



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Draft Bill

An Act to amend the Automobile Insurance Act and other legislation

Introduction

**Introduced by
Mr Marc-Yvan Côté
Minister of Transport**



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EXPLANATORY NOTES

The main object of this bill is to propose a reform of the system of compensation applicable to the victims of automobile accidents. The proposed amendments are designed to provide better co-ordination of the compensation of various losses suffered by the victims, in particular in cases of serious injury.

Titles I and II of the Automobile Insurance Act are replaced and include the following changes:

(1) the period of prescription for presenting a claim is reduced from three years to one year;

(2) the circumstances and the vehicles excluded from the plan are specified;

(3) only the actual loss of employment income in the first six months following a road accident is compensated and the notion of loss of potential income applies only from the seventh month for victims who have part-time or temporary employment or who are unemployed;

(4) the income replacement indemnity paid to students is converted into a lump sum indemnity to compensate any delay in the completion of a study program;

(5) the fitness for employment of the victims of an accident will be determined, allowing for qualification and experience, as soon as the person's state of health is stabilized and not five years after the accident;

(6) the income replacement indemnity of a victim will be reduced gradually from the time he reaches 65 years of age;

(7) the existing compensation for permanent sequelae consisting of indemnities for anatomical or physiological impairments, indemnities for disfigurement and indemnities for suffering and loss of enjoyment of life will be replaced by a single indemnity of up to \$125 000 covering all non-pecuniary damage;

(8) life annuities paid to a victim's dependants at his death are replaced by lump sum indemnities;

(9) indemnities for care-related expenses, up to \$100 a week, for victims who are employed and allowances for persons who accompany an accident victim to medical treatments are introduced;

(10) income replacement indemnities are extended for a fixed period to enable victims to find employment;

(11) the payment of a disability pension by the Régie des rentes du Québec to a person receiving automobile insurance compensation will be excluded.

Finally, the bill contains technical or concordance amendments and amendments designed to simplify the administration of the automobile insurance plan.

ACT AMENDED BY THIS BILL:

- the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)

Draft Bill

An Act to amend the Automobile Insurance Act and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Titles I and II of the Automobile Insurance Act (R.S.Q., chapter A-25) are replaced by the following titles:

“TITLE I

“GENERAL PROVISIONS

“CHAPTER I

“DEFINITIONS

“**1.** In this Act, unless otherwise indicated by the context,

“**accident**” means any event in which damage is caused by an automobile;

“**automobile**” means any vehicle propelled by any power other than muscular force and adapted for transportation on public highways but not on rails;

“**damage caused by an automobile**” means any damage caused by or by the use of an automobile or by the load of an automobile, including damage caused by a trailer used with an automobile, but excluding damage caused by the autonomous act of an animal that is part of the load;

“**load**” means any goods in, on, or transported by an automobile;

“**owner**” means a person who acquires or possesses an automobile under a title of ownership, under a title involving a condition or a term giving him the right to become owner thereof, or under a title giving him the right to use it as owner thereof charged to deliver over, and a person who leases a road vehicle for a period of not less than one year;

“**public highway**” means a strip of land or part of a structure open to public vehicular traffic, except any part of a land or structure used mainly by the following vehicles, as defined by regulation,

(1) farm tractors, farm trailers, specialized equipment or drawn machinery;

(2) snowmobiles;

(3) vehicles intended for use off a public highway;

“**theft**” refers to the offence described in section 283 of the Criminal Code (R.S.C., 1970, chapter C-34).

“CHAPTER II

“TRANSMISSION OF INFORMATION

“**2.** All information relating to a person applying for compensation or to a victim to whom this Act applies is confidential.

“**3.** No person in the employ of the Régie de l’assurance automobile du Québec or of the Government may be compelled, in judicial proceedings, to make a deposition concerning information relating to a claimant and obtained pursuant to this Act or to produce a document containing such information, unless the information or document is public.

“**4.** Section 3 does not apply to proceedings related to the application of this Act or the Criminal Code (R.S.C., 1970, chapter C-34).

“TITLE II

“COMPENSATION FOR BODILY INJURY

“CHAPTER I

“GENERAL PROVISIONS

“DIVISION I

“DEFINITIONS AND INTERPRETATION

“**5.** In this title, unless otherwise indicated by the context,

“**bodily injury**” means physical, psychological or mental injury, including death, suffered by a victim in an accident, and any damage to the clothes worn by a victim;

“**dependant**” means

(1) the spouse;

(2) the person who is separated from the victim *de facto* or legally, or whose marriage to the victim has been dissolved by a final judgment of divorce or declared null by a declaration of nullity of marriage and who, on the date of the accident, is entitled to receive support from the victim by virtue of a judgment or agreement;

(3) a person related to the victim by blood or adoption and any stranger who stood *in loco parentis* to the victim or to whom the victim stands *in loco parentis* whose basic needs and maintenance costs are, at the time of the accident, at the charge of the victim in a proportion of more than 50%;

“**employment**” means any remunerative occupation;

“**person at home**” means a person whose main occupation consists in attending, for his own benefit and that of at least one other person, to the usual occupations of household management and maintenance;

“**spouse**” means the man or woman who, on the date of the accident, is married to and cohabits with the victim or lives with the victim as if they were married and has been publicly represented as the victim’s spouse for at least three years or one year if a child is born or is to be born of their union.

“6. For the purposes of this title, the mother or father of a minor or the person acting in their stead may act *ex officio* as tutor to the child if the latter does not already have a tutor.

“7. For the purposes of this title, compensation includes the reimbursement of the expenses referred to in sections 22, 28, 40 and 48 and in Chapter V.

“DIVISION II

“GENERAL RULES

“8. Compensation under this title is granted by the Régie de l’assurance automobile du Québec regardless of who is at fault.

“9. Every person who suffers bodily injury in an accident is a victim.

“10. Every victim residing in Québec and his dependants are entitled to compensation under this title, whether the accident occurred in or outside Québec.

Subject to paragraph 1 of section 195, a victim residing in Québec is a person who is authorized by law to be or to stay in Canada and who lives and is ordinarily present in Québec, except a tourist or visitor or a person in transit in Québec.

“11. Where the accident occurs in Québec, the owner and the driver of and every passenger in an automobile registered in Québec are deemed to reside in Québec.

“12. Where an accident occurs in Québec, the victim who does not reside in Québec is entitled to compensation under this title only to the extent that he is not responsible for the accident, unless otherwise agreed between the Régie and the competent authorities of the place of residence of the victim.

Notwithstanding section 83.58, in case of disagreement between the Régie and the victim with regard to his responsibility, the victim’s recourse against the Régie in that respect is submitted to the competent court. The recourse must be exercised within 180 days of the decision rendered by the Régie.

Subject to sections 108 to 114, responsibility is determined according to the ordinary rules of law.

“13. No compensation is due under this title in the following cases:

(1) if the injury is caused, while the automobile is not in motion on a public highway, by a device that can be operated independently, as defined by regulation, and that is incorporated with the automobile or by the use of such a device;

(2) if the accident in which an injury is caused by a farm tractor, a farm trailer, a specialized vehicle or drawn machinery, as defined by regulation, occurs at a place other than a public highway;

(3) if the injury is caused by an automobile no longer in use as defined in section 47 of the Highway Safety Code (1986, chapter 91) or by a snowmobile or a vehicle intended for use off a public highway, as defined by regulation;

(4) if the accident occurs in the course of an automobile race, competition or show on a track or other location temporarily or permanently closed to all other vehicular traffic, whether or not the automobile that causes the injury is part of the race, competition or show and whether the victim is a participant, an official or a spectator.

Subject to sections 108 to 114, responsibility is determined, in each case, according to the ordinary rules of law.

However, in the cases described in subparagraphs 2 and 3 of the first paragraph, a victim is entitled to compensation if an automobile in motion, other than the vehicles referred to in the said subparagraphs, is involved in the accident.

“14. Entitlement to compensation under this title is prescribed by one year from the accident or the time the injury appears and, with regard to compensation in the case of death, from the time of death.

The Régie may grant an extension to an applicant who, owing to extraordinary circumstances, was unable to act within the prescribed time.

