the purposes of section 76.20, an officer who is absent accumulates hours of service if the absence is authorized, namely due to disability, and includes a benefit or remuneration.

T.B. 193821, s. 7.

**76.26.** The employer may not use maternity leave compensation to make up for the reduction in employment insurance benefits attributable to the earnings with another employer.

Notwithstanding the first paragraph, the employer shall pay compensation where the officer shows that the salary earned with an employer is a regular salary, by means of a letter from that employer. If the officer shows that only a portion of the salary is regular, compensation shall be limited to that portion. The employer must then provide the letter upon request from the officer.

T.B. 193821, s. 7.

#### *§ 5. Ineligibility for employment insurance*

**76.27.** An officer excluded from employment insurance benefits or declared ineligible shall not be entitled to compensation, subject to the provisions of this subdivision.

T.B. 193821, s. 7.

**76.28.** A full-time officer who has accumulated 20 weeks of service with her employer or with one of the employers referred to in section 76.30 is entitled to compensation equal to 93 % of her weekly salary for 12 weeks if she is not eligible for employment insurance benefits because she has not held insurable employment for at least 700 hours during the period of reference prescribed by the employment insurance plan.

T.B. 193821, s. 7; T.B. 196312, s. 48.

**76.29.** A part-time officer who has accumulated 20 weeks of service with her employer or with one of the employers referred to in section 76.30 is entitled to compensation equal to 95 % of her weekly

salary for 12 weeks. If she is exempt from pension plan and employment insurance contributions, the compensation rate is 93 %.

To obtain compensation, a part-time officer must be ineligible for employment insurance benefits either because:

- (1) she has not contributed to the employment insurance plan; or
- (2) she has contributed to the employment insurance plan, but did not have 700 hours of insurable employment during the period of reference.

T.B. 193821, s. 7; T.B. 196312, s. 49.

#### § 6. *Other benefits*

**76.30.** An officer's continuous service shall include all service for any employer of the public or parapublic sector, any body whose employees are subject under an Act to conditions of employment, standards and scales of remuneration determined or approved by the Government, and any body listed in Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., c. R-8.2).

T.B. 193821, s. 7.

**76.31.** During the maternity leave and extensions provided for in section 76.7, the officer shall continue to receive the following benefits where she is entitled thereto:

- accumulation of vacation days;
- accumulation of continuous service;
- any salary increase due to the adjustment of salary classes;
- any salary increase for satisfactory performance;
- maintenance of group insurance plans.

T.B. 193821, s. 7.

**76.32.** During her maternity leave, an officer shall continue to participate in the mandatory group insurance plans provided for in section 51, but the employer shall make a payment equal to both his contribution and the officer's contribution to the plans. Furthermore, the officer shall be exempt from contributing to the optional insurance plans in accordance with the provisions of the master policy.

T.B. 193821, s. 7.

**76.33.** No compensation may be paid during vacation leave for which an officer receives remuneration. Notwithstanding the foregoing, an officer may defer vacation leave that falls within the maternity leave, provided that at least 2 weeks before the expiry of the leave, she informs her employer in writing of the date of deferral.

T.B. 193821, s. 7.

**76.34.** While on maternity leave, an officer shall retain the employment relationship with the employer. Her contract must be renewed. She may not be dismissed, except for gross negligence. Her employment may not be terminated.

T.B. 193821, s. 7.

## **DIVISION 2**

### **PREGNANCY AND BREAST-FEEDING LEAVE**

#### *§ 1. Temporary assignments*

**76.35.** Where the conditions of employment involve risks of infectious diseases or physical danger for her or her unborn child or are dangerous for the child she is breast-feeding, an officer may request to be assigned temporarily to another position or to other tasks corresponding to her training and experience. She shall submit proof by means of a medical certificate as soon as possible.

T.B. 193821, s. 7.

**76.36.** An officer assigned to another position or task pursuant to section 76.35, shall retain the rights, fringe benefits and financial benefits related to her regular position. If the reassignment is not carried out immediately by the employer, the officer is entitled to special leave beginning immediately. Unless she is temporarily reassigned, special leave is terminated on the date of delivery or at the end of the breast-feeding period.

T.B. 193821, s. 7.

**76.37.** During the special leave described in section 76.36, the officer is governed, in respect of compensation, by the Act respecting occupational health and safety (R.S.Q., c. S-2.1) respecting re-assignment of a pregnant worker or a worker who is breast-feeding.

Following a written request however, the employer shall pay to the officer an advance on the compensation receivable from the Commission de la santé et de la sécurité du travail on the basis of anticipated payments. If the Commission pays the compensation, repayment of the advance is deducted therefrom. Otherwise, repayment is at the rate of 10 % of the amount disbursed per pay period, until the debt is fully paid.

T.B. 193821, s. 7.

#### *§ 2. Special leave*

**76.38.** A pregnant officer is also entitled to special leave in the following cases:

(1) where a pregnancy complication or a risk of miscarriage requires stopping work for a period the duration of which is prescribed by a medical certificate. The special leave may not be extended beyond the beginning of the eighth week before the expected date of delivery;

(2) in the case of a spontaneous or induced abortion that occurs before the beginning of the twentieth week preceding the expected date of delivery. The duration of the special leave shall be certified by a medical certificate;

(3) for consultations with a health professional with respect to the pregnancy, certified by a medical certificate, or with a midwife. The special leave shall be remunerated and may be taken in half-days up to a maximum of 4 days. It must be exhausted before the officer is entitled to short-term basic salary insurance.

T.B. 193821, s. 7.

**76.39.** During the special leave granted under this subdivision, an officer may avail herself of the benefits of the group insurance plans provided for in Chapter 4. She may also avail herself of the benefits provided for in sections 76.11, 76.31, 76.32 and 76.34.

T.B. 193821, s. 7.

## **DIVISION 3**

### **PARENTAL LEAVE**

#### *§ 1. General*

**76.40.** While on a parental leave referred to in this Division, an officer shall retain the employment relationship with the employer. The contract must be renewed. The officer may not be dismissed, except for gross negligence. The employment may not be terminated.

T.B. 193821, s. 7.

**76.41.** Any leave contemplated in this Division, except that provided for in section 76.45, shall be granted after a written application is submitted to the employer not less than 2 weeks in advance.

Partial leave without pay may be granted after a written application is submitted not less than 30 days in advance. In the case of leave without pay or partial leave without pay, the application shall state the date of return to work.

The employer shall reply in writing to an application for leave under this section.

T.B. 193821, s. 7.

**76.42.** An officer who wishes to prematurely terminate a leave without pay or partial leave without pay provided for in subdivisions 3 and 4 of this Division shall notify his employer in writing to that effect at least 3 weeks before returning to work.

T.B. 193821, s. 7.

**76.43.** An employer shall send an officer, 4 weeks in advance, a notice of the date of expiry of his leave without pay. The officer must then give notice of his return to work at least 2 weeks before the expiry of the leave. If he fails to do so, he is deemed to have resigned.

For partial leave without pay, an officer shall send his employer a notice in writing at least 30 days before his effective return to work.

T.B. 193821, s. 7.

**76.44.** Upon the expiry of any leave referred to in this Division, an officer shall resume his position with his employer, subject to the provisions respecting employment stability provided for in Chapter 5. His terms of employment, including the salary, shall be the same as those to which he would have been entitled had he remained at work.

T.B. 193821, s. 7.

#### *§ 2. Paternity leave*

**76.45.** Upon the birth of his child, an officer is entitled to a paid paternity leave not exceeding 5 working days. The leave may be interrupted, but shall be taken between the date of delivery and the fifteenth day following the date of the mother's or the child's return home. One of those 5 days may be taken for the child's baptism or registration. An officer is also entitled to paternity leave if his child is stillborn and the delivery takes place after the beginning of the twentieth week preceding the expected delivery date.

T.B. 193821, s. 7; T.B. 196312, s. 50.

#### *§ 3. Adoption leave and leave without pay for adoption purposes*

**76.46.** An officer who legally adopts a child other than the child of the officer's spouse is entitled to a leave with pay not exceeding 10 consecutive weeks, provided that the officer's spouse, if employed in a public or parapublic sector, does not benefit from the same leave. The leave shall be taken after the issue of the placement order, or an equivalent order, in the case of an international adoption, in accordance with the adoption plan, or at another time agreed upon with the employer.

T.B. 193821, s. 7.

**76.47.** An officer who legally adopts a child and who does not benefit from paid leave as provided for in section 76.46 is entitled to a leave not exceeding 5 working days, the first 2 of which are with pay.

The leave may be discontinuous and may not be taken after the fifteenth day following the child's arrival in the father's or mother's home.

Notwithstanding the foregoing, where an officer adopts his spouse's child, the officer is entitled to a leave without pay not exceeding 2 working days.

T.B. 193821, s. 7.

**76.48.** For each week of leave provided for under section 76.46, the officer shall receive a compensation equal to his weekly salary, paid at 2-week intervals, or at weekly intervals, if the salary is paid weekly. The officer is also entitled to all the allowances for regional disparities during the adoption leave.

The weekly salary of a part-time officer is determined in accordance with the provisions of sections 76.17 and 76.18.

T.B. 193821, s. 7.

**76.49.** An officer shall receive, for adopting a child, a leave without pay not exceeding 10 weeks from the date of the actual taking charge of the child, unless it is the child of the officer's spouse. If the adoption does take place, the officer may convert the leave without pay into leave with pay, if the leave with pay provided for in section 76.46 has not been taken.

T.B. 193821, s. 7.

**76.50.** An officer who travels outside Québec for adoption purposes, except in the case of the child of the officer's spouse, shall be granted leave without pay for the time required for the trip, upon applying in writing to the employer, if possible 2 weeks in advance. If the officer does take charge of the child, the maximum duration of the leave without pay shall be 10 weeks, in accordance with section 76.49.

T.B. 193821, s. 7.

**76.51.** The adoption leave with pay provided for in section 76.46 takes effect on the date of the beginning of the leave without pay for adoption purposes, if the duration of such leave is 10 weeks, and if the officer so decides after the placement is ordered or, in the case of an international adoption, an equivalent order is issued.

During the leave without pay for adoption purposes, the officer is entitled to the same benefits as those attached to leave without pay and partial leave without pay provided for in this Chapter.

Where the adoption leave takes effect on the date of the beginning of leave without pay, the officer is entitled to the benefits prescribed for adoption leave only.

T.B. 193821, s. 7.

**76.52.** An employer shall send to an officer, during the fourth week preceding the date of expiry of the 10-week adoption leave, a notice indicating the scheduled date of expiry of the leave.

An officer to whom the employer has sent such a notice shall be at work on the date of expiry of adoption leave, unless it has been extended as prescribed in section 76.54.

An officer who does not comply with the second paragraph is deemed to be on leave without pay for a period not exceeding 4 weeks. At the end of that period, an officer who is not at work is deemed to have resigned.

T.B. 193821, s. 7.

**76.53.** An officer who takes the adoption leave provided for in section 76.46 shall avail himself of the benefits prescribed in sections 76.11, 76.31, 76.32 and 76.34.

T.B. 193821, s. 7.

*§ 4. Parental leave and partial leave without pay*

**76.54.** An officer wishing to extend the maternity leave, paternity leave or adoption leave or leave for adoption purposes may, on agreement with the employer, benefit from a leave without pay or partial leave without pay for a period not exceeding 2 years. Such leave is restricted to only one spouse, where both spouses work in the public or parapublic sectors, as determined in section 76.30.

T.B. 193821, s. 7.

**76.55.** An officer on leave without pay or on partial leave without pay is entitled, on agreement with the employer, to avail himself once of

- (1) changing the leave without pay into a partial leave without pay or vice versa; or
- (2) changing the partial leave without pay into a different leave without pay.

T.B. 193821, s. 7.

**76.56.** An officer who does not take a leave without pay or partial leave without pay may, for the part of the leave that his spouse did not use, elect to benefit from the leave without pay or partial leave without pay.

T.B. 193821, s. 7.

**76.57.** An officer may, on agreement with the employer, avail himself of any leave provided for in section 76.54 if his spouse is not employed in the public or parapublic sector, as determined in section 76.30. The officer decides of the time at which he takes the leave, within 2 years following the birth or adoption without exceeding the time limit of 2 years after the birth or adoption.

T.B. 193821, s. 7.

**76.58.** An officer who does not avail himself of a leave provided for in section 76.54 shall benefit from a leave without pay of no more than 52 continuous weeks beginning at the time decided by the officer and ending at the latest 70 weeks after the birth or, in the case of adoption of a child other than the child of his spouse, 70 weeks after the child is placed with the officer.