An application for compensation filed in accordance with this title interrupts the prescription that applies pursuant to the Civil Code until a final decision is rendered.

“15. The waiver by a person of any right under this title may be set up against him only if it is recorded in a writing bearing his signature.

“16. Any assignment or any transfer in collateral guarantee or otherwise of the right to an indemnity under this title is null by operation of law.

Any person who transfers part of his indemnity pursuant to such an assignment or transfer has a right of recovery against the person receiving it.

“CHAPTER II

“INCOME REPLACEMENT INDEMNITY AND OTHER INDEMNITIES

“DIVISION I

“ENTITLEMENT TO AN INDEMNITY

“§ 1.— *Victim holding full-time employment*

“**17.** This subdivision does not apply to a victim under sixteen years of age or a victim who is sixteen years of age or older and attends an educational institution of secondary or post-secondary level on a full-time basis.

“**18.** A victim who, at the time of an accident, held a regular employment on a full-time basis is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold his employment.

“**19.** The income replacement indemnity is computed in the following manner:

(1) if the victim held an employment as a salaried worker, the indemnity is computed on the basis of the gross income he derived from his employment;

(2) if the victim was a self-employed worker, the indemnity is computed on the basis of the gross income determined by regulation of the Régie for an employment of the same class or, if higher, on the basis of the gross income he derived from his employment.

“**20.** A victim who, at the time of an accident, held more than one regular employment including at least one full-time employment is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold one of his employments.

The indemnity is computed, in accordance with the rules set out in section 19, on the basis of the gross income the victim derived from his employment, in the case of one employment, or on the basis of the aggregate of the gross incomes he derived from the employments he has become unable to hold, in the case of more than one employment.

In the case of a part-time employment, the victim is entitled to the indemnity for such time as the employment would have been available to him.

“21. A victim to whom this subsection applies who proves that, had he not been so prevented by particular circumstances, he would have held a more remunerative employment at the time of the accident is entitled to receive an income replacement indemnity computed on the basis of the gross income he would have derived from that employment if he is unable to hold it by reason of the accident.

The employment must be a regular full-time employment that would have been compatible with the training, experience and physical and intellectual capacities of the victim on the date of the accident.

“22. A victim to whom this subsection applies who, on the date of the accident, has the care of a child under sixteen years of age or a person who, for any reason, is ordinarily unable to hold any employment is entitled to the reimbursement of expenses which, by reason of the accident, he incurs for the care of that child or person if he is unable to do so himself and if his spouse, by reason of illness, disability or unavailability due to work or studies, is also unable to do so.

The expenses incurred by the victim are reimbursed to him up to \$100 a week on the production of vouchers, for such time as he and his spouse are unable to take care of the child or person referred to in the first paragraph.

“§ 2.—Victim holding temporary or part-time employment

“23. This subdivision does not apply to a victim under sixteen years of age or to a victim who is sixteen years of age or older and attends an educational institution of secondary or post-secondary level on a full-time basis.

“24. A victim who, at the time of an accident, held a regular employment on a temporary or part-time basis is entitled to an income replacement indemnity for the first 180 days following the accident if, by reason of the accident, he is unable to hold his employment.

The victim is entitled to the indemnity for such time as he remains unable to hold the part-time employment and, in the case of a temporary employment, for such time as the employment would have been available to him.

“25. The income replacement indemnity is computed in the following manner:

(1) if the victim held an employment as a salaried worker, the indemnity is computed on the basis of the gross income he derived from his employment;

(2) if the victim was a self-employed worker, the indemnity is computed on the basis of the gross income determined by regulation of the Régie for an employment of the same class or, if higher, on the basis of the gross income he derived from his employment;

(3) if the victim held more than one employment, the indemnity is computed on the basis of the gross income he derived from the employment he has become unable to hold.

A victim who, by reason of the accident, is deprived of unemployment insurance benefits to which he would have been entitled during that period had the accident not occurred is entitled to receive an additional indemnity computed on the basis of the unemployment insurance benefits that would have been paid to him. The benefits are deemed to form part of his gross income.

“26. The Régie shall determine in accordance with section 59 an employment that could be held, from the one-hundred and eighty-first day after an accident, by a victim to whom this subsection applies.

The victim is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold the employment determined by the Régie.

The indemnity is computed on the basis of the gross income that the victim could have derived from the employment determined by the Régie. The Régie shall establish the victim's gross income in the manner prescribed by regulation, taking into account

(1) the fact that the victim could have held the employment on a full-time basis or part-time basis;

(2) the victim's work experience in the five years preceding the accident and, in particular, the periods during which he was available for employment or was unemployed or held temporary or part-time employment;

(3) the gross income the victim derived from an employment held before the accident.

“27. If the victim held more than one temporary or part-time employment, the Régie shall determine only one employment that the victim could have held on a regular and full-time basis or, failing that, on a regular and part-time basis, at the time of the accident.

The indemnity to which the victim is entitled is computed on the basis of the gross income established by the Régie in accordance with the third paragraph of section 26 and is reduced by the net income the victim derives from the employment he continues to hold, where that is the case.

In no case may, however, the indemnity be less than the indemnity computed on the basis of the gross income the victim derived from the employment he has become unable to hold.

“28. A victim to whom this subdivision applies who, on the date of the accident, had the care of a child under sixteen years of age or a person who, for any reason, is ordinarily unable to hold any employment is entitled to the reimbursement of expenses which, by reason of the accident, he incurs for the care of that child or person, if he is unable to do so himself and if his spouse, by reason of illness, disability or unavailability due to work or studies, is also unable to do so.

The expenses incurred by the victim are reimbursed to him up to \$100 a week on the production of vouchers, for such time as he and, as the case may be, his spouse, are unable to take care of the child or person referred to in the first paragraph.

“§ 3.— Victim who was unemployed but fit for work

“29. This subdivision does not apply to a victim under sixteen years of age or to a victim who is sixteen years of age or older and attends an educational institution of secondary or post-secondary level on a full-time basis.

“30. A victim who, at the time of an accident, was unemployed but was fit for work is entitled to an income replacement indemnity for the first 180 days following the accident if,

(1) by reason of the accident, he is unable to hold an employment that was guaranteed to him by contract before the date of the accident and that he would have held during that period had the accident not occurred; or if

(2) by reason of the accident, he is deprived of the unemployment insurance benefits to which he would have been entitled during that period had the accident not occurred.

The victim is entitled, for that period, to the indemnity, in the case described in subparagraph 1 of the first paragraph, during the time the employment would have been available for such time as he is unable to hold it by reason of the accident or, in the case described in subparagraph 2 of the first paragraph, for such time as he is deprived of benefits by reason of the accident.

“31. The indemnity to which a victim to whom subparagraph 1 of the first paragraph of section 30 applies is entitled is computed on the basis of the gross income that he would have derived from the employment guaranteed by contract.

The indemnity to which a victim to whom subparagraph 2 of the first paragraph of section 30 applies is entitled is computed on the basis of the unemployment insurance benefits that would have been paid to him had the accident not occurred.

For the purposes of this section, the unemployment insurance benefits to which the victim would have been entitled are deemed to be his gross income.

“32. The Régie shall determine in accordance with section 59 an employment that could be held, from the one-hundred and eighty-first day after an accident, by a victim to whom this subsection applies.

The victim is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold the employment determined by the Régie.

The indemnity is computed in accordance with the third paragraph of section 26.

“§ 4.— Victim who was a person at home

“33. This subdivision does not apply to a victim

- (1) holding a regular employment on a full-time basis;
- (2) under sixteen years of age;

(3) sixteen years of age or older and attending an educational institution of secondary or post-secondary level.

“34. A victim who, at the time of an accident, was a person at home is entitled to an indemnity for the first 180 days following the accident if, by reason of the accident, he is unable to attend to the majority of the tasks he assumed up to the date of the accident in relation to the care of persons, the preparation of meals or the maintenance of the household.

The victim is entitled to an indemnity during that period for such time as, by reason of the accident, he is unable to attend to the tasks mentioned in the first paragraph.

“35. An indemnity under section 34 is paid on a weekly basis at the rate of

(1) \$70 for a victim who is unable to attend to the majority of the tasks related to the care of persons living with him, in particular a child or a person who is ill or disabled or a person who, for any reason, is ordinarily unable to hold any employment;

(2) \$50 for a victim who is unable to attend to the majority of the tasks related to the preparation of meals;

(3) \$50 for a victim who is unable to attend to the majority of the tasks related to household maintenance.

“36. In no case may a victim who is entitled to an indemnity under section 34 and to an income replacement indemnity granted under section 24 to a victim holding a temporary or part-time employment receive both indemnities.

The victim shall receive, however, the greater of the indemnities to which he is entitled.

“37. In no case may a victim who is entitled to an indemnity under section 34 and to an income replacement indemnity granted under section 30 to a victim who was unemployed but was fit for work receive both indemnities.

The victim shall receive, however, the greater of the indemnities to which he is entitled.

“38. A victim to whom this subdivision applies must elect in favour of either of the following measures, which will apply to him from the one-hundred and eighty-first day after the accident:

(1) the indemnity he already receives under section 34 will be maintained;

(2) he will receive an income replacement indemnity granted under section 32 to a victim who was unemployed but was fit for work.

A victim who elects to receive an indemnity pursuant to subparagraph 1 of the first paragraph is entitled to the indemnity for such time as, by reason of the accident, he is unable to attend to the tasks for which he receives compensation.

A victim who elects to receive an indemnity pursuant to subparagraph 2 of the first paragraph is entitled to the indemnity for such time as, by reason of the accident, he is unable to hold the employment determined by the Régie.

“39. Section 38 does not apply to a victim who, on the date of the accident, is 65 years of age or older and is unemployed or to a victim who, for any reason other than age, is ordinarily unable to hold any employment. Such persons continue to be entitled, from the one-hundred and eighty-first day after the accident, to the indemnity they were already receiving under section 34. They are entitled to the indemnity for such time as, by reason of the accident, they are unable to attend to the tasks for which they receive compensation.

“40. A victim to whom this subdivision applies who receives an indemnity pursuant to section 34 is also entitled, in addition to such indemnity, to the reimbursement of the expenses he incurs, by reason of the accident, to have the tasks mentioned in the said section performed if the amount of the expenses is greater than that of the indemnity he receives for each task.

Additional expenses are reimbursed up to \$100 a week on the production of vouchers, for such time as the victim remains incapacitated.

“§ 5.— Victims who are sixteen years of age or older and who attend an educational institution on a full-time basis

“41. For the purposes of this subdivision, admissible studies are studies forming part of a program at the secondary or post-secondary level that a victim is admitted to begin or pursue by the educational institution he attends on the date of the accident.

“42. A victim who, on the date of an accident, is sixteen years of age or older and attends an educational institution of secondary or post-secondary level is entitled to an indemnity for such time as, by reason of the accident, he is unable to begin or resume his studies if their completion is delayed. The right to the indemnity shall cease on the date scheduled for completion of the studies.

“43. The indemnity shall be in the amount of

- (1) \$5 000 for every school year missed at the secondary level;
- (2) \$5 000 for every term missed at the post-secondary level, up to \$10 000 a year.

“44. A victim to whom this subdivision applies who, at the time of an accident, held an employment or who, had the accident not occurred, would have held an employment guaranteed by contract before the date of the accident is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold such employment.

The victim is entitled to the indemnity for the expected duration of his studies, for such time as the employment would have been available and for as long as the victim remains unable to hold it by reason of the accident.

“45. The income replacement indemnity is computed in the following manner:

(1) if the victim held or could have held an employment as a salaried worker, the indemnity is computed on the basis of the gross income he derived or would have derived from his employment;

(2) if the victim was or could have been self-employed, the indemnity is computed on the basis of the gross income determined by regulation of the Régie for an employment of the same class or, if higher, on the basis of the gross income he derived or would have derived from his employment;

(3) if the victim held or could have held more than one employment, the indemnity is computed on the basis of the gross income he derived or would have derived from the employment he became unable to hold.

“46. A victim to whom this subdivision applies who, by reason of an accident, is unable to begin or resume his studies and to hold any employment after the date his studies would otherwise have been completed is entitled to an income replacement indemnity for as long as he remains incapacitated.

The indemnity is computed on the basis of a gross income equivalent to the yearly average computed on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year which precedes the date his studies would otherwise have been completed.

“47. A victim to whom this subdivision applies who, by reason of the accident, is unable to hold any employment after having completed or interrupted his studies is entitled to an indemnity from the date of completion or interruption and for such time as he remains incapacitated.

If his studies are interrupted before the date scheduled for completion, the victim is entitled to an indemnity under section 42.

If his studies are interrupted after the date scheduled for completion, the victim is entitled to an income replacement indemnity computed on the basis of the average of the gross income for a year established on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year which precedes the date on which the studies are interrupted.

“48. A victim to whom this subdivision applies who, on the date of the accident, has the care of a child under sixteen years of age or of a person who, for any reason, is ordinarily unable to hold any employment is entitled to the reimbursement of expenses he incurs, by reason of the accident, for the care of that child or person if he is unable to do so himself by reason of the accident and if his spouse, by reason of illness, disability or unavailability due to work or studies, is also unable to do so.

The expenses incurred by the victim are reimbursed up to \$100 a week on the production of vouchers, for such time as he and, as the case may be, his spouse remain unable to take care of the child or person referred to in the first paragraph.

“§ 6.— Victims under sixteen years of age

“49. A victim who, on the date of the accident, is under sixteen years of age is entitled to an income replacement indemnity if, by reason of the accident, he is unable to begin or resume his studies if their completion is delayed.

The right to the indemnity ceases at the end of the school year during which he reaches sixteen years of age.

“50. The indemnity shall be in the amount of

- (1) \$2 500 for every school year missed at the elementary level;
- (2) \$5 000 for every school year missed at the secondary level.

“51. A victim to whom this subdivision applies who, at the time of the accident, held an employment or who, had the accident not occurred, would have held an employment guaranteed to him by contract before the date of the accident is also entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold such employment.

The victim is entitled to the indemnity until the end of the school year during which he reaches sixteen years of age, for such time as the employment would have been available and for as long as he remains unable to hold it by reason of the accident.

The indemnity is computed in the manner set out in section 45.

“52. A victim to whom this subdivision applies who, from the end of the school year during which he reaches sixteen years of age, is unable to undertake or pursue his studies and to hold any employment by reason of the accident is entitled to an income replacement indemnity.

The indemnity is computed on the basis of the average of the gross income for a year established on the basis of the average weekly earnings of the industrial composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year which precedes the end of the school year during which the victim reaches sixteen years of age.

“53. A victim to whom this subdivision applies who, by reason of the accident, is unable to hold any employment after having completed or interrupted his studies is entitled to an indemnity from the end of his studies and for such time as he remains incapacitated.

If his studies are interrupted before the date scheduled, the victim is entitled to an indemnity under section 50.

If his studies are interrupted after the date scheduled for completion, the victim is entitled to an income replacement indemnity computed on the basis of the average of the gross income for a year established on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year which precedes the date on which the studies are interrupted.

“§ 7.— Victims who are 64 years of age or older

“54. If a victim is 64 years of age or older on the date of the accident, the income replacement indemnity to which he is entitled is

reduced by 25% from the second year following the date of the accident, by 50% from the third year and by 75% from the fourth year.

The victim ceases to be entitled to the indemnity four years after the date of the accident.

“55. A victim who, on the date of the accident, is 65 years of age or older and is unemployed is not entitled to an income replacement indemnity.

“56. Where a victim who receives an income replacement indemnity under this chapter reaches 65 years of age, the indemnity to which he is entitled is reduced by 25% from that date, by 50% from the date of his sixty-sixth birthday and by 75% from the date of his sixty-seventh birthday.

The victim ceases to be entitled to the indemnity from the date of his sixty-eighth birthday.

“§ 8.—Victims who are regularly unable to hold any employment

“57. A victim who, on the date of the accident, is a person regularly unable to hold any employment for any reason other than age is not entitled to an income replacement indemnity.