T.B. 193821, s. 7.

**76.59.** During the leave without pay or partial leave without pay, an officer's continuous service is not interrupted. He may continue to participate in the group insurance plans in accordance with the

provisions of section 33. The terms and conditions of application of the officer's retirement plans apply as prescribed.

With respect to the other terms of employment, an officer who benefits from partial leave without pay shall be governed, during his time at work, by the rules applicable to a part-time officer.

T.B. 193821, s. 7.

**76.60.** An officer may take any deferred annual vacation immediately before leave without pay or partial leave without pay, provided that there is no interruption in maternity leave, paternity leave or adoption leave, as the case may be.

For the purposes of this section, statutory or mobile holidays accumulated since the beginning of the maternity leave, paternity leave or adoption leave are treated as deferred annual vacation.

T.B. 193821, s. 7.

#### *§ 5. Leave for parental responsibilities*

**76.61.** Leave without pay or partial leave without pay of a maximum duration of one year shall be granted to an officer if his minor child or the minor child of his spouse is sick or handicapped or has social or emotional problems and requires the officer's presence. During the leave, the officer may continue to participate in the group insurance plans according to the provisions set out in Chapter 4.

An officer may be absent without pay for 5 days per year to fulfil obligations relating to the care, health or education of his minor child or the minor child of his spouse, in cases where his presence is required due to unforeseeable circumstances or circumstances beyond his control. He must have taken all reasonable steps within his power to assume these obligations otherwise and to limit the duration of the leave. The leave may be divided into days. A day may also be divided if the employer consents thereto. The officer must advise his employer of his absence as soon as possible.

T.B. 193821, s. 7; T.B. 196312, s. 51.

## **CHAPTER 4.2**

### **DEFERRED SALARY LEAVE PLAN**

#### **DIVISION 1**

##### **GENERAL**

#### *§ 1. Main characteristics*

**76.62.** The deferred or anticipated salary leave plan enables an officer to apportion his salary so as to benefit from remuneration during a period of leave. The plan is not intended to enable an officer to defer income tax or to receive benefits at retirement.

For the duration of his participation in the plan, an officer shall receive no other salary corresponding to the percentage of his salary as determined in Division 2 of this Chapter from his employer, an employer in the public or parapublic sector, another person or company with whom the employer has ties.

T.B. 193821, s. 7.

**76.63.** The plan comprises a period of work and a period of leave. The leave with deferred salary is one in which the period of leave follows the entire period of work. The leave with anticipated salary is one in which the period of leave precedes entirely or in part the period of work.

T.B. 193821, s. 7.

**76.64.** The duration of participation in the plan may be 2, 3, 4 or 5 years. The scheduled duration of participation may however be extended in accordance with the provisions of sections 76.78, 76.81 and 76.82. It may in no case exceed 7 years.

T.B. 193821, s. 7.

*§ 2. Period of leave*

**76.65.** The duration of the period of leave may be 6 months to one year.

Notwithstanding any provision to the contrary, the period of leave must be taken in whole and consecutive months and may not be interrupted under any circumstances.

The period of leave must begin no later than upon the expiry of a maximum period of 6 years from the date on which the amounts began to be deferred.

During the period of leave, subject to the provisions of this Chapter, an officer shall be deemed to be on leave without pay.

T.B. 193821, s. 7.

*§ 3. Period of work*

**76.66.** Subject to the provisions of this Chapter, during the period of work, the officer's availability and work load shall be the same as those he would assume if he were not participating in the plan; furthermore, he is entitled to the same benefits under this Regulation as those to which he would be entitled if he were not participating in the plan.

T.B. 193821, s. 7.

*§ 4. Eligibility*

**76.67.** To be eligible for the plan, an officer must hold a position and have completed 2 years of service with his employer.

An officer shall file a written application for participation in the plan with his employer who shall decide on the granting of the deferred or anticipated salary leave plan. The written application shall indicate the beginning and the end of the duration of participation in the plan, as well as the duration of the period of leave.

T.B. 193821, s. 7.

**76.68.** A part-time officer shall be eligible on the same conditions as the full-time officer but he may use his period of leave only in the last year of participation in the plan.

The salary he receives during his period of leave shall be based on the average number of hours paid during the period of work preceding the leave.

The compensatory sums provided for the part-time officer's vacation and statutory holidays shall be calculated and paid on the basis of the percentage of the salary determined in accordance with section 76.71.

T.B. 193821, s. 7.

**76.69.** An officer whose status changes from full-time to part-time during his period of work may elect to:

- (1) continue to participate in the plan according to section 76.68; or

(2) withdraw from his agreement on the conditions determined in section 76.88.

A full-time officer who becomes a part-time officer after his period of leave is deemed to remain a full-time officer for the purposes of calculating the percentage of his salary during the period of work following the period of leave.

T.B. 193821, s. 7.

§ 5. *Agreement*

**76.70.** If the employers is willing to grant the deferred or anticipated salary leave, an officer shall undertake by agreement to comply with the terms and conditions of the plan, in particular,

- (1) the duration of participation in the plan;
- (2) the duration of the leave;
- (3) the period when the leave will be used; and
- (4) the period when the officer resumes his position with his employer after the period of leave for a period at least equal to that of the leave. The employer shall then reinstate the officer in his position, subject to the provisions respecting employment stability provided for in Chapter 5. The terms of employment shall be the same as those to which he would have been entitled had he remained at work.

The agreement shall include the provisions of the plan and the officer shall not be on disability leave, parental leave or leave without pay at the time of the signing.

T.B. 193821, s. 7.

**DIVISION 2**  
TERMS AND CONDITIONS OF APPLICATION

§ 1. *Remuneration*

**76.71.** For each year of participation in the plan, an officer shall receive the percentage of his salary provided for in the following table, based on the duration of participation in the plan and the duration of the period of leave:

[S-4.2R0.0001#01, 1999 G.O. 2, 3671]

Period of leave	Duration of participation in the plan			
	2 years	3 years	4 years	5 years
6 months	75,00 %	83,33 %	87,50 %	90,00 %
7 months	70,83 %	80,56 %	85,42 %	88,33 %
8 months	66,67 %	77,78 %	83,33 %	86,67 %
9 months		75,00 %	81,25 %	85,00 %
10 months		72,22 %	79,17 %	83,33 %
11 months		69,44 %	77,08 %	81,67 %

12 months

66,67 %

75,00 %

80,00 %

T.B. 193821, s. 7.

**76.72.** The salary on which the percentage is calculated is the one an officer would receive if he did not participate in the plan. The salary includes the increase due to the adjustment of salary classes and the increase for satisfactory performance as provided for in Chapter 3.

It includes the lump sum related to a change of position leading to a salary decrease pursuant to sections 17, 20 and 21 and sections 104.1 to 104.3.

It does not include the additional remuneration for plurality of positions or interim or the compensation, bonuses and allowances provided for in Divisions 5, 6, 8 and 9 of Chapter 3.

T.B. 193821, s. 7; T.B. 196312, s. 52.

**76.73.** During the period of leave, an officer is not entitled to any compensation, premium or allowance provided for in Division 8 or 9 of Chapter 3. During the period of work, he is entitled to all such compensation, premiums and allowances.

During his participation in the plan, the officer is entitled to the increase for satisfactory performance as prescribed in section 14.

T.B. 193821, s. 7; T.B. 196312, s. 53.

#### *§ 2. Social security plans*

**76.74.** During the period of leave, the employer shall continue to contribute to the Québec Pension Plan, the Québec Health Insurance Plan and the occupational health and safety plan. The contribution of the employer and the officer to employment insurance does not apply during the period of leave. The participation of the officer in the group insurance plans shall be established in accordance with Division 2 of Chapter 4.

T.B. 193821, s. 7.

**76.75.** For calculating a pension for the purposes of a retirement plan, the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10) recognizes one year of service for each year of participation in the deferred or anticipated salary leave plan, as well as an average salary based on the salary he would have received had he not participated in the plan.

T.B. 193821, s. 7.

**76.76.** An officer's contribution to a retirement plan during the years of participation in the plan shall be established by the Regulation respecting certain temporary measures prescribed by Title IV of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10).

T.B. 193821, s. 7.

#### *§ 3. Vacation and miscellaneous leave*

**76.77.** During his participation in the plan, an officer shall accumulate continuous service for annual vacation purposes. During the period of leave, he is deemed to have taken the vacation days to which he is entitled for that period. During the period of work, annual vacation shall be remunerated in accordance with the percentage of his salary as determined in section 76.71.

T.B. 193821, s. 7.

**76.78.** During his participation in the plan, an officer who benefits from leave without pay shall extend the duration of his participation in the plan for a period equivalent to that of the leave without pay without exceeding one year. Leave without pay of more than one year is equivalent to abandoning the plan and the provisions of section 76.88 shall then apply.

T.B. 193821, s. 7.

**76.79.** The amount the employer shall collect during the extension of an officer's participation in the plan as a result of taking partial leave without pay, is equal to the employer's lost income following the partial leave without pay.

T.B. 193821, s. 7.

**76.80.** During his participation in the plan, an officer's leave with pay shall be remunerated in accordance with the percentage of his salary as determined in section 76.71.

Leave with pay that falls within the period of leave is deemed to have been taken.

T.B. 193821, s. 7.

#### *§ 4. Maternity leave*

**76.81.** An officer's participation in the plan shall be suspended for the duration of the maternity leave that occurs during the period of work. The plan shall then be extended for a period equal to the maternity leave.

Where the maternity leave occurs during the period of leave, it is presumed not to have occurred. Notwithstanding the foregoing, it shall be considered to have begun on the scheduled date of an officer's return to work on condition that the provisions of Chapter 4.1 respecting maternity leave are complied with.

Where the maternity leave occurs before the period of leave, an officer may terminate participation in the plan. In such a case, the salary that was not paid for the period of work elapsed shall be reimbursed, in addition to any compensation and, where applicable, the employment insurance benefits provided for the maternity leave, but without interest. The amounts so reimbursed shall be subject to the contribution to the retirement plan.

Subject to sections 76.78 and 76.79, the maternity leave may be extended by a leave without pay or partial leave without pay without affecting the officer's participation in the plan. Notwithstanding the foregoing, for any of the leaves, the duration of participation in the plan shall be extended accordingly, except if the period of leave has begun.

C.T. 193821, s. 7.

#### *§ 5. Disability*

**76.82.** For the purposes of the short-term salary insurance plan, the following provisions apply:

(1) where the officer becomes disabled during the period of leave, the period of leave shall continue in accordance with section 76.65 and the officer may not benefit from the provisions of the short-term salary insurance plan determined in Division 5 of Chapter 4.

On the scheduled date of return to work, if the officer is still disabled, the disability is then presumed to begin on that date and the officer shall benefit from the short-term salary insurance plan based on the percentage of salary determined in section 76.71 for the remainder of his participation in the plan;

(2) where the officer becomes disabled during the duration of his participation in the plan but before having used his period of leave and the disability persists until the date on which the period of leave was scheduled, he may elect to:

(a) maintain his participation in the plan and defer the period of leave to a time when he is not disabled. During that time, the officer shall benefit from the short-term salary insurance plan based on the percentage of salary determined in section 76.71 for the remainder of his participation in the plan.

If the disability persists during the last year of the officer's participation in the plan, the plan may then be suspended from the scheduled beginning of the period of leave until the end of the disability. During that time, the officer shall benefit from the short-term salary insurance plan and the period of leave shall begin on the day on which the disability ceases; or

(b) cancel his participation in the plan and the employer shall reimburse him the part of the salary he did not receive for the period of work elapsed, but without interest. The provisions of paragraph 4 of section 76.88 shall apply;

(3) where the officer becomes disabled during his participation in the plan but after having used his period of leave, he shall benefit from the short-term salary insurance plan based on the percentage of salary determined in section 76.71. Upon the expiry of his participation in the plan, the officer shall receive salary insurance based on the salary determined in accordance with the provisions of Division 5 of Chapter 4.

T.B. 193821, s. 7.

**76.83.** Where the disability persists after 104 weeks, an officer shall benefit from the mandatory basic long-term salary insurance plan, his participation in the plan ends and the following provisions apply:

(1) where the officer has already used his period of leave, he is not required to reimburse the salary he was overpaid; one year of service for retirement plan purposes shall be recognized for each year of participation in the plan;

(2) where the officer has not used his period of leave, he shall receive the portion of salary he has not received for the period of work elapsed, but without interest. The provisions of paragraph 4 of section 76.88 shall apply.

T.B. 193821, s. 7.

**76.84.** A part-time officer may avail himself of the provisions of paragraph 2 of section 76.82. Notwithstanding the foregoing, he shall receive, as of the second week of disability, full salary insurance as long as he is eligible due to his disability, in accordance with Division 5 of Chapter 4.

T.B. 193821, s. 7.

#### *§ 6. Mobility*

**76.85.** In cases where the officer changes positions pursuant to Subdivision 3 of Division 4 of Chapter 3, with the same employer, the officer's participation in the plan shall be maintained unless the employer cannot maintain the agreement. In the latter case, the provisions of section 76.88 shall apply with the exception that the officer does not reimburse the salary he was overpaid when his period of leave was used.

Where an officer takes a position with another employer of the public or parapublic sector who offers a comparable plan during the officer's participation in the plan, the conditions for maintaining the agreement remain at the discretion of the new employer. If the latter refuses to maintain the agreement, the provisions of section 76.88 shall apply and the reimbursement, where applicable, shall be made in accordance with section 76.91.

T.B. 193821, s. 7.

#### *§ 7. Employment stability*

**76.86.** Following the elimination of his position, an officer who chooses reinstatement within the sector in accordance with Division 4 of Chapter 5, shall maintain his participation in the plan until the effective date of his reinstatement or until he elects to change.

If the participation in the plan of the reinstated officer is not ended with his original employer, he may complete it by means of an agreement with his new employer. Failing such agreement, his participation in the plan shall end and sections 76.88 and 76.91 shall apply.

At the time of a change made pursuant to section 102, where the officer elects to leave the sector, the agreement shall end and section 76.88 shall apply.

T.B. 193821, s. 7.

**76.87.** Following the elimination of his position, where the officer elects to leave the sector in accordance with Division 6 of Chapter 5, the agreement relating to his participation in the plan shall end and section 76.88 shall apply. Notwithstanding the foregoing, no reimbursement shall be required of him.

T.B. 193821, s. 7.

### **DIVISION 3**

#### **END OF PARTICIPATION**

##### *§ 1. Resignation, retirement, withdrawal and other departures*

**76.88.** Following an officer's resignation, pre-retirement or retirement, withdrawal from the plan in accordance with the provisions of this Chapter or the expiry of the 7-year time limit in accordance with section 76.64, participation in the plan shall end immediately and the following terms and conditions shall apply:

(1) where an officer has already taken the period of leave, he shall reimburse, without interest, the amounts he received during the period less the amounts already deducted from his salary during the period of work;

(2) where an officer has not yet taken the period of leave, the employer shall reimburse him, without interest, for the difference between the salary he would have received had he not participated in the plan and the salary he actually received since the beginning of his participation in the plan;

(3) during the period of leave, the reimbursement by an officer or the employer shall consist of the difference between the amounts received by the officer during that period of leave and the total amounts already deducted from the salary he received during the period of work. Where the difference is a negative amount, the employer shall reimburse the officer for it, without interest. Where the difference is a positive amount, the officer shall reimburse the employer for that amount, without interest;

(4) for the purpose of retirement plans, the recognized rights are the rights that would have applied had the officer never participated in the plan. Where the period of leave has been taken, the contributions made during that period shall be used to compensate for the contributions that were not made to compensate for any lost pension; an officer may, however, redeem lost years of service under the same conditions as those for leave without pay, in accordance with the provisions of the applicable retirement plan. In addition, where the period of leave has not been taken, the contributions are usually insufficient to have the total number of years worked recognized. They shall be subtracted from the reimbursement owed to the officer.

T.B. 193821, s. 7.

##### *§ 2. Dismissal, non-renewal or termination of engagement*

**76.89.** Upon the officer's dismissal, or the non-renewal or termination of the officer's engagement, the agreement respecting his participation in the plan is terminated on the date one of the measures takes effect. Section 76.88 then applies.

T.B. 193821, s. 7.

*§ 3. Death*

**76.90.** The agreement respecting an officer's participation in the plan is terminated on the date of his death. The measures provided for in section 76.88 then apply, with the exception that no reimbursement of overpaid salary shall be required. Notwithstanding the foregoing, any part of the salary that was not paid shall be reimbursed to the officer's successor.

T.B. 193821, s. 7.

*§ 4. Reimbursements*

**76.91.** Where an officer must reimburse amounts with respect to agreement termination measures respecting his participation in the plan, he shall carry out the reimbursement as of the termination of the plan and according to the terms and conditions of the agreement entered into by him and his employer.

Pursuant to the second paragraph of section 76.85 and the third paragraph of section 76.86, the employer with whom an officer is reinstated shall collect the amount to be reimbursed and periodically remit it to the original employer for the purposes of the plan.

T.B. 193821, s. 7.

**76.92.** Where an officer does not use his period of leave during his participation in the plan, the employer shall pay him the total amount of salary that was deferred, beginning in the first taxation year following the end of his participation in the plan.

T.B. 193821, s. 7.

**CHAPTER 4.3**  
PROGRESSIVE PRE-RETIREMENT

**DIVISION 1**  
GENERAL

*§ 1. Main characteristics*

**76.93.** Progressive pre-retirement enables an officer to reduce his working hours, for a period of one to 5 years immediately preceding his retirement. The number of working hours in each calendar year or part thereof during which the progressive pre-retirement applies is not less than 40 % or more than 80 % of the hours worked by a full-time officer.

For the purposes of this Chapter, a «part of a calendar year» means the portion of a calendar year in which a progressive pre-retirement begins or ends.

T.B. 193821, s. 7.

*§ 2. Eligibility*

**76.94.** To participate in the progressive pre-retirement plan, an officer shall file a written application therefor with his employer. To grant it, the latter shall take into account the needs of the organization. Furthermore, an officer shall meet the following conditions:

- (1) he participates in a retirement plan;
- (2) he holds a regular officer's position for more than 40 % of full-time employment;
- (3) he holds and sends his employer, at the same time he files his application, an attestation from the Commission administrative des régimes de retraite et d'assurances (CARRA) to the effect that he will be entitled to a retirement pension on the date scheduled for the end of the agreement concluded in accordance with section 76.95;
- (4) he has concluded an agreement with his employer in accordance with Subdivision 3 of this Division;
- (5) he has not already benefited from a progressive pre-retirement plan; and
- (6) at the time of the signing of the agreement, he is not governed by the employment stability measures provided for in Chapter 5.

T.B. 193821, s. 7.

### § 3. *Agreement*

**76.95.** The written agreement concluded between the officer and the employer shall comply with the provisions of this Chapter and contain the following information:

- (1) the duration of the progressive pre-retirement;
- (2) the proportion of time worked for each calendar year or part thereof during which the progressive pre-retirement applies in accordance with the first paragraph of section 76.93;
- (3) the work schedule;
- (4) an undertaking by the officer to retire upon completion of the progressive pre-retirement, subject to Division 3 of this Chapter.

T.B. 193821, s. 7.

**76.96.** During progressive pre-retirement, the officer and the employer may agree in writing to amend the agreement concluded under the provisions of this subdivision, provided that the amendments comply at all times with the other terms and conditions of application of the plan.

The amendments may concern the duration of the agreement, the percentage of the time worked for each of the years or parts thereof covered by the progressive pre-retirement or the work schedule. Any amendment to the dates of the beginning or end of the agreement must be agreed to beforehand by the CARRA.

T.B. 193821, s. 7.

**76.97.** Where the years of service or parts thereof credited to the officer at the end of the agreement are less than those estimated by the CARRA, the agreement shall be extended to the date on which those years or parts of years correspond to the estimate made by the CARRA.

Where the officer is not entitled to his pension at the end of the agreement, the agreement shall be extended to the date on which the officer is entitled to it.

T.B. 193821, s. 7.

## **DIVISION 2**

### **TERMS AND CONDITIONS OF APPLICATION**

*§ 1. Salary and other benefits*

**76.98.** The salary of an officer in progressive pre-retirement shall be paid for the entire calendar year or part thereof in proportion to the time worked as provided for each of the years or parts thereof covered by the agreement.

T.B. 193821, s. 7.

**76.99.** During the period of progressive pre-retirement, an officer accumulates continuous service as though he had not availed himself of progressive pre-retirement.

T.B. 193821, s. 7.

**76.100.** Where an employer eliminates the position of an officer in progressive pre-retirement, the agreement shall continue to apply. The officer shall retain the status of officer for the duration of the agreement, and the employment stability measures provided for in Chapter 5 shall not apply. Notwithstanding the foregoing, the employer shall establish, with the officer, a plan of utilization based on the time worked as provided for in the agreement.

T.B. 193821, s. 7.

**76.101.** Subject to the provisions of this Chapter, an officer in progressive pre-retirement shall benefit from the terms of employment provided for in this Regulation, which apply in proportion to the time worked as provided for in the agreement.

T.B. 193821, s. 7.

*§ 2. Sick-leave fund*

**76.102.** An officer benefiting from progressive pre-retirement may agree with his employer to use his sick-leave fund to dispense himself from all or part of the working time provided for in the agreement. Each sick-leave day thus used is equal to one day worked, in accordance with paragraph 3 of section 75. The terms and conditions of such use must be provided for in the agreement concluded under section 76.95.

The remainder of the sick-leave fund has a monetary value and is payable in accordance with paragraph 4 of section 75.

T.B. 193821, s. 7.

*§ 3. Group insurance plans*

**76.103.** An officer is entitled, for the duration of the agreement, to the coverage of his group insurance plans provided for in section 51 on the basis of the time worked before the beginning of the agreement.

A disabled officer who benefits from the short-term salary insurance plan shall receive a benefit on the basis of the time worked as prescribed for each of the calendar years or parts thereof contemplated by the agreement but reduced, where applicable, by the sick-leave days to be used in accordance with section 76.102. The benefit shall be paid for the duration of the disability, but does not extend beyond the date of expiry of the agreement.

During the period of disability, an officer may use, in whole or in part, his sick-leave fund to make up the difference between his short-term salary insurance benefit and his net salary, in accordance with paragraph 2 of section 75.

T.B. 193821, s. 7.

**76.104.** During an officer's progressive pre-retirement, the contribution of the employer and that of the officer to the group insurance plans shall be maintained based on the time worked by the officer before the agreement comes into effect. The same rule applies to health and accident insurance plans, but based on an officer's normal full-time schedule.

Where the duration of the agreement extends beyond 104 weeks, the contribution of the employer and that of the officer to the mandatory long-term salary insurance plans shall be maintained, subject to the provisions of the master policy.

T.B. 193821, s. 7; T.B. 196312, s. 54.

#### *§ 4. Retirement plan*

**76.105.** During an officer's progressive pre-retirement, the pensionable salary for the years or parts thereof covered by the agreement for the purposes of the retirement plan is the salary that the officer would have received had he not availed himself of progressive pre-retirement or would have been entitled to receive for a period in which he receives salary insurance benefits. The service credited is the service that would have been credited to him had he not availed himself of progressive pre-retirement.

T.B. 193821, s. 7.

**76.106.** During the progressive pre-retirement, an officer shall pay contributions to his retirement plan that are equal to the contributions that he would have made had he not availed himself of progressive pre-retirement.

If the officer receives short-term salary insurance benefits, a disabled officer's exemption from making contributions to the retirement plan is the exemption to which he would have been entitled had he not availed himself of progressive pre-retirement. Such exemption shall not exceed the end date of the agreement.

If the officer receives long-term salary insurance benefits, the insurer shall make the contributions to the retirement plan that would have been made by the officer had he not availed himself of progressive pre-retirement until the end of the agreement.

T.B. 193821, s. 7.

### **DIVISION 3**

#### **END OF THE AGREEMENT**

**76.107.** The agreement ends if an officer holds a new position with another employer of the public or parapublic sector, unless the new employer agrees to continue the agreement and the CARRA approves such continuation.

T.B. 193821, s. 7.

**76.108.** Where the agreement becomes null or is terminated pursuant to section 76.107 or because of circumstances provided for in the regulations made under the Act respecting the Government and Public Employees Retirement Plan, the Act respecting the Teachers Pension Plan, the Act respecting the Civil Service Superannuation Plan, the pensionable salary, the service credited and the contributions to the retirement plan shall be determined, for each of the circumstances, in the manner prescribed by those regulations as they read on the date on which they are applied.