“DIVISION II

“DETERMINATION OF AN EMPLOYMENT IN RESPECT OF A VICTIM

“58. The Régie shall determine, in accordance with the standards, terms and conditions prescribed by regulation, an employment that could be held by the victim of an accident.

“59. Where the Régie is required to determine an employment that could be held by a victim from the one hundred and eighty-first day after the accident, it must take into account the victim’s qualifications, work experience and physical and intellectual abilities on the date of the accident. The employment must be a regular full-time employment or a part-time employment that the victim could have held at the time of the accident.

“60. The Régie is required to determine an employment that could be held by a victim who was fit for work but who, by reason of the accident, has become unable to hold

- (1) the employment he held at the time of the accident;

(2) an employment referred to in section 21; or

(3) the employment determined in his respect by the Régie pursuant to section 59, from the one hundred and eighty-first day after the accident.

“61. The Régie must, in determining an employment in any of the cases described in section 60, take into account the following elements:

(1) the victim’s qualifications, work experience and physical and intellectual abilities at the time it determines an employment in his respect pursuant to the said section;

(2) where applicable, the knowledge and abilities acquired by the victim within the scope of a rehabilitation program approved by the Régie.

The employment must be a regular full-time employment or a part-time employment that can be held by the victim.

“DIVISION III

“TERMINATION OF ENTITLEMENT TO AN INCOME REPLACEMENT INDEMNITY

“62. A victim ceases to be entitled to an income replacement indemnity

(1) when he becomes able to hold the employment he was holding at the time of the accident;

(2) when he becomes able to hold the employment he could have held at the time of the accident but for particular circumstances;

(3) when he becomes able to hold an employment determined in his respect by the Régie pursuant to section 59;

(4) one year after he became able to hold an employment determined in his respect by the Régie pursuant to section 60; or

(5) at any time fixed pursuant to a provision of Division I of this chapter where otherwise than as provided in paragraphs 1 to 4.

“63. Notwithstanding section 62, the victim who, at the time of an accident, held a regular full-time or part-time employment continues to be entitled to the income replacement indemnity even when he again becomes able to hold his employment if he lost such employment by reason of the accident.

The Régie shall continue to pay the indemnity after the victim again becomes able to hold his employment for a period of

- (1) 30 days if the victim's disability lasted for not less than 90 days but not more than 180 days;
- (2) 90 days if the disability lasted for more than 180 days but not more than 360 days;
- (3) 180 days if the disability lasted for more than 360 days but not more than 540 days;
- (4) 360 days if the disability lasted for more than 540 days.

"SECTION IV

" COMPUTATION OF THE INDEMNITY

"64. The income replacement indemnity computed on the basis of the gross income of a victim's employment is null where the gross income is less than \$25 a week.

"65. The income replacement indemnity of a victim to whom this chapter applies is equal to 90 % of his net income computed on a yearly basis.

Subject to sections 55, 56 and 70, the income replacement indemnity of a victim who, at the time of an accident, held a regular full-time employment shall not be less than the indemnity that would be computed on the basis of a gross annual income determined on the basis of the minimum wage as defined in section 3 of the Regulation respecting labour standards (R.R.Q., 1981, chapter N-1.1, r.3) and of the regular workweek as defined in section 52 of the Act respecting labour standards (R.S.Q., chapter N-1.1), as they read on the day on which they are applied.

"66. The victim's net income is equal to his gross annual employment income up to the amount of the Maximum Yearly Insurable Earnings less an amount equivalent to the income tax payable by the victim under the Taxation Act and the Act respecting income taxes (R.S.C., 1970, chapter I-5), the premium payable by the victim under the Unemployment Insurance Act, 1971 (S.C., 1970-71-72, chapter 48) and the contribution payable by the victim under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).

For the purposes of this section, the deductions to be made are those that were prescribed on 31 December of the year preceding the

year in which the Régie makes the computation of the net income under this chapter.

“67. For the purposes of the deductions under section 66, the Régie must take into account the number of dependants of the victim on the date of the accident.

“68. For the year 1987, the amount of the Maximum Yearly Insurable Earnings is \$35 500.

For the year 1988 and each subsequent year, the amount of the Maximum Yearly Insurable Earnings is obtained by multiplying the Maximum for the year 1987 by the ratio between the sum of the average of weekly salaries and wages of the Industrial Composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year preceding the year for which the amount of the Maximum Yearly Insurable Earnings is computed and the same sum for each of the twelve months preceding 1 July 1986.

The amount of the Maximum Yearly Insurable Earnings shall be rounded off to the next highest \$500 and is applicable for one year from 1 January of each year.

For the purposes of this section, the Régie shall use the data furnished by Statistics Canada on 1 October of the year preceding the year for which the amount of the Maximum Yearly Insurable Earnings is computed.

If, on 1 October of a year, the data furnished by Statistics Canada are incomplete, the Régie may use the data then available to establish the Maximum Yearly Insurable Earnings.

If Statistics Canada uses a new formula to determine the average of weekly salaries and wages, the Régie shall adjust the computation of the amount of the Maximum Yearly Insurable Earnings in relation to the evolution of the average of weekly salaries and wages from 1 January of the year following the change of formula.

“69. If the victim becomes able to hold an employment determined in his respect by the Régie pursuant to section 61 and if, by reason of bodily injury, he derives from his employment a gross income that is less than the income used by the Régie as the basis for computing the income replacement indemnity he was receiving before the determination of an employment, the victim is then entitled, at the expiry of the year referred to in paragraph 4 of section 62, to an income replacement indemnity equal to the difference between the indemnity

he was receiving at the time the Régie determined an employment in his respect and the net income he could derive from the employment determined by the Régie.

“70. Where a victim who is entitled to an income replacement indemnity holds an employment, his indemnity is reduced by the net income he derives from that employment.

This section does not apply to an indemnity reduced in accordance with section 69 and in the case of a victim holding more than one temporary or part-time employment and whose indemnity is reduced in accordance with section 27.

“71. If a victim suffers a relapse or recurrence within 180 days following the accident, he shall receive compensation from the date of the relapse or recurrence, in accordance with the provisions that apply to him on the date of the accident.

However, if the indemnity computed on the basis of the gross income actually earned by the victim at the time of the relapse or recurrence is greater than the indemnity provided for by the first paragraph, the victim shall receive the greater indemnity.

If the victim suffers a relapse or recurrence more than 180 days after the accident, he shall receive compensation as if the relapse or recurrence were a new accident.

“72. In no case may a victim who receives an income replacement indemnity, other than an indemnity under section 63 or 69, and claims such an indemnity following a new accident, a relapse or a recurrence receive both indemnities.

He shall receive, however, the greater of the indemnities to which he is entitled.

“CHAPTER III

“COMPENSATION IN THE CASE OF DEATH

“DIVISION I

“INTERPRETATION AND APPLICATION

“73. For the purposes of this chapter,

(1) a child of a victim includes any person to whom the victim stood *in loco parentis* at the time of his death;

(2) the mother or father of a victim includes the person who stood *in loco parentis* to the victim at the time of his death;

(3) a person suffering from severe and prolonged physical or mental disability is considered to be disabled.

For the purposes of subparagraph 3 of the first paragraph, a disability is severe if the person is incapable regularly of pursuing any substantially gainful occupation; a disability is prolonged if it is likely to result in death or to be of indefinite duration.

“74. The death of a victim by reason of an accident gives rise to the indemnities or compensation provided for by this chapter.

“DIVISION II

“INDEMNITIES TO DEPENDANTS

“75. The spouse of a deceased victim is entitled to a lump sum indemnity equal to the product obtained by multiplying the gross income that would have been used as the basis for computing the income replacement indemnity to which the victim would have been entitled if, on the date of his death, he had survived but had been unable to hold any employment by reason of the accident, by the factor appearing in Schedule I opposite the age of the victim on the date of his death.

If the spouse is disabled on that date, the lump sum indemnity to which he is entitled is computed according to the factors appearing in Schedule II.

“76. In no case may the lump sum indemnity payable to the spouse of a deceased victim be less than \$25 000.