T.B. 193821, s. 7.

### **CHAPTER 4.4**

#### **DEVELOPMENT**

**76.109.** The employer shall promote the maintenance and development of its officers' skills.

T.B. 196312, s. 55.

**76.110.** Every officer shall prepare an annual development plan and submit it to his employer for approval.

T.B. 196312, s. 55.

**76.111.** The development plan shall provide for activities designed to support the officer in the achievement of the organization's objectives and his own career goals. In particular, it may provide for a continuous training program, participation in a reference group, leave with or without pay, a service loan to another employer or a practical training period in another workplace. Where necessary, the officer and the employer shall agree on conditions for the granting of leave and for the officer's return to work.

T.B. 196312, s. 55.

**76.112.** The employer shall set aside financial resources every year to cover the activities provided for in the officer's development plan.

T.B. 196312, s. 55.

## **CHAPTER 5** EMPLOYMENT STABILITY MEASURES

### **DIVISION 1** GENERAL PROVISIONS

**77.** This chapter applies to an officer who has completed his probation period with an employer and who, following an administrative reorganization, is transferred to a position with another employer or whose position is eliminated.

O.C. 1218-96, s. 77; T.B. 196312, s. 56.

**77.1.** There is no appeal from a decision by the employer to implement an administrative reorganization.

T.B. 196312, s. 56.

### **DIVISION 2** PROFESSIONAL CAREER TRANSITION SERVICES

**78.** An officer benefiting from employment stability measures and who has elected reinstatement has access to professional career transition services including among others reception, help and advice, and evaluation of his potential, as well as support in the setting-up of his reinstatement plan, in his search for employment and in orientating him towards available positions. These services are provided by a specialized resource that is external to the employer.

O.C. 1218-96, s. 78; S.Q. 2005, c. 32, s. 309; M.O. 2007-007, s. 3.

**79.** The employer shall provide, to an officer benefiting from employment stability measures and who has elected reinstatement, access to the professional career transition services described in section 78. The cost of these services shall be borne by the employer.

O.C. 1218-96, s. 79; S.Q. 2005, c. 32, s. 309; M.O. 2007-007, s. 3.

**80.** The agency shall coordinate, in collaboration with the institutions, the setting-up and management of a bank of officers on reserve and a bank of available positions to be filled with employers of the region.

O.C. 1218-96, s. 80; M.O. 2007-007, s. 3.

**80.1.** The Minister shall ensure that the officers on reserve receive the professional career transition services to which they are entitled. In that connection, the Minister shall determine, in collaboration with the agencies, the terms and conditions for evaluating the career transition services, convey the information to the employers' and officers' associations and ensure that the appropriate follow-up actions are taken.

M.O. 2007-007, s. 3.

### **DIVISION 3**

#### **ADMINISTRATIVE REORGANIZATION INVOLVING MORE THAN ONE EMPLOYER**

##### *§ 1. Partial integration*

**81.** The original employer shall notify in writing at least 120 days in advance the concerned officers' association and its local representatives, the agency as well as the affected officers of his intention to carry out an administrative reorganization that results in the transfer of activities and officers from one employer to another employer and in the elimination of one or more positions of officer. During that period, the employer shall reorganize his staff in accordance with section 93.

O.C. 1218-96, s. 81; S.Q. 2005, c. 32, s. 309.

**82.** Where an officer affected by a partial integration cannot be reinstated with his employer during that period, his position shall be eliminated from the date of the partial integration, in accordance with section 94. The officer shall then be transferred to the new employer and shall benefit from the employment stability measures.

O.C. 1218-96, s. 82.

**83.** The new employer shall, at least 30 days before the effective date of the transfer, inform the original employer, the officer and the officers' association concerned that he intends to appoint an officer affected by the transfer to an equivalent position of officer.

An equivalent position of officer is a position of officer at the same hierarchy level, involving the same level of responsibility and the same salary class as the position held by the transferred officer with his original employer.

O.C. 1218-96, s. 83.

**84.** Where a transfer of activities from one employer to another employer involves the creation, from the same activities, of a new position of officer with the new employer, the new employer shall, in order to fill that new position of officer, hold a competition limited to the officers affected by the transfer of activities including the officer covered by section 82 who has elected the reinstatement option. There shall be no appeal against that decision under this Regulation.

O.C. 1218-96, s. 84.

**85.** Within 12 months following the date of appointment of an officer in accordance with sections 83 and 84, an employer who observes that the transferred officer is incapable of carrying out the duties of his new position shall notify the officer in writing, 30 days in advance, that he will be placed on reserve. The employer shall send a copy of the notice to the appropriate officers' association. The officer shall choose one of the options prescribed in the second paragraph of section 94. In such a case, the time

spent with the new employer, in the new position of officer, shall be excluded from the officer's reinstatement period. There shall be no appeal from the decision made by the employer.

O.C. 1218-96, s. 85; T.B. 196312, s. 57.

#### *§ 2. Amalgamation and total integration*

**86.** The original employers shall notify in writing at least 120 days in advance the concerned officers' associations and their local representatives, the agency as well as the affected officers of their intention to carry out an amalgamation or a total integration.

O.C. 1218-96, s. 86; S.Q. 2005, c. 32, s. 309.

**87.** Beginning on the date of the total integration or of the confirmation of its legal existence in the case of an amalgamation, the new employer may carry out an administrative reorganization resulting in the elimination of one or more positions of officer. In such case, the employer shall proceed in accordance with division 4 of this chapter.

O.C. 1218-96, s. 87.

**88.** Within 12 months following the date of appointment of an officer to a new available position of officer, where the new employer observes that the transferred officer is incapable of carrying out the duties of his new position, it shall notify the officer in writing, 30 days in advance, that he will be placed on reserve. The employer shall send a copy of the notice to the appropriate officers' association. The officer shall choose one of the options prescribed in the second paragraph of section 94. In such a case, the time spent with the new employer, in the new position of officer, shall be excluded from the officer's reinstatement period. There shall be no appeal from the decision made by the employer.

O.C. 1218-96, s. 88; T.B. 196312, s. 58.

#### *§ 3. Closing*

**89.** The original employers shall notify in writing at least 120 days in advance the concerned officers' associations and their local representatives, the agency as well as the affected officers of their intention to close down.

O.C. 1218-96, s. 89; S.Q. 2005, c. 32, s. 309.

**90.** Following an administrative reorganization in involving the closing of an employer, where there is no position available with another employer, the position of officer shall be eliminated by the original employer from the date of the closing in accordance with section 94 and the officer shall be transferred, from that date, to another employer who shall act temporarily as administrative fiduciary in order to allow the officer to benefit from the employment stability measures. In such case, the administrative fiduciary shall not be subject to sections 108 and 109. Afterwards, an officer may, upon agreement with another employer, be transferred to that employer, for the remaining reinstatement period.

O.C. 1218-96, s. 90.

#### *§ 4. Adaptation*

**91.** The new employer shall determine and offer the adaptation activities which he deems necessary for the transferred officer covered by subdivisions 1 and 2 of this section.

O.C. 1218-96, s. 91.

### **DIVISION 4**

#### **ADMINISTRATIVE REORGANIZATION INVOLVING ONLY ONE EMPLOYER**

**92.** The employer shall notify in writing, at least 120 days in advance, the concerned officers' association and its local representatives, the agency as well as the affected officers of his intention to carry out an administrative reorganization that could result in the elimination of one or more positions of officers. On this occasion, the concerned officers' association may suggest to the employer some alternatives involving in particular the organization and sharing of the work.

O.C. 1218-96, s. 92; S.Q. 2005, c. 32, s. 309.

**93.** During the period preceding the elimination of the position or positions, the employer shall consult with the officers concerned on the measures to be taken to reorganize the employer's staff, including adaptation, training, promotion, transfer, demotion, substitution of an officer affected by the operation by an officer not affected by the operation, with the same employer or another employer, and departure from the sector. The employer shall also consult with the officers and their representatives on the adaptation measures required for the proposed reorganization.

During this period, the employer shall reinstate an officer in a position of officer or senior administrator that corresponds to his training and experience and that involves a weekly work load at least equal to that of the position previously occupied by the officer, taking into account the normal requirements of the position to be filled and of the reinstatement plan where it is available. The officer shall accept the offered position. If the officer refuses the position, the employer may lay him off.

An officer who is reinstated with his employer before the elimination of his position shall be entitled, from the date of his reinstatement, to the same advantages as an officer whose position has been eliminated and who has been reinstated with the same employer.

An officer who is reinstated with another employer before the date on which his position is eliminated shall be entitled, from the date of his reinstatement, to the same advantages as an officer who has been reinstated with another employer after the elimination of his position.

Reinstatement under the second or fourth paragraph of an officer who is disabled, on parental leave, on leave without pay or on deferred salary leave shall come into force only on the date on which the period of disability or leave ends.

During that period, the employer shall ensure that an officer who is not reinstated or covered by a reinstatement benefits from the professional career transition services pursuant to section 78. The employer shall reimburse to the officer the travelling and living expenses incurred by his participation in such activities with the external resource retained by the employer to provide them and his authorized employment search activities.

O.C. 1218-96, s. 93; T.B. 196312, s. 59; M.O. 2007-007, s. 4.

**94.** If an officer cannot be reinstated during that period, the employer shall notify him in writing of the elimination of his position. This notice shall be received by the officer at least 30 days before the date on which the position is eliminated. A copy of the notice shall be sent to the agency and the concerned officers' association, if any.

Upon receiving the notice, the officer shall choose in writing, before the date of elimination of his position, one of the two following options:

- (1) reinstatement within the sector as prescribed in division 5 of this chapter;
- (2) departure from the sector as prescribed in division 6 of this chapter.

The officer's choice shall come into force on the date of elimination of his position.

An officer who has failed to communicate his choice to his employer by the date on which his position is eliminated is deemed to have chosen reinstatement in the sector.

The employer shall inform the agency concerned of the choice made by the officer in accordance with the second and fourth paragraphs.

The choice of an officer who is disabled, on parental leave, on leave without pay or on deferred salary leave shall be made and come into force on the date on which the period of disability or leave ends. An officer whose position is eliminated during a period of disability shall continue to receive his salary insurance benefits as long as he is disabled.

O.C. 1218-96, s. 94; T.B. 196312, s. 60; S.Q. 2005, c. 32, s. 309.

## **DIVISION 5**

### **REINSTATEMENT WITHIN THE SECTOR**

#### *§ 1. General*

**95.** An officer who elects the option of reinstatement within the sector shall retain his status of officer for a reinstatement period not exceeding 36 months from the date of elimination of his position or for a period of reinstatement which is staggered in accordance with section 99.

During the reinstatement period, with the authorization of his employer and, where applicable, of the other employer, an officer whose position has been abolished may replace an officer whose position has not been abolished, either with his employer or with another employer. In such a case, the officer whose position has not been abolished and who agrees to replace an officer whose position has been abolished shall benefit from the remaining portion of the reinstatement period.

During the reinstatement period, the employer shall maintain the officer's salary and, subject to section 34.1, all his terms of employment as an officer, provided the officer does not refuse, without valid reason, to provide the services required by the employer in duties that take into account the officer's training and experience and his reinstatement plan, if any. A part-time officer shall receive a salary proportional to the hours actually worked in the twelve months preceding the date on which his position is abolished. The salary paid to the officer cannot be less than the salary paid for the regular work load prescribed for his position.

Where an officer's reinstatement period is totally or partly staggered in accordance with section 99, the officer shall receive, for the overall period, a salary equivalent to a maximum of 36 months of his salary.

During the reinstatement period, the officer shall take the vacation he accumulated during the previous reference period. On the date of the severance of the employment relationship, the original employer shall reimburse to the officer an amount equivalent to the accumulated annual vacation not taken.

During the reinstatement period, the officer shall retain all the benefits of the group insurance plans prescribed in chapter 4. Any disability period of more than 3 weeks shall be excluded from the reinstatement period.

Any parental leave and leave without pay of an officer being reinstated shall be excluded from the reinstatement period.

Any period during which the services of the officer are loaned to another employer in the public and parapublic sectors shall be excluded from the reinstatement period for a period not exceeding 36 months, for the equivalent in time of the portion of the service loan period that is at the expense of the other employer.

At the end of the reinstatement period, an officer who has not been reinstated shall be laid off by his employer. At the request of the officer, his name shall be entered in the bank of reinstatement officers or on the recall list and he shall remain eligible for selection competitions for the appointment of officers and officers for a period of 24 months.

O.C. 1218-96, s. 95; T.B. 196312, s. 61.

**96.** The employer shall facilitate the reinstatement of the officer who has elected reinstatement namely in determining the services required in accordance with the second paragraph of section 95 and by reimbursing to the officer the travelling and living expenses incurred by his participation in the professional career transition activities with the external resource retained by the employer to provide them and his authorized activities in search for employment with another employer including an employer outside the sector.

O.C. 1218-96, s. 96; M.O. 2007-007, s. 5.

**97.** An officer who elects reinstatement shall:

(1) participate in the professional career transition services to which his employer must provide access;

(2) within 3 months from the date on which his position is eliminated, prepare his reinstatement plan, with the help of the external resource retained by the employer to provide career transition services if necessary, and submit it for approval to his employer, which shall convey its decision to the officer within 20 days following receipt of the reinstatement plan; the officer may modify his reinstatement plan, with the employer's agreement. If the employer fails to convey its response by the end of this period, the plan is automatically accepted, unless the employer notifies the officer that it is impossible to make a decision, and that the period will have to be extended to no more than 40 days. The notice shall be given in writing and shall include reasons for the extension. A copy of the reinstatement plan shall be forwarded by the employer to the agency within 10 days following its acceptance;

(3) commit to search for a position where he can be reinstated and accept, to that effect, the assistance of the external resource retained by the employer to provide career transition services.

O.C. 1218-96, s. 97; T.B. 196312, s. 62; M.O. 2007-007, s. 6.

**98.** A reinstatement plan may, namely, be aimed at the principal potential employment fields within the sector and outside the sector and comprise training sessions, study sessions, development activities, assistance programmes and loans of service, as well as the activities to be undertaken by the officer to find a new position for himself. An officer is not obliged to include in his reinstatement plan reinstatement in a position of union member or unionizable non-member.

A loan of service shall take into account the training and experience of the officer as well as his prospective reinstatement. An officer may refuse a loan of service offered by his employer if the location where he is to perform the service is not located within 50 kilometres by road from his home base and his residence.

Where an officer chooses reinstatement in a position of union member or unionizable non-member, he shall:

(1) enter his name on the recall list or on the reserve list and apply on any position of union member or unionizable non-member for which his training and experience correspond to the normal requirements of the position, provided that the position involves a weekly work load which is at least equal to that of the position he previously held;

(2) make himself available to work and accept any assignation or service loan offered by his employer in accordance with the second paragraph. Such assignation shall take into account the training and experience of the officer as well as the requirements of his reinstatement plan.

O.C. 1218-96, s. 98; T.B. 196312, s. 81.

**99.** To enable the reinstatement plan to be carried out, an officer may stagger all or part of his reinstatement period over a period of up to 60 months. In such case, the officer is deemed to be on leave without pay for the portion not paid.

O.C. 1218-96, s. 99.

**100.** An officer who has chosen reinstatement within the sector may, upon authorization from his employer and in accordance with his reinstatement plan, obtain one or more leaves without pay. The employer may not refuse to grant such leave without pay without valid reason. The total duration of the leaves shall not exceed 36 months. Such leave without pay is excluded from the reinstatement period. During his leave without pay, the officer may continue to participate in the group insurance plans in accordance with section 33.

O.C. 1218-96, s. 100.

**101.** An officer who is proposed by his original employer to an employer in his administrative region or to an employer of another administrative region located less than 50 kilometres by road from the original employer's head office or from his home base shall attend the selection interview.

O.C. 1218-96, s. 101.

**102.** An officer who has chosen reinstatement within the sector may change his initial choice and elect for departure from the sector as stipulated in Division 6 of this chapter. In such a case, the stipulated end-of-engagement indemnity and amount for pre-retirement leave shall not be reduced if the change of choice is made before the officer has received 12 months of salary from his original employer since the date on which he was placed on reserve. If the change of choice is made after such time, the end-of-engagement indemnity and amount for pre-retirement leave shall be reduced proportionally to the salary received over and above the 12-month period.

The change of choice shall be conveyed to the agency concerned by the officer's employer.

O.C. 1218-96, s. 102; T.B. 196312, s. 63; S.Q. 2005, c. 32, s. 309.

**103.** The employer may, after having heard the officer and, upon his request, his representative, put an end to the employment stability measures of an officer who has chosen reinstatement within the sector when the officer, without valid reason, refuses:

- (1) to participate in the professional career transition services as prescribed in subsection 1 of section 97;
- (2) to establish his reinstatement plan as prescribed in subsection 2 of section 97 or fails to adhere to it;
- (3) to provide services required by his employer as prescribed in the second paragraph of section 95;
- (4) a loan of service offered by his employer as prescribed in the first and second paragraphs of section 98;
- (5) to enter his name on the recall list or on the reserve list, to apply for any position of union member or unionizable non-member for which his training and experience correspond to the normal requirements of the position or to make himself available to work in accordance with the third paragraph of section 98;
- (6) to commit to the search for a position, to attend the selection interview prescribed in section 101 or to accept, within 15 days of the offer, a position offered in accordance with the provisions of sections 93, 108 and 110.

An employer who puts an end to the employment stability measures of an officer pursuant to the first paragraph shall inform the agency concerned.

O.C. 1218-96, s. 103; T.B. 196312, s. 64; S.Q. 2005, c. 32, s. 309; M.O. 2007-007, s. 7.

§ 1.1. *Remuneration of a reinstated officer*

**104.** An officer who is reinstated pursuant to sections 93, 108 and 110 is governed by the terms of employment prescribed for his new position, subject to section 32. His salary shall be established in accordance with the salary provisions applicable to the position in which he is reinstated.

O.C. 1218-96, s. 104; T.B. 196312, s. 65.

**104.1.** An officer whose salary is reduced following reinstatement in a position in a lower salary class or with a lower salary scale, with no reduction in his weekly work load, shall receive the full difference between the salary he was receiving on the date of reinstatement and the salary paid to him in his new position, in the form of lump sum payments, up to the end of the 3-year period following the date on which his position was eliminated. If the officer's reinstatement period is interrupted by disability, a service loan, parental leave, leave without pay or a trial period following reinstatement, as provided for in sections 95 and 100, and the staggered reinstatement period provided for in section 99, the end of the 3-year period following the date on which his position is eliminated shall be postponed accordingly, up to a maximum of six years after the date of elimination of the position. However, in the case of a disabled officer, the end of the period shall be postponed by a period equal to the period of disability.

During the period contemplated in the first paragraph, the total of the officer's salary and lump sum payment shall not be less than the salary he would have received if he had remained in the reinstated position. For the first year following that period, the lump sum paid to the reinstated officer shall equal two-thirds of the difference between the salary he would have received at the end of the 3-year period had he not been reinstated, and the salary for the position in which he was reinstated. The same applies for the second year following the 3-year period, except that the lump sum shall equal one-third of the difference.

T.B. 196312, s. 65.

**104.2.** An officer who, in the first 18 months of reinstatement, obtains or is reinstated in a position involving a weekly work load that is less than that of his original position, shall receive the salary of the new position proportionally to the worked in that position.

If the salary of an officer contemplated in the first paragraph is reduced because the officer is reinstated in position in a lower salary class or having a lower salary scale, the difference in salary attributable to that reduction shall be paid to the officer proportionally to the number of hours worked in the new position, in accordance with the terms and conditions set out in section 104.1.

T.B. 196312, s. 65.

**104.3.** A reinstated officer who has not obtained a position pursuant to section 108 or section 110 after a reinstatement period of 18 months may obtain or be reinstated in a position involving a weekly work load that is less than that of the position he previously held. The reinstatement may be with his employer or with another employer, in a position of officer, union member or unionizable non-member, on the following conditions:

(1) An agreement is entered into by the officer and his employer if the reinstatement takes place with the original employer, or by the officer, his employer and the new employer if the reinstatement takes place with another employer. The agreement shall stipulate that the officer, for the remaining portion of his reinstatement period, shall not refuse without valid reason to provide the services requested by his original employer or his new employer, on the conditions stipulated in the third paragraph of section 95, for a number of hours corresponding to the number of hours in his original position, less the number of hours in his new position;

(2) an officer who is reinstated with his original employer is required to apply for every position of officer, union member or unionizable non-member corresponding to his training and experience and involving a weekly work load that is at least equal to that of his original position. The officer must accept the position offered if it is a position of officer or, if it is a position of union member or

unionizable non-member, he must accept it if reinstatement into such a position was provided for in his initial reinstatement plan, in accordance with subparagraph 2 of section 97.

An officer reinstated in this way shall receive, in the form of lump sum payments, the full difference between the salary he was receiving on the date of reinstatement and the salary paid to him in his new position. The lump sum payments shall be made in accordance with the terms and conditions set out in section 104.1.

T.B. 196312, s. 65.

**104.4.** An officer contemplated in section 104.3 who, after a period of 18 months of reinstatement, obtains or is reinstated to a position with a lower weekly work load than his original position, with or without a reduction in his salary class, and who elects not to enter into an agreement in accordance with subparagraphs 1 and 2, shall benefit from the terms and conditions set out in section 104.2.

T.B. 196312, s. 65.

*§ 1.2. Miscellaneous provisions*

**105.** An officer who is reinstated in a position of union member or unionizable non-member:

- (1) may continue to benefit from the group insurance plans in accordance with section 32;
- (2) shall maintain his sick-leave fund and may use it according to the provisions of Division 8 of Chapter 4;
- (3) *(paragraph revoked)*;
- (3) *(paragraph revoked)*.

O.C. 1218-96, s. 105; T.B. 196312, s. 66; M.O. 2007-007, s. 8.

**106.** An officer who is reinstated in a position located more than 50 kilometres by road from his home base and his residence shall be entitled to have his moving expenses and temporary moving-in expenses reimbursed to him by his original employer in accordance with the Règles sur les déménagements des fonctionnaires passed under the Financial Administration Act (R.S.Q., c. A-6).

O.C. 1218-96, s. 106.

**107.** The employer shall determine and offer the adaptation activities which he deems necessary for the reinstated officer.

O.C. 1218-96, s. 107.

*§ 2. Reinstatement with the same employer*

**108.** The employer shall reinstate an officer who has chosen reinstatement in a position of officer, senior administrator, union member or unionizable non-member that corresponds to his training and experience and involves a weekly work load at least equal to that of the position he previously held, taking into account the normal requirements of the position to be filled and his reinstatement plan if available. The officer must accept the position offered if it is a position of officer, or if it is a position of union member or unionizable non-member, he must accept it if reinstatement into such a position is provided for in his reinstatement plan.

The employer shall inform the appropriate agency of the reinstatement of an officer whose position had been abolished, and of the conditions of the reinstatement

O.C. 1218-96, s. 108; T.B. 196312, s. 67; S.Q. 2005, c. 32, s. 309.

**109.** The employer may return to reinstatement an officer who has been reinstated, in accordance with section 108, to a position of officer or senior administrator in a class higher than the class of the position which he held before his reinstatement if, during the period of 6 months following the reinstatement, the employer realizes that it is not expedient to retain the services of the officer in that position. There shall be no appeal against this judgment of expediency under this Regulation. The period where the officer was replaced shall be excluded from the reinstatement period.

O.C. 1218-96, s. 109.

*§ 3. Reinstatement with another employer*

**110.** An officer who has chosen the reinstatement option may find himself a job with another employer in a position of officer, senior administrator, union member or unionizable non-member that corresponds to his training and experience and involves a weekly work load at least equal to that of the position he previously held, taking into account the normal requirements of the position to be filled and his reinstatement plan if available. The officer must accept the position offered if it is a position of officer, or if it is a position of union member or unionizable non-member, he must accept it if reinstatement into such a position is provided for in his reinstatement plan.

The original employer of the officer who finds another job shall inform the appropriate agency of the officer's reinstatement and of the conditions applicable thereto.

O.C. 1218-96, s. 110; T.B. 196312, s. 68; S.Q. 2005, c. 32, s. 309.

**111.** An officer who is reinstated with another employer shall be subject to a trial period not exceeding 12 months. During the trial period, he shall maintain his employment relationship with his original employer.

An officer who is reinstated into a position of union member or unionizable non-member shall maintain his employment relationship with his original employer until he acquires job security in his new position or, where applicable, in another position of union member or unionizable non-member.

O.C. 1218-96, s. 111; T.B. 196312, s. 69.