“77. The spouse of a deceased victim, whether or not he is disabled, is entitled, where the victim would not have been entitled to an income replacement indemnity under section 75, to a lump sum indemnity of \$25 000.

“78. The dependant of a deceased victim, other than his spouse, is entitled to a lump sum indemnity for the amount listed in Schedule III opposite the victim’s age on the date of his death.

If the dependant is the person referred to in paragraph 2 of the definition of the word “dependant” in section 5, the indemnity paid

shall be deducted from the indemnity payable to the victim's spouse under this division or, as the case may be, from the indemnity payable to a child under section 80.

For the purposes of this section, the victim's posthumous child is considered a dependant under one year of age.

“79. If the dependant referred to in section 78 is disabled on the date of death of the victim, he is entitled to an additional lump sum indemnity of \$15 000.

“80. If the victim does not have a spouse on the date of his death but has a child as defined in paragraph 3 of the definition of the word “dependant” in section 5, the child is entitled, in addition to an indemnity under section 78 and, as the case may be, to an indemnity under section 79, to a lump sum indemnity for an amount equal to the indemnity provided for by section 75 or 77, as the case may be. If there is more than one child, the indemnity shall be divided equally among them.

“81. If the deceased victim has no dependant on the date of his death, his mother and father are entitled to a lump sum indemnity of \$8 000 divided equally.

“82. The estate of a victim is entitled to a lump sum indemnity of \$2 600 for funeral expenses.

“83. The Régie may, on the application of a dependant entitled to an indemnity under this division, pay the indemnity in periodic instalments corresponding to a proportion of the value of the lump sum indemnity.

“CHAPTER IV

“COMPENSATION FOR NON-PECUNIARY DAMAGE

“83.1 A victim who suffers permanent physical or mental impairment by reason of an accident is entitled, in accordance with the provisions of this chapter, to a lump sum indemnity not exceeding \$125 000 for non-pecuniary damage.

“83.2 For the purposes of this chapter, permanent anatomicophysiological deficit or permanent disfigurement constitutes a permanent impairment.

“83.3 Compensation for non-pecuniary damage is not payable if the victim dies by reason of the accident.

Notwithstanding the first paragraph, if the victim dies of a cause unrelated to the accident and if, on the date of his death, a permanent impairment was medically discernable, the Régie shall estimate the amount of compensation that it would probably have awarded to the victim and pay that amount to his estate.

“83.4 The Régie shall evaluate the impairment in terms of a percentage determined on the basis of the schedule of permanent impairments established by regulation. The percentage includes the loss of enjoyment of life and other inconvenients resulting from the impairment and cannot exceed 100%.

If an impairment is not listed in the table, a percentage is determined for it, using as guidelines the impairments of the same kind that are listed.

“83.5 The lump sum indemnity is an amount equal to the product obtained by multiplying \$125 000 and the percentage determined for the impairment.

“83.6 Compensation for non-pecuniary damage cannot be less than \$500.

“CHAPTER V

“REIMBURSEMENT OF CERTAIN EXPENSES AND REHABILITATION

“DIVISION I

“REIMBURSEMENT OF CERTAIN EXPENSES

“83.7 A victim of an accident is entitled, in the cases and on the conditions prescribed by regulation, to the extent that they are not already covered by a social security scheme, to the reimbursement of expenses incurred by reason of the accident

- (1) for medical and paramedical care;
- (2) for transportation and lodging for the purpose of receiving such care;
- (3) for the purchase of prostheses or orthopedic devices;
- (4) for the cleaning, repair or replacement of clothing he was wearing and which was damaged in the accident.

The victim is also entitled to the reimbursement of any other expenses determined by regulation of the Régie.

“83.8 A person who pays any of the expenses referred to in section 83.7 on behalf of a victim is entitled to the reimbursement of the expenses as provided for by the said section.

“83.9 No social security scheme may exclude from its coverage the expenses incurred by or on behalf of a victim.

“83.10 The person who accompanies a victim whose physical condition or age requires that he be accompanied is entitled, in the cases and on the conditions prescribed by regulation, to the reimbursement of the transportation and lodging expenses incurred by him when the victim required medical or paramedical care. Such person is also entitled to an allowance.

“83.11 The expenses referred to in this chapter are reimbursable, subject to a deductible of \$100.

Expenses are reimbursed on the production of vouchers.

“DIVISION II

“REHABILITATION

“83.12 The Régie may take any necessary measures to contribute to the rehabilitation of a victim, lessen or cure any disability resulting from bodily injury and facilitate the victim’s return to a normal life or his reinsertion into society or onto the labour market.

“CHAPTER VI

“CLAIMS PROCEDURE

“83.13 For the purposes of this chapter, a person designated as a health professional within the meaning of the Health Insurance Act (R.S.Q., chapter A-29) is a health professional.

“83.14 A person applying to the Régie for compensation must do so on a form provided by the Régie and in accordance with the rules it determines by regulation.

“83.15 Every employer shall, on request, furnish to the Régie, within the following six days, an attestation of the salary of any of his employees who applies to the Régie for compensation.

“83.16 A person who applies for compensation shall, at the request of the Régie and at its expense, submit to an examination by the health professional of his choice.

“83.17 The Régie may, where it considers it necessary and at its own expense, require a person to be examined by a health professional.

The examination must be conducted in accordance with the rules determined by regulation of the Régie.

“83.18 A person who undergoes the examination referred to in section 83.16 or 83.17 is entitled to the reimbursement of the transportation and lodging expenses incurred in connection with the examination.

A person is entitled to the reimbursement of the transportation and lodging expenses he incurs to accompany a person referred to in the first paragraph when the person’s physical condition or age requires it.

That person is also entitled to an allowance.

“83.19 The health professional who examined a victim at the request of the Régie must make a report to the Régie on the victim’s condition and on any other matter for which the examination was required.

The Régie shall, on receiving the report, transmit a copy to the health professional designated by the person who underwent the examination referred to in the first paragraph.

“83.20 Every establishment within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5) and every health professional having treated a person or having been consulted by a person following an accident must, at the request of the Régie, make a report of its or his findings, treatment and recommendations to the Régie.

The report must be transmitted within six days following the request of the Régie.

Any other report required by the Régie in respect of that person must be transmitted within the same time limit.

“83.21 Every person who applies for compensation must notify the Régie without delay of any change in his situation affecting his right to a compensation or which may affect the amount of an indemnity.

“83.22 A person who applies for compensation must furnish to the Régie any relevant information required for the purposes of this Act or give the authorizations that are necessary to obtain it.

A person who applies for compensation must furnish to the Régie the proof of any fact establishing his entitlement to compensation.

“83.23 The Régie may, on the conditions it determines by regulation, authorize a person required to transmit a notice, report, statement or other document to send it by means of a magnetic medium or electronic system.

“83.24 An intelligible transcription in writing of the data stored in a computer by the Régie is a document of the Régie.

Where the data have been sent to the Régie pursuant to section 83.19, the transcription must reproduce them faithfully.

“CHAPTER VII

“PAYMENT OF INDEMNITIES

“83.25 The income replacement indemnity shall be paid in the form of a pension once every fourteen days.

The indemnity granted to a person at home under section 34 shall be paid once every fourteen days. The indemnity granted under section 42 or 49 shall be paid at the end of the term or school year that the student misses by reason of the accident.

The income replacement indemnity is not payable for the first seven days of the disability for which the victim is entitled to an indemnity, unless the disability is the result of a relapse or recurrence.

“83.26 On receiving an application for compensation, the Régie may pay an indemnity even before rendering its decision on the right to the indemnity if it is of the opinion that the application appears *prima facie* to be founded.

If the Régie subsequently dismisses the application or grants it in part, the amount already paid becomes due in whole or in part, as the case may be. The Régie may, however, in the cases and on the conditions prescribed by regulation, waive repayment of that amount.

“83.27 The Régie may pay an income replacement indemnity in a single payment equivalent to the representative capital of the indemnity where

(1) the amount to be paid at the intervals prescribed in the first paragraph of section 83.25 is less than \$100;

(2) the person entitled to the indemnity is not resident in Québec.

“83.28 The Régie may reimburse the expenses referred to in sections 22, 28, 40 and 48 and in Chapter V of this title in one or several instalments representing the value of the expenses.