**112.** Where, during the trial period, the new employer no longer considers it expedient to retain the services of the officer, the original employer shall reinstate him and apply the salary and term of employment to which the officer was entitled before his reinstatement, until the expiry of the remaining reinstatement period. The time spent with the new employer shall be excluded from the officer's reinstatement period. There shall be no appeal against the decision made by the new employer under this Regulation.

O.C. 1218-96, s. 112.

**113.** The original employer shall dispose of the officer's sick-leave fund in accordance with the provisions of section 8 of chapter 4, after the trial period has been completed with the new employer.

O.C. 1218-96, s. 113.

**114.** An officer who, during his reinstatement period, is reinstated with another employer located more than 150 kilometres from the head office of his original employer, from his home base and from his residence, shall receive a mobility allowance from his original employer equivalent to three months of the salary he was receiving on the date of reinstatement. The officer shall ask for payment of this bonus at the end of his trial period.

O.C. 1218-96, s. 114; T.B. 196312, s. 70.

## **DIVISION 6**

### DEPARTURE FROM THE SECTOR

#### *§ 1. General*

**115.** An officer who has chosen the departure from the sector may elect one of the following measures:

- (1) an end-of-engagement indemnity;
- (2) a pre-retirement leave and retirement, if he is at least 50 years of age.

O.C. 1218-96, s. 115.

#### *§ 2. End-of-engagement indemnity*

**116.** An officer who has chosen an end-of-engagement indemnity shall receive an indemnity equivalent to 4 months of salary per year of continuous service, including service as a union member or unionizable non-member, with one or several employers in the public or parapublic sectors. However, the minimum amount of the indemnity shall be 6 months' salary and the maximum shall be 24 months' salary. The indemnity is calculated on the basis of the salary the officer was receiving on the date on which his position was eliminated or the date on which he changed his choice. A part-time officer shall receive an indemnity proportional to the hours worked in the last 12 months preceding the date on which his position was eliminated. However, the indemnity cannot be less than the salary paid for the regular work load prescribed for his position.

Where the officer has changed his choice, the end-of-engagement indemnity is reduced in accordance with section 102.

Notwithstanding section 3, for the application of the first paragraph, the notion of parapublic sector includes the Department of Health and Social Services, health and social services agencies, the Comité patronal de négociation du secteur de la santé et des services sociaux, the Secrétariat général du secteur de la santé et des services sociaux and the associations of senior administrators, of officers and of institutions of the sector.

O.C. 1218-96, s. 116; T.B. 196312, s. 71; S.Q. 2005, c. 32, s. 309; M.O. 2006-018, s. 13; M.O. 2007-007, s. 9.

**117.** The end-of-engagement indemnity shall not include accumulated annual vacation nor the reimbursement of the officer's sick-leave fund.

O.C. 1218-96, s. 117.

**118.** Where an officer has chosen the end-of-engagement indemnity, the employment relationship between the officer and his employer shall be severed on the date on which the position is eliminated or, if such is the case, on the date on which the officer changes his choice. The officer shall then cease to contribute to his retirement plan and to be entitled to the group insurance plans.

O.C. 1218-96, s. 118.

**119.** To be entitled to an end-of-employment indemnity, an officer shall commit, in writing, not to hold a position of officer, senior administrator, union member or unionizable non-member in the public and parapublic sectors for a period twice as long as the duration to which corresponds the end-of-engagement received, starting from the date on which his position was eliminated or the date on which he changed his choice.

An officer may not receive remuneration from the Régie de l'assurance-maladie du Québec for a period twice as long to which corresponds the end-of-engagement, starting from the date on which his position was eliminated or the date on which he changed his choice.

O.C. 1218-96, s. 119.

**120.** The end-of-engagement indemnity shall be paid in the following ways and in the following order:

(1) A retirement allowance corresponding to the maximum amount that may be transferred into a retirement instrument under the applicable tax legislation, and taking into account any sick days that qualify under this heading. The allowance is payable no later than 30 days after the officer's departure;

(2) A mandatory contribution by the employer to the officer's retirement plan, to compensate for the actuarial reduction applicable to the officer when he becomes eligible for his retirement pension with such a reduction. If the employer's contribution does not compensate fully for the actuarial reduction, the officer may use the amount of the retirement allowance described in subparagraph 1 as full or partial compensation. Such compensation is valid as long as the retirement plan provides therefor;

(3) An additional retirement allowance, for the amount by which the end-of-engagement indemnity exceeds both the transferable retirement allowance and the employer's contribution, payable to the officer in 2 equal instalments, the first in the 30 days following the officer's departure and the second on 15 January of the following year. However, the employer may agree with the officer to pay the whole of the additional retirement allowance no later than 30 days following his departure.

O.C. 1218-96, s. 120; O.C. 926-97, s. 12; T.B. 196312, s. 72.

### *§ 3. Retirement leave and retirement*

**121.** An officer who has chosen retirement preceded by a pre-retirement leave may delay the coming into force of the pre-retirement leave for 12 months at the most. In such case, the employer establishes with the officer a plan of use with his employer or with another organization.

O.C. 1218-96, s. 121.

**122.** An officer who has chosen pre-retirement leave, with, in some cases an end-of-engagement indemnity at the moment of the retirement, may not hold another position in the public and parapublic sectors. If he does so, his pre-retirement leave shall come to an end. Moreover, the officer shall commit in writing not to hold another position in the public and parapublic sectors during the 24 months following the date on which his retirement comes into force.

O.C. 1218-96, s. 122.

**123.** The pre-retirement leave shall begin on the date on which the officer's position is eliminated, on the date determined by the application of section 121 or on the date of his change of choice in accordance with section 102 and shall end on the date on which he chooses to retire in accordance with his retirement plan. The officer shall choose the date of his retirement and, consequently, the duration of his pre-retirement leave.

O.C. 1218-96, s. 123.

**124.** The total amount to be paid, that is the sum of the salary paid during his pre-retirement leave and the amount paid in end-of-engagement indemnity, at the time of his retirement, to the officer who has chosen departure from the sector, shall be equivalent to 24 months of the salary he was receiving on the date on which his position was eliminated, adjusted if applicable. A part-time officer shall benefit from the same conditions proportionally to the hours worked during the 12 months preceding the date on which his position is eliminated. However, the amount paid cannot be less than the salary paid for the regular work load prescribed for that position. If an officer chooses pre-retirement leave and

retirement, after spending time in reinstatement, the total amount paid shall be reduced in accordance with section 102

The end-of-engagement indemnity prescribed in the first paragraph shall be paid in accordance with the criteria and conditions prescribed in section 120.

The combination of the amount prescribed in the first paragraph of this section and of the amount prescribed in section 121 that is equivalent to a maximum of 12 months of salary shall not be higher than the equivalent of 36 months of the officer's salary at the date of the elimination of his position, adjusted if applicable.

O.C. 1218-96, s. 124; O.C. 926-97, s. 13; T.B. 196312, s. 73.

**125.** During the staggered pre-retirement leave, the officer's salary is established as follows:

[S-4.2R0.0001#03, 1996 G.O. 2, 4202]	
the salary the officer	the amount to which the
was receiving on the date	officer is entitled
on which his position was X	under section 124
eliminated, adjusted	expressed in months
if such is the case	-----
	the duration in months
	of his pre-retirement
	leave

This salary shall not be higher than the eventually adjusted salary which he was receiving at the time of elimination of his position or on the date of his change of choice.

Where the total amount to which the officer is entitled is higher than the adjusted salary paid to him during his pre-retirement leave, the difference shall be paid to the officer as an end-of-engagement indemnity on the date of his retirement.

O.C. 1218-96, s. 125.

**126.** An officer who has chosen to stagger his pre-retirement leave shall be deemed to be on leave without pay for the portion of his pre-retirement leave that is not paid.

O.C. 1218-96, s. 126.

**127.** During his pre-retirement leave, an officer shall continue to participate in the retirement plans and in the group insurance plans in accordance with chapter 4 and section 128.1, proportionally to the monthly adjusted salary paid to him. For the portion of his leave without pay, the applicable provisions of the retirement plans and of the group insurance plans shall apply.

O.C. 1218-96, s. 127.

**128.** On the conditions prescribed in subsection 3 of section 75, the sick-leave fund may be used to add to the amount of adjusted salary prescribed in section 125.

The balance of cashable leave days at the end of the pre-retirement leave, in any, shall be paid in the conditions prescribed in subsection 4 of section 75.

O.C. 1218-96, s. 128.

**128.1.** An officer to whom this subdivision applies shall not participate in the short-term salary insurance plan as prescribed in subparagraph 3 of section 49, or in the mandatory basic long-term salary insurance plan or the additional mandatory long-term salary insurance plan. In the 12 months preceding the pre-retirement leave, a disabled officer shall receive the salary to which he would have been entitled had he been at work.

O.C. 1218-96, s. 128.1; T.B. 196312, s. 74.

## **CHAPTER 5.1**

### **END-OF-ENGAGEMENT MEASURES**

#### **DIVISION 1**

##### **DISMISSAL, NON-RENEWAL OF ENGAGEMENT, TERMINATION OF ENGAGEMENT, SUSPENSION WITHOUT PAY, DEMOTION**

**129.** The decision to dismiss, not to renew the engagement of or to terminate the engagement of an officer, to suspend him without pay or to demote him must be made by the board of directors in the case of a senior officer or by the executive director in the case of an intermediate officer.

O.C. 1218-96, s. 129; T.B. 196312, s. 75.

**129.1.** At least 15 days before the date of the meeting, the employer shall notify the senior officer, in writing, that the subject of the senior officer's dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion has been entered on the agenda of a meeting of the board of directors for consideration.

At the same time as the written notice mentioned in the first paragraph, the employer shall provide the senior officer with a written copy of his evaluation together with the reasons for his dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion.

The senior officer may express his views and make representations through the Association des cadres supérieurs de la santé et des services sociaux, at the meeting of the board of directors.

T.B. 196312, s. 75.

**129.2.** In the case of an intermediate officer, the employer shall notify the officer in writing that it intends to recommend the officer's dismissal, non-renewal of employment, termination of engagement, suspension without pay or demotion. A period of 15 days must elapse between the notice and the decision of the executive director to dismiss the intermediate officer, not to renew his engagement or terminate his engagement.

Upon receipt of the notice mentioned in the first paragraph, the intermediate officer may ask his employer, in writing, to provide a copy of his evaluation together with the reasons justifying the notice. The employer shall provide the officer with this information in writing within 5 days of receipt of the request.

During the period stipulated in the first paragraph, the intermediate officer may express his views and make representations to the executive director, through his association.

T.B. 196312, s. 75.

**129.3.** The decision to dismiss an officer, not to renew his engagement, to terminate his employment, to suspend him without pay or to demote him, made pursuant to section 129, shall be communicated to the officer in a written notice.

T.B. 196312, s. 75.

**129.4.** The notice concerning the decision not to renew the engagement of an officer or to terminate his engagement must be sent to the officer at least 60 days before the end of his employment.

In the case of a dismissal, the date of the end of his employment shall be the date on which the officer receives the notice sent pursuant to section 129.3.

T.B. 196312, s. 75.

## **DIVISION 2**

### **SEVERANCE PAY**

**129.5.** To terminate an engagement, an employer may pay severance pay to an officer who has completed his probation period, provided the officer has renounced all right of recourse in writing.

T.B. 196312, s. 75.

**129.6.** The severance pay shall be equal to one month of salary per year of continuous service as an officer or senior administrator with one or several employers. In no case shall it exceed 12 months of salary.

A part-time officer shall receive the severance pay established in the first paragraph proportionally to the hours worked in the last 12 months preceding his departure. However, the amount paid shall not be less than the regular work load prescribed for his position.

Severance pay shall be paid monthly by the employer or in accordance with the conditions of the payroll system, from the date of the officer's departure. It shall cease when the officer obtains another position in the public or parapublic sector with a monthly salary equal to or in excess of the severance pay for the same period. It shall also cease when the officer begins to receive remuneration from the Régie de l'assurance-maladie du Québec that is equal to or in excess of the severance pay for the same period.

T.B. 196312, s. 75.

**129.7.** Where an officer obtains employment in the public or parapublic sector before he has received all the severance pay stipulated in section 129.6, and is paid a salary that is less than the salary he was receiving on the date of his departure, the original employer, upon presentation of vouchers, shall periodically pay him the difference between the 2 salaries, up to the total amount of severance pay, or until the officer's new salary is equal to or in excess of the salary he was receiving on the date of his departure.

Where an officer receives remuneration from the Régie de l'assurance-maladie du Québec before he has received all the severance pay stipulated in section 129.6, and where the said remuneration is less than the salary he was receiving on the date of his departure, the original employer, upon presentation of vouchers, shall periodically pay him the difference between his salary and the remuneration, up to the total amount of severance pay or until his new remuneration is equal to or in excess of the salary he was receiving on the date of his departure, whichever occurs first.

T.B. 196312, s. 75.

**129.8.** The severance pay shall be the subject of a resolution by the employer's board of directors.

T.B. 196312, s. 75.

**129.9.** An officer who receives severance pay may choose to replace it with paid leave. The duration of the leave shall be the number of months obtained by applying the first paragraph of section 129.6. The paid leave shall cease if the officer obtains another position in the public or parapublic sector. In such a case, sections 129.6 and 129.7 shall apply.

During the paid leave, the officer shall maintain his status as an officer. Vacation time accumulated during the leave is deemed to have been taken. The officer shall not benefit from the salary insurance plans. If the officer becomes disabled during this period, he shall continue to receive the salary corresponding to the severance pay to which he would have been entitled, until such severance pay runs out or until he obtains another position.

T.B. 196312, s. 75.

## **CHAPTER 6** APPEAL PROCEDURES

### **DIVISION 1** DISAGREEMENTS

**130.** Any disagreement between an officer and his employer resulting from the interpretation or application of the provisions of this Regulation, except for those of Chapter 5.1 concerning end-of-engagement measures, shall be submitted to an arbitrator.

O.C. 1218-96, s. 130; T.B. 196312, s. 75.

**130.1.** The officer shall submit a written notice of disagreement to his immediate superior within 30 days of becoming aware of the fact and within 6 months of the occurrence of the fact giving rise to the disagreement.

The employer and the officer shall meet within 30 days of receipt of the notice of disagreement, to discuss the disagreement and, if possible, to reach an agreement. At the meeting, the officer may be accompanied by a representative of his association.

If the disagreement persists at the end of the 30-day period, the officer shall, in the next 20 days, notify his employer in writing that he intends to submit the disagreement to an arbitrator.

T.B. 196312, s. 75.

**130.2.** The request for arbitration must contain full information about the officer's position, the name of his representative, unless he has elected to represent himself, the nature of the disagreement and all related documentation. A copy of the request for arbitration shall be sent to the Minister.

The employer shall provide the officer with copies of the documents required to present the request for arbitration and to ensure his defence, subject to the obligations and powers conferred on public bodies by the Act respecting Access to documents held by public bodies and the Protection of personal information. A request for arbitration shall not be invalid for the sole reason that it does not contain all the necessary information.

Within 10 days following receipt of the request for arbitration, the employer shall provide the officer's representative with the name of its own representative, in writing. The name shall be given to the officer if he has no representative.

At the end of this period, the parties have 15 days to agree upon the choice of an arbitrator from the list drawn up in accordance with section 130.22.

If the parties are unable to agree on the choice of an arbitrator, or if the arbitrators whose names appear on the list are not available, one of the parties shall ask the Minister, in writing, to appoint an arbitrator. The request shall contain a copy of the request for arbitration originally made by the officer, together with the name of the officer's representative and the name of the employer's representative.

Within 30 days following receipt of the request, the Minister shall appoint an arbitrator from the list prepared in accordance with section 130.22 to hear the disagreement, and shall inform the parties in writing.

T.B. 196312, s. 75.

**130.3.** The arbitrator shall determine the procedure for the hearing, taking into account the established principles of natural justice and the exercise of the powers stipulated in Division III of Chapter IV of the Labour Code (R.S.Q., c. C-27), subject to the provisions of this chapter.

Notwithstanding section 100.6 of the Labour Code, the Minister cannot be assigned to appear as a witness.

The arbitrator shall notify the parties at least 10 days before the date of the first hearing.

If the duly summoned representative of a party is not present, the arbitrator may nevertheless proceed with the hearing.

The arbitrator shall ensure that the request for arbitration was made within the prescribed time frame, shall check that the steps taken by the employer in the decision-making process were in conformity with the law and this Regulation, and shall judge the admissibility and nature of the disagreement.

The arbitrator shall receive the observations of the parties and take the disagreement under advisement. Where applicable, each party shall send a written copy of its observations to the other party.

T.B. 196312, s. 75.

**130.4.** The arbitrator shall analyze the disagreement and decide whether or not the employer's decision is consistent with the Act and this Regulation.

The arbitrator must render his decision in writing, giving reasons, and sign it, within 30 days following the date of the end of the hearings. This period may be extended with the prior agreement in writing of the parties. The decision shall not be invalid solely by reason of being made after the stipulated period.

The arbitrator shall send a copy of his decision to the parties and to the Minister.

An officer who withdraws his disagreement, in particular when an agreement is reached before the arbitrator renders a decision, shall inform his employer and the arbitrator in writing.

If the arbitrator considers that the employer's decision is consistent with the Act and with this Regulation, he shall maintain it.

If the arbitrator considers that the employer's decision is not consistent with the provisions of the Act and of this Regulation, he shall render his decision by exercising the powers stipulated in the first paragraph of section 130.3.

In no case shall the arbitrator's decision have the effect of amending, adding to or subtracting from the provisions of the Act and of this Regulation.

T.B. 196312, s. 75.

**130.5.** The decision of the arbitrator is final and enforceable, and shall be binding upon the officer and the employer.

T.B. 196312, s. 75.

## **DIVISION 2**

**DISMISSAL, NON-RENEWAL OF ENGAGEMENT, TERMINATION OF ENGAGEMENT, SUSPENSION WITHOUT PAY, DEMOTION**

**130.6.** An officer who has completed his probation period with an employer, or an officer on parental leave or disability leave, shall make a written complaint to his employer in the case of dismissal, non-renewal of engagement, termination of engagement, suspension without pay or demotion, if he believes the decision was not made in accordance with the provisions of sections 129 to 129.5, or if he contests the validity of the decision. However, there is no appeal from the layoff of an

officer following termination of the employment relationship as a result of a decision made by the employer pursuant to Chapter 5.

The complaint must reach the employer or be mailed no later than 45 days after receipt of the notice stipulated in 129.4 or the date of the end of employment, whichever is later. The officer shall also send a copy of the complaint within the same period to the officers' association of which he is a member.

An arbitrator shall be appointed in accordance with the procedure stipulated in section 130.2. The arbitrator shall proceed in accordance with section 130.3.

T.B. 196312, s. 75.

**130.7.** The arbitrator shall decide the validity of the employer's decision and its just and sufficient nature. He shall render his decision with 30 days following the date of the end of the hearings. This period may be extended with the prior written agreement of the representatives or, if not, with the prior written agreement of the officer and the employer. The decision shall not be invalid solely because it was made after this period.

T.B. 196312, s. 75.

**130.8.** The arbitrator shall render the decision in writing, giving reasons, and shall sign it.

T.B. 196312, s. 75.

**130.9.** The arbitrator shall send a copy of his decision to the officer, the employer, their representatives and the Minister.

T.B. 196312, s. 75.

**130.10.** The decision is enforceable and cannot be appealed. It shall be binding upon the officer and the employer.

The decision of the arbitrator shall be homologated by the Superior Court at the request of the officer or of the employer, at the expense of the employer

T.B. 196312, s. 75.

**130.11.** Following a complaint submitted by an officer, the arbitrator shall decide to maintain the decision of the employer if he considers it to be justified. In the case of a suspension without pay, an arbitrator who maintains the employer's decision may change the duration of the suspension.

T.B. 196312, s. 75.

**130.12.** Following a complaint submitted by an officer concerning a dismissal, non-renewal of engagement or termination of engagement with severance of the contractual employment relationship, the arbitrator, if he considers the employer's decision to be unjustified, shall establish compensation for the loss of salary suffered by the officer. When calculating the amount of the compensation, the arbitrator shall take into account any salary or benefit received by the officer since the date on which his employment terminated.

He shall also order the employer and the officer to agree on a solution to dispose of the dispute, within 30 days following the date of his decision. The agreement may provide for:

(1) reintegration of the officer in his position or in another position corresponding to his training and work experience, taking into account the requirements of the position to be filled;

(2) damages, which may be for an amount equal to three to 12 months of salary for the officer. In such a case the officer shall benefit from the career transition services available to officers who have elected for reinstatement in accordance with section 94, for a period of 36 months;

(3) the application of the employment stability measures prescribed for administrative reorganizations, in accordance with Chapter 5.

A copy of the agreement shall be sent to the arbitrator and to the Minister, not later than 5 days after the end of the period mentioned in the second paragraph.

T.B. 196312, s. 75; M.O. 2007-007, s. 10.

**130.13.** If no agreement has been reached at the end of the period mentioned in the second paragraph of section 130.13, the employer and the officer shall submit to the arbitrator, within 10 days following the end of that period, their positions and arguments concerning the reinstatement of the officer, the damages described in subparagraph 2 of the second paragraph of section 130.12 and the application to the officer of the employment stability measures for administrative reorganizations.

T.B. 196312, s. 75.

**130.14.** After studying the arguments of the employer and the officer, the arbitrator shall order the employer to apply one of the following measures:

(1) reintegration of the officer from the date of the order mentioned in the second paragraph of section 130.12. The employer must then reintegrate the officer in his position or in any other position corresponding to his training and work experience, taking into account the requirements of the position to be filled;

(2) payment to the officer of damages calculated by the arbitrator, taking into account the prejudice suffered by the officer. The amount of the damages shall be equal to between three and 12 months of salary for the officer. In addition, the officer, for reinstatement purposes, shall benefit from the career transition services available to officers who have elected for reinstatement in accordance with section 94, for a period of 36 months from the date of the arbitrator's order contemplated in this section;

(3) the application of the employment stability measures stipulated for administrative reorganizations, in accordance with Chapter 5.

T.B. 196312, s. 75; M.O. 2007-007, s. 11.

**130.15.** Following a complaint submitted by a senior officer who has been transferred to a position of intermediate officer without elimination of the position originally occupied by him, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to reintegrate the officer into his position, with compensation for the loss of salary suffered.

T.B. 196312, s. 75.

**130.16.** Following a complaint submitted by an officer whose weekly work load has been reduced, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to apply the following measure maintenance of the officer's weekly work load with compensation for the loss of salary suffered, from the date on which the benefit was reduced.

T.B. 196312, s. 75.

**130.17.** Following a complaint submitted by an officer who has been suspended without pay or demoted, the arbitrator, if he considers the decision of the employer to be unjustified, shall order the employer to apply the following measure: reintegration of the officer into his position, with compensation for the loss of salary suffered.

T.B. 196312, s. 75.

**130.18.** The compensations and damages payable to an officer as a result of an arbitrator's decision shall be paid in their entirety by the employer concerned, within 30 days following the arbitrator's decision.

T.B. 196312, s. 75.

**130.19.** An officer who withdraws his complaint shall notify his employer in writing and shall send a copy of the notice to the arbitrator and to his association.

T.B. 196312, s. 75.

**130.20.** Where an agreement is reached before the arbitrator renders his decision, it shall be the subject of a resolution by the employer's board of directors. Copies of the resolution and of the agreement must be sent to the arbitrator within 15 days following the adoption of the resolution. The agreement must contain a clause withdrawing the complaint and a renunciation by the officer of all other recourses. The benefits granted under such an agreement shall in no case be equivalent to less than 3 months or more than 12 months of salary for the officer.

T.B. 196312, s. 75.

**130.21.** An officer who submits a complaint for dismissal, non-renewal of engagement or termination of engagement shall maintain his participation in the collective insurance plans, in accordance with section 34.2.

T.B. 196312, s. 75.

### **DIVISION 3**

#### **LISTS OF ARBITRATORS, EXPERT PHYSICIANS AND ARBITRATION FEES**

**130.22.** Two lists containing the names of arbitrators, one for senior officers and one for intermediate officers, shall be drawn up by the Minister with the employers' associations and officers' associations concerned. The list established for intermediate officers shall contain a list of expert physicians for the purposes of the medical arbitration procedure provided for in section 46.1.

The signatories of the list for senior officers shall be the Minister, the employers' associations and the Association des cadres supérieurs de la santé et des services sociaux.

The signatories of the list for intermediate officers shall be the Minister, the employers' associations, the Association des gestionnaires des établissements de santé et de services sociaux and the APER santé et services sociaux.

T.B. 196312, s. 75; M.O. 2006-018, s. 14.