“83.29 The expenses referred to in section 83.7 may, at the request of the victim, be paid directly to the suppliers.

“83.30 Any unpaid indemnity on the date of death of the person entitled thereto shall be paid to his estate.

“83.31 An application for review or an appeal does not suspend the payment of an indemnity.

“83.32 Compensation for non-pecuniary damage is payable when the decision granting it becomes final.

“83.33 Where a person entitled to compensation is under legal incapacity, the Régie shall pay the indemnity to his tutor or curator, as the case may be, or, failing such a person, to a person it designates; the designated person has the powers and duties of a tutor or of a curator, as the case may be.

The Régie shall notify the Public Curator of any payment it makes pursuant to the first paragraph.

“83.34 Income replacement indemnities are deemed to be the salary of the person receiving them and are seizable as a debt for support in accordance with the last paragraph of article 553 of the Code of Civil Procedure, adapted as required. Such indemnities are unseizable in respect of any other debt.

Every other indemnity paid under this title is unseizable.

The Régie may withhold from an income replacement indemnity the equivalent of the amounts paid by the Ministère de la Main-d’oeuvre et de la Sécurité du revenu pursuant to section 13 of the Social Aid Act (R.S.Q., chapter A-16) to a person for a period of disability caused by an accident.

The Régie shall remit the withheld amount to the department.

“83.35 The Régie may refuse to pay compensation, reduce the amount of an indemnity or interrupt or terminate its payment

- (1) where the claimant
 - (a) produces false or inaccurate information;
 - (b) refuses or neglects to produce any information required by the Régie or to give the authorization necessary for obtaining it;
- (2) where the person, without valid reason,
 - (a) refuses a new employment, refuses to return to his former employment or leaves an employment that he could continue to hold;
 - (b) interferes with an examination required by the Régie or neglects or refuses to undergo such an examination;
 - (c) fails to co-operate with the recommended medical or paramedical treatment or is not available for or refuses such treatment;
 - (d) prevents or delays his recovery by his action or activities;
 - (e) fails to co-operate with the rehabilitation program put at his disposal by the Régie under section 83.11 or refuses or is not available for such program.

83.36 Where the Régie or the Commission des affaires sociales recognizes a person's right to a compensation that was formerly denied or increases the amount of an indemnity, it may order, if the person has been the victim of a manifest error, that interest be paid.

The rate of interest is that fixed under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

"CHAPTER VIII

"ADJUSTMENT

83.37 The amount of the gross annual income used as the basis for computing the income replacement indemnity shall be adjusted each year, on the anniversary of the accident.

The amount of the gross annual income fixed by the Régie pursuant to section 58 shall be adjusted each year on that date.

83.38 All amounts of money listed in Schedule III or referred to in this title except sections 82, 83.11 and 83.49 shall be adjusted each year on 1 January.

“83.39 Adjustment is made by multiplying the amount to be adjusted by the ratio between the Consumer Price Index of the current year and that of the preceding year.

“83.40 The Consumer Price Index for a year is the yearly average computed on the basis of the monthly Consumer Price Index in Canada established by Statistics Canada for the twelve months preceding 1 November of the year preceding the year for which the index is computed.

If, on 1 December of a year, the data furnished by Statistics Canada are incomplete, the Régie may use the data then available to establish the Consumer Price Index.

If Statistics Canada uses a new formula to compute the monthly Consumer Price Index, the Régie shall adjust the computation of the indexing according to the evolution of the monthly Consumer Price Index from 1 January of the year following the change of formula.

“83.41 If the yearly average computed on the basis of the monthly Consumer Price Index includes more than one decimal, only the first digit is retained and it is increased by one unit if the second digit is greater than 4.

“83.42 If the ratio between the Consumer Price Index for the current year and that for the preceding year includes more than three decimals, only the first three digits are retained and the third digit is increased by one unit if the fourth digit is greater than 4.

“83.43 The amount obtained through indexing is rounded off to the nearest dollar.

“83.44 The amount of a pension paid under a private insurance scheme shall in no way be diminished by reason of the adjustment of the gross annual income used as the basis for computing an income replacement indemnity.

“CHAPTER IX

“JURISDICTION OF THE RÉGIE, REVIEW AND APPEAL

“DIVISION I

“JURISDICTION OF THE RÉGIE

“83.45 Subject to section 83.71, the Régie has exclusive jurisdiction, in first instance or in review, to examine, hear and decide any matter related to compensation under this title.

For that purpose, the Régie may delegate its powers to one or several of its officers it designates.

The members of the Régie and the officers so designated are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

“83.46 The Régie is not required to follow the ordinary rules of proof in civil matters.

It may admit any means of proof it considers expedient and may, by any legal means which it sees fit, inquire into the matters it is empowered to investigate.

It may establish by regulation the rules of proof and procedure applicable to matters under its jurisdiction.

“83.47 A decision rendered by the Régie or an officer in first instance must be substantiated and transmitted in writing to the interested person.

If the decision is rendered by an officer, he shall, when transmitting his decision, inform the interested person of his right to apply for a review, except for a decision granting a maximum indemnity or the reimbursement of claimed expenses.

If the decision is rendered by the Régie, it shall, when transmitting its decision, inform the interested person of his right to appeal therefrom to the Commission des affaires sociales.

“83.48 So long as a decision referred to in section 83.47 has not been inscribed for review or appeal, the Régie or an officer may, on its or his own initiative or at the request of an interested person, reconsider a decision

(1) if the decision was rendered before an essential fact became known or was based on an error pertaining to an essential fact;

(2) if a new event affecting the right of the interested person to a compensation or likely to have repercussions on the amount of an indemnity has occurred.

The new decision replaces the initial decision which ceases to have effect and the provisions of Division II apply.

“DIVISION II

“REVIEW AND APPEAL

“**83.49** Except in the case of a decision granting a maximum indemnity or the reimbursement of claimed expenses, a person who believes he has been wronged by a decision rendered in first instance by an officer may, within sixty days of notification of the decision, apply in writing to the Régie for a review of the decision.

The application must mention the main grounds which support it and be accompanied with an amount of \$20. That amount shall be refunded if the application for review is granted in whole or in part.

“**83.50** The Régie may allow a person to act after the expiry of the time prescribed in section 83.49 if it was in fact impossible for him to act within that time.

“**83.51** The Régie may, where an application for review is submitted to it, confirm, quash or amend any decision rendered in first instance.

The Régie may also grant an indemnity and determine the amount thereof or decide that no indemnity is payable under this title.

“**83.52** A decision rendered in review by an officer must be substantiated and transmitted in writing to the interested person.

The officer, when transmitting his decision, shall inform the person of his right to appeal therefrom to the Commission des affaires sociales.

“**83.53** A person who believes he has been wronged by a decision rendered by the Régie in first instance or by a decision rendered after a review may appeal therefrom to the Commission des affaires sociales which shall dispose of the appeal according to its rules of proof, procedure and practice.

“CHAPTER X

“REMEDIES

“DIVISION I

“RECOVERY OF INDEMNITIES

“**83.54** If, following an application for review or an appeal, the Régie or the Commission des affaires sociales renders a decision which

cancels an indemnity or reduces its amount, the sums already paid are not recoverable unless they were obtained in bad faith or unless the application for review or the appeal pertains to a decision rendered pursuant to section 83.56.

“83.55 Where a decision is reconsidered by the Régie or an officer because it had been rendered before an essential fact became known or had been based on an error pertaining to an essential fact, the sums of money already paid become due. However, in the cases and on the conditions prescribed by regulation, the Régie may waive the repayment of such sums.

“83.56 Subject to sections 83.54 and 83.55, a person who has received an indemnity to which he is not entitled or the amount of which exceeds that to which he is entitled shall reimburse the amount received in excess to the Régie.

The Régie may recover the amount of the debt within three years of payment of the indemnity.

The Régie may also cancel the debt if it considers that the amount is unrecoverable under the circumstances or deduct, in the manner determined by regulation, the amount of the debt from any sum due to the debtor by the Régie.

The Régie may make a deduction pursuant to the third paragraph notwithstanding a debtor’s application for review or appeal.

“83.57 A person who, contrary to the second paragraph of section 83.63, prevents the Régie from exercising its recourse as subrogee is required to reimburse the indemnity received from the Régie.

The Régie may recover the amount of the debt within three years of the action preventing the Régie from acting as subrogee.

The Régie may also cancel the debt if it considers that the amount is unrecoverable under the circumstances.

“83.58 The Régie shall issue the debtor a formal notice of a decision stating the amount and reasons for the exigibility of the debt.

The formal notice interrupts the prescription set out in section 83.56 or 83.57, as the case may be.

“83.59 Where a debt referred to in this division is not recovered or cancelled, the Régie may issue a certificate

(1) attesting the failure of the debtor to appeal from the decision rendered under section 83.58 or confirming the decision of the Commission des affaires sociales maintaining the decision, as the case may be;

(2) attesting the exigibility of the debt and the amount due.

The certificate is proof of the exigibility of the debt. It may be issued by the Régie at any time after the end of the time allotted to apply for a review of the decision or to appeal therefrom or following the decision of the Commission des affaires sociales.

“83.60 From the filing of the certificate in the office of the court of competent jurisdiction, the decision of the Régie or of the Commission des affaires sociales becomes executory as if it were a final decision without appeal of such court and has all the effects of such a decision.

“DIVISION II

“CIVIL LIABILITY

“83.61 Compensation under this title stands in lieu of all rights and recourses by reason of bodily injury and no action in that respect shall be admitted before any court of justice.

Subject to sections 83.67 and 83.68, where bodily injury was caused by an automobile, the benefits or pecuniary benefits provided for the compensation of such injury by the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act stand in lieu of all rights and recourses by reason of such bodily injury and no action in that respect shall be admitted before any court of justice.

“83.62 Nothing in this division limits the right of a person to claim an indemnity under a private insurance scheme, regardless of who is at fault.

“83.63 A person who is entitled to compensation under this title by reason of an accident that occurred outside Québec may benefit by it while retaining his right of action with regard to the excess under the law of the place where the accident occurred.

No person who exercises such right of action may, unless authorized by the Régie, prevent the Régie from exercising its recourse as subrogee pursuant to section 83.64. The Régie is released from its obligation toward a person who prevents it from exercising that recourse.

“**83.64** Notwithstanding section 83.61, where the Régie compensates a person by reason of an accident that occurred outside Québec, it is subrogated in the person’s rights and is entitled to recover the indemnities and the capital representing the pensions that the Régie is required to pay from any person not resident in Québec who, under the law of the place where the accident occurred, is responsible for the accident and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

The subrogation is effected of right by the decision of the Régie to compensate the victim.

“**83.65** Notwithstanding section 83.61, where the Régie compensates a person by reason of an accident that occurred in Québec, it is subrogated in the person’s rights and is entitled to recover the indemnities and the capital representing the pensions that the Régie is required to pay from any person not resident in Québec who is responsible for the accident to the extent that he is responsible therefor and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

The subrogation is effected of right by the decision of the Régie to compensate the victim.

The recourse of the Régie as the subrogee is submitted to the court and is prescribed by three years from the date of the decision.

Responsibility is determined according to the ordinary rules of law to the extent that sections 108 to 114 do not derogate therefrom.

“**83.66** Notwithstanding section 83.61, where, following an accident, the following bodies are subrogated in the rights of a person under the Acts hereinafter mentioned, they shall have the same recourses as the Régie to recover their claim from the person not resident in Québec who is responsible for the accident or from the person liable for compensation for bodily injury caused in the accident by that person:

(1) the Commission de la santé et de la sécurité du travail and, as the case may be, the employer by virtue of the Act respecting industrial accidents and occupational diseases;

(2) the Commission de la santé et de la sécurité du travail by virtue of the Act to promote good citizenship and the Crime Victims Compensation Act;

(3) the Régie de l’assurance-maladie du Québec by virtue of the Health Insurance Act;

(4) the Government by virtue of the Hospital Insurance Act (R.S.Q., chapter A-28) and the Social Aid Act.

“DIVISION III

“REMEDIES UNDER OTHER PLANS

“**83.67** Where, by reason of an accident, a person is entitled to both an indemnity under this title and to an indemnity or pecuniary benefit under the Act respecting industrial accidents and occupational diseases or another Act relating to the compensation of persons who are victims of an industrial accident, in force in or outside Québec, that person shall claim the indemnity or pecuniary benefit provided for by the Acts referred to.

If a person claims the indemnity or pecuniary benefit provided for by an Act relating to the compensation of persons who are victims of an industrial accident other than the Act respecting industrial accidents and occupational diseases, he may avail himself of the compensation provided for by this title for the excess, if any.

“**83.68** Where, by reason of an accident, a person is entitled to both an indemnity under this title and to a benefit under the Act to promote good citizenship or the Crime Victims Compensation Act, that person may elect to avail himself of the compensation provided for by this title or claim the benefit or indemnity.

Compensation under the Act to promote good citizenship or the Crime Victims Compensation Act sets aside any right to compensation under this title and any person who has received such compensation is deemed to have waived his rights in accordance with section 15.

“**83.69** A person who receives an income replacement indemnity under this title and who, by reason of a new event, claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or total disability benefits under the Act to promote good citizenship or the Crime Victims Compensation Act, is not entitled to receive both indemnities at the same time.

The Régie shall continue to pay the income replacement indemnity, where that is the case, until the entitlement to and the amount of the indemnity and the pension payable under each of the Acts applicable are determined.

“**83.70** The Régie shall reach an agreement with the Commission de la santé et de la sécurité du travail to establish a procedure for the processing of claims filed under the Act respecting industrial accidents

and occupational diseases, the Act to promote good citizenship and the Crime Victims Compensation Act by any person referred to in section 83.67.

The agreement must make it possible to

(1) distinguish between the damage resulting from the new event and the damage attributable to the accident;

(2) determine the entitlement to and the amount of the benefits, compensation or indemnities payable under each of the applicable Acts;

(3) determine the benefits, compensation or indemnities each body is required to pay and specify the cases, amounts and conditions of reimbursement among them.

“83.71 Where a person referred to in section 83.69 claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or total disability benefits under the Act to promote good citizenship or the Crime Victims Compensation Act, the Régie and the Commission de la santé et de la sécurité du travail shall, in carrying out the agreement referred to in section 83.70, render a joint decision which distinguishes between the damage attributable to each event and determines the corresponding entitlement to and amount of the benefits, compensation or indemnities that are payable under each of the applicable Acts.

A person who believes he has been wronged by the decision may elect to bring an appeal under this Act, the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act, as the case may be.

An appeal brought under any of the said Acts sets aside any appeal under any other of them and the decision rendered in appeal is binding on both bodies.”

2. The said Act is amended by inserting, after section 84, the following section:

“84.1 For the purposes of this title, any damage caused in an accident to an automobile or to other property is deemed to be property damage.

For the purposes of this title, every person who sustains property damage in an accident, including the owner or driver of and every passenger in each automobile involved in the accident is deemed to be a victim.”

3. Section 85 of the said Act is amended by inserting, after the word “injuries” in the third line of the third paragraph, the words “referred to in the definition of “bodily injury” in section 5 and that have been”.

4. Section 97 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“For the purposes of this title, a garagist or garage operator is a person who operates an establishment where automobiles are maintained or repaired, and receives payment therefor.”

5. Section 97.1 of the said Act is amended by replacing the word “Régie”, wherever it appears in the second, third and fourth paragraphs, by the words “Inspector General of Financial Institutions”.

6. The said Act is amended by inserting, after the heading of Chapter II of Title IV, the following section:

“**141.1** For the purposes of this title, every person who sustains property damage in an accident, including the owner or driver of and every passenger in each automobile involved in the accident is deemed to be a victim.”

7. Section 142 of the said Act is amended

(1) by inserting, after the word “damage” in the first line, the words and figure “referred to in section 84.1”;

(2) by replacing the words and figure “contemplated in paragraph *b* of section 17” in the second line by the words and figures “referred to in subparagraphs 2 and 3 of the first paragraph of section 13”.