**130.23.** The lists provided for in section 130.22 may be updated on 1 April of each year, at the request of one of the signatories. All the signatories concerned must consent to the modifications.

T.B. 196312, s. 75.

**130.24.** Each party shall pay its own expenses. In cases covered by Division 1 of this chapter, the arbitrator's fees and expenses shall be paid by the losing party or the party that withdraws. Where an agreement is reached before the arbitrator renders his decision, the agreement must provide for the arbitrator's fees and expenses to be divided between the parties. It must contain a clause withdrawing the complaint and a renunciation of any other recourse by the officer. Where the arbitrator considers his decision to be divided, he shall establish the proportion of his fees and expenses to be paid by each of the parties. In cases covered by Division 2 of this chapter, the arbitrator's fees and expenses shall be paid by the employer.

T.B. 196312, s. 75.

## **CHAPTER 7**

### **TRANSITORY AND FINAL**

**131.** This Regulation replaces:

(1) the Regulation respecting certain conditions of employment of officers of regional councils and of health and social services establishments, made by Order in Council 988-91 dated 10 July 1991 and amended by Order in Council 1180-92 dated 12 August 1992, except to the extent that they apply to the territory of the Cree Board of Health and Social Services of James Bay;

(2) the Regulation respecting pre-retirement leave and the retirement indemnity applicable to officers of regional boards and health and social services institutions made by Order in Council 784-93 dated 2 June 1993;

(3) the Regulation respecting the severance pay applicable to officers of regional boards and health and social services institutions made by Order in Council 1506-93 dated 27 October 1993;

(4) chapter 2 and section 49 of the Regulation respecting group insurance plans and the terms and conditions of application of the deferred salary leave plan applicable to the management personnel of regional boards and of health and social services institutions made by Order in Council 428-94 dated 23 March 1994;

(4.1) the Regulation respecting the appointment and remuneration of directors of professional services and directors of public health, made by Order in Council 1094-94 dated 13 July 1994;

(5) the Regulation respecting the dismissal, non-renewal of employment, termination of employment, suspension without pay, demotion and severance pay of officers of regional boards and health and social services institutions made by Order in Council 1843-94 dated 21 December 1994;

(6) chapter 3 of the Regulation respecting the progressive retirement plan and the management policy applicable to the management personnel of regional boards and of health and social services institutions made by Order in Council 1005-95 dated 19 July 1995;

(7) the Regulation respecting remuneration of directors general and senior and intermediate officers of regional councils, public establishments and private establishments referred to in sections 176 and 177 of the Act respecting health services and social services (R.S.Q., c. S-5, s. 154) made by Order in Council 1572-90 dated 7 November 1990 and amended by the regulation made by Order in Council 828-91 dated 12 June 1991, except where they apply to the territory of the Cree Board of Health and Social Services of James Bay;

(8) the Regulation respecting the remuneration of executive directors and senior and middle management personnel of regional boards and health and social services institutions made by Order in Council 572-93 dated 21 April 1993 and amended by Orders in Council 1154-93 dated 18 August 1993 and 1420-94 dated September 1994.

O.C. 1218-96, s. 131; O.C. 926-97, s. 15; T.B. 196312, s. 76.

**132.** However, among the provisions of which the replacement is prescribed in section 131, sections 129, 142 to 144 and 167 to 170 of the Regulation referred to in subsection 1 of section 131 and sections 3 to 6 of the Regulation referred to in subsection 2 of section 131 shall continue to apply to the officer covered by the applicable of these sections.

An officer whose salary is higher than the new salary class for his position at 30 June 1996 following the application of the second paragraph of section 44 of the Regulation referred to in subparagraph 7 of section 131 and of section 4.3 of the Regulation referred to in subparagraph 8 of section 131, shall continue to retain his salary.

O.C. 1218-96, s. 132.

**133.** An officer placed on reserve in accordance with the definition prescribed in section 3 of chapter 1 shall benefit, retroactively to the date on which his position is eliminated, from the provisions of chapter 5 of this Regulation. In such case, the maximum amount that the officer is entitled to receive and that prescribed in the second paragraph, may not be higher than the equivalent of 36 months of his adjusted salary, if applicable.

The officer covered by sections 122 or 123 of the Regulation mentioned in subsection 1 of section 131 of this Regulation is deemed to have chosen, retroactively to the date of the application of those sections, the reinstatement option as prescribed in division 5 of chapter 5 of this Regulation.

Sections 16, 17, 24 and 25 of this Regulation shall come into force on 30 June 1996.

O.C. 1218-96, s. 133; O.C. 926-97, s. 16.

**133.1.** On 1 April 1997, a salary increase shall be granted to an officer whose work performance during the period from 1 April 1996 to 31 March 1997 is deemed satisfactory. There shall be no appeal under this Regulation regarding the appraisal made by the employer to that effect. The rate of this increase shall represent 4 % of the salary of the officer at 31 March 1997, provided that this increase does not make the salary of the officer higher than the maximum of the salary class for his position.

Where an officer holds a part-time position on 1 April 1997 and the percentage of time worked is less than 50 % for the reference period, the salary increase for satisfactory performance shall be 2 % of his salary at 31 March 1997.

The second, third and fourth paragraphs of section 14 apply to the increase for 1997-1998, by substituting the date «1 April» for the date «1 July» wherever it is found and by making the consequential changes in Schedule II.

O.C. 244-97, s. 1.

**133.2.** No later than 1 May 1997, the remuneration of an officer shall be reduced by an amount equivalent to 1,3 days of work. A 1,5-day leave without pay shall be granted to the officer by the employer. The officer has until 31 March 1998 to take that leave.

Where an officer holds a part-time position, the reduction in remuneration and the corresponding leave without pay shall be determined in proportion to the time worked at his position.

The officer's contribution to his retirement plan shall nonetheless be computed on the basis of the remuneration that he would have received were it not for the reduction in remuneration provided for in the first paragraph and in the second paragraph for a part-time officer.

O.C. 244-97, s. 1; O.C. 926-97, s. 17.

**133.3.** Section 27 has effect from 1 January 2001 and section 37 has effect from 1 July 2001

T.B. 196312, s. 77; M.O. 2006-018, s. 15.

**133.4.** *(Revoked).*

T.B. 196312, s. 78; M.O. 2007-007, s. 12.

**134.** The provisions applying to the definition of disability, to the definition of a disability period, to the level of benefits and those prescribed in subdivision 3 of division 7 of chapter 4 shall not apply to an officer who is disabled on 31 March 1994. Such officer shall continue to be subject to the provisions that were applicable to that effect at the beginning of his disability, until the end of this disability.



4 31 108 40 438 31 730 41 247 32 365 42 072 33 012 42 913  
33 672 43 771

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5 32 691 42 498 33 345 43 348 34 012 44 215 34 692 45 099  
35 386 46 001

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6 34 269 44 552 34 954 45 443 35 653 46 352 36 366 47 279  
37 093 48 225

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7 36 277 47 161 37 003 48 104 37 743 49 066 38 498 50 047  
39 268 51 048

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8 38 403 49 923 39 171 50 921 39 954 51 939 40 753 52 978  
41 568 54 038

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9 40 653 52 846 41 466 53 903 42 295 54 981 43 141 56 081  
44 004 57 203

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10 43 033 55 941 43 894 57 060 44 772 58 201 45 667 59 365  
46 580 60 552

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11 45 553 59 217 46 464 60 401 47 393 61 609 48 341 62 841  
49 308 64 098

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12 48 221 62 684 49 185 63 938 50 169 65 217 51 172 66 521  
52 195 67 851

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13 51 043 66 355 52 064 67 682 53 105 69 036 54 167 70 417  
55 250 71 825

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14 54 032 70 241 55 113 71 646 56 215 73 079 57 339 74 541  
58 486 76 032

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15 57 194 74 354 58 338 75 841 59 505 77 358 60 695 78 905  
61 909 80 483

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16 60 546 78 708 61 757 80 282 62 992 81 888 64 252 83 526  
65 537 85 197

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17 64 094 83 318 65 376 84 984 66 684 86 684 68 018 88 418  
69 378 90 186

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18 67 844 88 197 69 201 89 961 70 585 91 760 71 997 93 595  
73 437 95 467

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19 71 817 93 362 73 253 95 229 74 718 97 134 76 212 99 077  
77 736 101 059

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20 76 021 98 829 77 541 100 806 79 092 102 822 80 674 104 878  
82 287 106 976

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21 80 474 104 616 82 083 106 708 83 725 108 842 85 400 111 019  
87 108 113 239

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22 85 184 110 742 86 888 112 957 88 626 115 216 90 399 117 520  
92 207 119 870

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23 90 176 117 228 91 980 119 573 93 820 121 964 95 696 124 403  
97 610 126 891

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24 95 456 124 093 97 365 126 575 99 312 129 107 101 298 131 689  
103 324 134 323

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25 101 046 131 360 103 067 133 987 105 128 136 667 107 231 139 400  
109 376 142 188

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26 106 965 139 053 109 104 141 834 111 286 144 671 113 512 147 564  
115 782 150 515

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27 113 225 147 195 115 490 150 139 117 800 153 142 120 156 156 205  
122 559 159 329

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28 119 856 155 815 122 253 158 931 124 698 162 110 127 192 165 352  
129 736 168 659

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29 126 877 164 939 129 415 168 238 132 003 171 603 134 643 175 035  
137 336 178 536

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30 134 305 174 599 136 991 178 091 139 731 181 653 142 526 185 286  
145 377 188 992

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These salary rates shall determine, for each of these salary classes, the minimum and maximum salary limits for the annual salary of a full-time officer

The conversion of the annual salary of an officer into a weekly salary is obtained by dividing the annual salary by 52.18. The conversion of the annual salary of an officer into a daily salary is obtained by dividing the annual salary by 260.9.

O.C. 1218-96, Sch. I; O.C. 926-97, ss. 18 and 19; T.B. 194784, s. 3; T.B. 196627, s. 3; M.O. 2003-005, s. 4; M.O. 2006-018, s. 17.

## SCHEDULE 1.A

*(Schedule replaced).*

T.B. 196627, s. 3; M.O. 2003-005, s. 4.

## SCHEDULE 2

(s. 12.1)

### SALARY RATE FOR OFFICERS WHO ARE PHYSICIANS

[S-4.240.0001#06, 2006 G.O. 2, 2840]

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	2003 04 01	2006 04 01	2007 04 01	2008 04 01
2009 04 01				

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	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Minimum	Maximum							
Classes								

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A	106 983	106 983	109 123	109 123	111 305	111 305	113 531	113 531
531	115 802	115 802						

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B	113 248	113 248	115 513	115 513	117 823	117 823	120 179	120 179
179	122 583	122 583						

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C	119 878 119 878	122 276 122 276	124 722 124 722	127 216 127 216
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D	126 896 126 896	129 434 129 434	132 023 132 023	134 663 134 663
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E	134 327 134 327	137 014 137 014	139 754 139 754	142 549 142 549
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F	142 194 142 194	145 038 145 038	147 939 147 939	150 898 150 898
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G	150 520 150 520	153 530 153 530	156 601 156 601	159 733 159 733
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H	159 335 159 335	162 522 162 522	165 772 165 772	169 087 169 087
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M.O. 2003-005, s. 4; M.O. 2006-018, s. 17.

## **SCHEDULE A**

*(Schedule replaced).*

T.B. 194784, s. 3; T.B. 196312, s. 80; T.B. 196627, s. 3; M.O. 2003-005, s. 4.

## **SCHEDULE A.1**

*(Schedule replaced).*

T.B. 196627, s. 3; M.O. 2003-005, s. 4.

## **SCHEDULE I.1**

*Replaced*

O.C. 926-97, s. 19 and 21; T.B. 194784, s. 3.

## **SCHEDULE II**

*Replaced*

O.C. 1218-96, Sch. II; O.C. 926-97, s. 20; T.B. 194784, s. 3.

O.C. 1218-96, 1996 G.O. 2, 4202  
O.C. 244-97, 1997 G.O. 2, 957  
O.C. 926-97, 1997 G.O. 2, 4178  
T.B. 193821, 1999 G.O. 2, 3661  
T.B. 194784, 2000 G.O. 2, 2249  
T.B. 196312, 2001 G.O. 2, 2067  
T.B. 196627, 2001 G.O. 2, 3655  
M.O. 2003-005, 2003 G.O. 2, 1497  
M.O. 2006-018, 2006 G.O. 2, 2836  
M.O. 2007-007, 2007 G.O. 2, 1964 and 2251