8. Section 143 of the said Act is amended by replacing the words and figure “contemplated in paragraph *b* of section 17” in the first and second lines of the second paragraph by the words and figures “referred to in subparagraphs 2 and 3 of the first paragraph of section 13”.

9. Section 148 of the said Act is amended by replacing the second paragraph by the following paragraphs:

“Within sixty days of receiving the notice referred to in the first paragraph, the Régie must satisfy the claim up to the amounts indicated in section 143, deducting from any amount due for damage to property the amount of \$250.

If the Régie fails to satisfy the claim within the time prescribed in the second paragraph, the victims may take action against the Régie and the Régie must satisfy the judgment up to the amounts indicated in section 143, deducting from any amount due for damage to property the amount of \$250.”

10. Section 149 of the said Act is amended by replacing paragraph 2 by the following paragraph:

“(2) the person who sustains damage in an accident occurring as a result of an automobile race, a competition or a show on a track or land that is permanently or temporarily closed to all other vehicular traffic, with regard to damage caused by an automobile engaged in the race, competition or show;”.

11. Section 149.7 of the said Act is amended by replacing paragraph 3 by the following paragraph:

“(3) the child or the spouse of the debtor, as defined under the definition of the word “spouse” in section 5;”.

12. Section 150 of the said Act is amended by replacing the words “amount collected by the Régie in accordance with” in the second line of the first paragraph by the words and figure “amounts collected by the Régie in accordance with section 83.49 and”.

13. Section 156 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“An authorized insurer is an insurer authorized to transact automobile insurance under the Act respecting insurance (R.S.Q., chapter A-32), holding a permit issued by the Inspector General of Financial Institutions, except a person who transacts exclusively in reinsurance.”

14. Section 180 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“The rate manual is a manual that includes the documents of an authorized insurer in which his rules of classification of risks and the premiums applicable to each are identified and defined.”

15. Section 195 of the said Act, amended by section 663 of chapter 91 of the statutes of 1986, is replaced by the following sections:

“195. The Régie may make regulations for the purposes of Titles I and II

(1) to specify or to restrict the meaning of the definition of the expression “victim residing in Québec”;

(2) to define, for the purposes of subparagraph 1 of the first paragraph of section 13, the expression “a device that can be operated independently”;

(3) to define, for the purposes of the definition of “public highway” in section 1 and of subparagraph 2 of the first paragraph of section 13, the words “farm tractor”, “farm trailer”, “specialized vehicle” and “drawn machinery”;

(4) to define, for the purposes of the definition of “public highway” in section 1 and of subparagraph 3 of the first paragraph of section 13, the words “snowmobile” and “vehicle intended for use off a public highway”;

(5) to specify the cases where and the conditions on which an employment is considered a full-time, part-time or temporary employment;

(6) to establish the manner of determining the in gross income that a salaried worker or self-employed worker derives from his employment;

(7) to establish the manner of determining the gross income for the purposes of section 21;

(8) to establish the manner of determining the gross income for the purposes of section 26;

(9) to establish the norms and the terms and conditions governing the determination of an employment that could be held by a victim for the purposes of section 58, identify classes of employments, determine the gross incomes on a weekly or yearly basis that correspond to each class according to the victim’s work experience and establish the manner of reducing such incomes in consideration of the fact that the victim holds his employment on a part-time basis;

(10) to establish the method for computing the amount equivalent to the income tax, the premium and the contribution payable by the victim for the purposes of section 66;

(11) to establish a schedule of permanent impairments and fix the percentage attributed to each impairment;

(12) to fix or provide for the determination of an additional percentage where the permanent impairment affects symmetrical organs or an organ that is symmetrical to an already impaired organ, taking into account the nature of the impaired organs and the anatomical or functional nature of the impairments;

(13) to provide for a method of computation allowing the reduction of percentages attributed to permanent impairments where a victim suffers from several impairments;

(14) to determine what expenses may be reimbursed to a victim under the second paragraph of section 83.7;

(15) to determine the cases and conditions entitling a person to the reimbursement of the expenses referred to in section 83.7 and to fix the maximum amount thereof;

(16) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the allowance referred to in section 83.10 and to fix the maximum amount of such expenses and allowance;

(17) to determine the rules that a person applying for compensation must observe;

(18) determine the rules that a health professional must observe when examining a person at the request of the Régie;

(19) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the allowance referred to in section 83.18 and to fix the maximum amount of such expenses and allowance;

(20) to determine the circumstances in which the Régie may authorize the transmission of a document by means of a magnetic medium or an electronic system;

(21) to determine the rules of proof and procedure which apply to the examination of cases under the jurisdiction of the Régie;

(22) to determine the manner in which a person's debt may be deducted from any sum due to that person by the Régie;

(23) to determine the cases and circumstance in which the Régie waives the reimbursement of any sum already paid in accordance with sections 83.26 and 83.55.

“195.1 The Régie may, for the purposes of Titles III and IV, make regulations

(1) to define the words “axle” and “net mass” and establish a method for calculating the number of axles of a road vehicle and rules applicable to an increase in the number of axles or a decrease in the net mass during the term of validity of the registration of the vehicle, for the purposes of section 151;

(2) to determine the cases and circumstances which give a right to the reimbursement of the amounts recovered by the Régie pursuant to the second paragraph of section 150 and establish a method for computing, or the exact amount of, the sums that may be reimbursed and the sum exigible as administrative expenses in connection with such a reimbursement.”

16. Section 96.1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by adding, at the end, the words “or the income replacement indemnity payable under the Automobile Insurance Act (R.S.Q., chapter A-25)”.

17. The third paragraph of section 101 of the said Act does not apply in respect of a month comprised in a period of indemnization beginning before 1 January (*insert here the year following that of the coming into force of this section*).

18. Section 165.1 of the said Act does not apply in respect of a month prior to 1 January (*insert here the year following that of the coming into force of this section*) or in respect of a month comprised in a series of consecutive months of indemnization beginning before 1 January (*insert here the year following that of the coming into force of this section*).

19. Titles I and II of the Automobile Insurance Act, except sections 13 and 45, remain in force and continue to apply to persons who sustain bodily injury before (*insert here the date of coming into force of this section*).

20. This Act applies to persons who sustain bodily injury after (*insert here the date of coming into force of this section*); however, sections 83.7, 83.24 and 83.27 and the second paragraph of section 83.49 also apply to persons who sustain bodily injury before that date.

21. This Act comes into force on the dates fixed by the Government.

SCHEDULE I

LUMP SUM INDEMNITY TO SPOUSE
OF DECEASED VICTIM*(Section 75, first paragraph)*

<i>Age of victim (years)</i>	<i>Factor</i>
25 or less	1.0
26	1.2
27	1.4
28	1.6
29	1.8
30	2.0
31	2.2
32	2.4
33	2.6
34	2.8
35	3.0
36	3.2
37	3.4
38	3.6
39	3.8
40	4.0
41	4.2
42	4.4
43	4.6
44	4.8
45	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4

<i>Age of victim (years)</i>	<i>Factor</i>
59	
60	2.2
61	2.0
62	1.8
63	1.6
64	1.4
65 or over	1.2
	1.0

SCHEDULE II

LUMP SUM INDEMNITY TO
INVALID SPOUSE OF
DECEASED VICTIM*(Section 75, second paragraph)*

<i>Age of victim (years)</i>	<i>Factor</i>
45 or less	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4
59	2.2
60	2.0
61	1.8
62	1.6
63	1.4
64	1.2
65 or over	1.0

SCHEDULE III

LUMP SUM INDEMNITY TO DEPENDANT
OF DECEASED VICTIM*(Section 78)*

<i>Age of dependant (years)</i>	<i>Amount of indemnity (\$)</i>
Less than 1	\$25 000
1	\$24 000
2	\$23 000
3	\$22 000
4	\$21 000
5	\$20 000
6	\$19 000
7	\$18 000
8	\$17 000
9	\$16 000
10	\$15 000
11	\$14 000
12	\$13 000
13	\$12 000
14	\$11 000
15	\$10 000
16 or over	\$ 9 000

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