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# NATIONAL ASSEMBLY

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FOURTH SESSION

THIRTY-SECOND LEGISLATURE

Bill 42  
(REPRINT)

## **An Act respecting industrial accidents and occupational diseases**

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**Introduction**



**Introduced by  
Mr Raynald Fréchette  
Minister of Labour**

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## EXPLANATORY NOTES

*The object of this bill is to institute a new compensation scheme for employment injuries to replace those under the Workmen's Compensation Act and the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries. It assigns the administration of the new scheme to the Commission de la santé et de la sécurité du travail.*

*This bill defines employment injury as an injury or disease arising out of or in the course of an industrial accident, or an occupational disease. A list of occupational diseases is set out in a schedule to the Act.*

*The new scheme will apply to all workers who suffer employment injury in Québec, and, under certain conditions, Québec workers who suffer employment injury outside Québec. Under the bill, a worker is a person who carries on work for remuneration under a contract of hire of personal service or apprenticeship except a domestic servant, a person who lives in his employer's dwelling while providing care for a person there, or a professional athlete. Certain other persons are deemed to be workers, and an employer, director, independent operator or domestic will be able to register with the Commission to be entitled to the same benefits as any other worker.*

*This bill entitles a worker who suffers an employment injury to the benefits of money payments, rehabilitation and medical aid, and to return to work.*

*A worker no longer able to carry on his employment owing to an employment injury will be entitled to an income replacement indemnity equal to 90% of his weighted net annual income from employment; that income must be not less than the minimum wage nor more than the yearly insurable earnings. The maximum is 150% of the average earnings of the industrial composite in Québec as established by Statistics Canada. If the worker remains unable to carry on his employment but becomes able to carry on suitable employment, his income replacement indemnity will be reduced by the net income that he could earn from that employment. Two years after the date he becomes able to carry on full time suitable employment, the Commission will review his indemnity if it sees that the income he is earning from the employment he holds is higher than the amount so far deducted from his indemnity. Three years after this review*

*and every five years thereafter, the Commission will review the indemnity in the same way. The income replacement indemnity will cease on the first of the following events: when the worker becomes able to carry on his employment again, when he dies, or when he reaches his sixty-eighth birthday. In the last case, during the final three payment years, the income replacement indemnity will be reduced by 25, 50 and 75%.*

*This bill also entitles a worker who suffers permanent physical or mental impairment by the effect of an employment injury to compensation for bodily injury. The maximum indemnity will be \$50 000 at 18 years of age or under, and the minimum, if there is an anatomophysiological deficit, \$500. It will be adjusted according to the age of the worker and the degree of his impairment. That degree will be determined from a table of bodily injuries prescribed by regulation of the Commission, and will be required to be determined by the Commission as soon as the sequelae of the employment injury are medically determined. Entitlement to damages for bodily injury will be extinguished at the death of the worker.*

*This bill also provides for indemnities to dependants of workers who die as the result of employment injuries. The spouse of a deceased worker will be entitled to an indemnity of from one to three times the worker's gross yearly employment earnings, according to the spouse's age at the date of death. In no case will this indemnity be under \$50 000. The minor children will receive a monthly indemnity of \$250 until they reach full age. The children of full age will receive \$6 000 or \$9 000, according to their age, if they are students. Any other person who depended on the worker for over half of his needs at the date of the worker's death will be entitled to an indemnity of \$6 000 if he is under 35 years of age at that date, or equal to 75% of the worker's gross yearly employment earnings, if he is 35 years of age or older at that date. The bill contains special modes of computation where the dependant is an invalid at the worker's death. It also provides an indemnity of from \$3 000 to \$6 000 to any person who was dependent on the worker for over half of his needs at his death, and an indemnity of \$6 000 to the worker's parents if he died without dependants. Furthermore, it provides for the reimbursement of funeral expenses up to \$1 500 and transportation costs for the worker's remains.*

*This bill reenacts certain existing provisions of law providing indemnities as reimbursement for the cost of clothing, prostheses or orthoses damaged in an industrial accident, and of travel and living expenses incurred by a worker as a result of his employment injury.*

*It also provides for the annual revalorization of amounts and indemnities stated in the Act according to the Consumer Price Index determined by Statistics Canada, and provides the payment modalities.*

*It will also entitle a worker who suffers an employment injury to rehabilitation required for his social and vocational rehabilitation. It requires*

*the Commission, with the worker's collaboration, to prepare a personal rehabilitation plan that may include, according to the worker's needs, a physical, social and vocational rehabilitation program. In addition, it describes various measures or services that may be included in such a program and lays down conditions to be met in certain cases to benefit by those measures or services. Finally, it establishes what functions the Commission has in regard to rehabilitation and makes it responsible for the cost.*

*Under this bill a worker is entitled to the medical aid his condition requires as a result of his employment injury. With certain reservations, he will be entitled to choose his health establishment and health professional. The professional fees of health professionals will be paid by the Régie de l'assurance-maladie du Québec, and the Commission will be required to reimburse their cost to the Régie according to the modalities the two bodies agree with each other.*

*This bill establishes a medical evaluation procedure for workers applying for benefits. It will oblige the worker's attending physician to file a certificate or report within an appointed time, mainly concerning the diagnosis, the nature and duration of the treatment and the date of healing of the injury. It requires the worker to undergo, on certain conditions, an examination by a health professional designated by his employer or the Commission, and allows either of these to contest the certificate or report of the attending physician if the health professional they designated gives them a contrary report. The Commission will submit the contestation to a referee designated by the Minister from an annual list of health professionals prepared by the Conseil consultatif du travail et de la main-d'oeuvre. The referee will have thirty days to render his decision, which will be binding on the Commission.*

*Further in the same vein, the bill has special provisions on occupational pulmonary diseases. Thus, a worker filing a claim for such a disease will have to be examined by a pneumoconiosis committee consisting of three pneumologists appointed by the Minister. The committee will be required to report to the Commission, within 20 days of the examination, on its diagnosis, its determination of functional disability, the degree of physical impairment and the worker's tolerance to contaminants. The Commission will refer the report to a special committee composed of the chairmen of three pneumoconiosis committees, and this special committee will be required to report back to the Commission within thirty days. Its opinion will be binding on the Commission.*

*The bill establishes the right to return to work within specified limits and enacts special provisions in that respect for construction workers. Thus, a worker having suffered an employment injury will be entitled to resume his employment or equivalent employment, at the wage and with the benefits he would be receiving if he had continued in it. If he remains unable to carry it on, he will have prior access to the first suitable employment becoming*

*available in his employer's establishment. These rights will be extinguished after a continuous period of absence, one year where up to twenty workers work in the establishment, two years if over twenty. These rights will be implemented in the manner provided by the applicable collective agreement and the worker will be able to resort to the grievance procedure under the agreement. Failing a collective agreement, the manner of implementing return to work rights will be determined by the health and safety committee at the establishment or, failing that, by agreement between the worker and his employer. If the committee cannot agree or the worker or the employer is not satisfied, one or the other may ask the Commission to intervene.*

*Furthermore, a construction worker who has suffered an employment injury and who becomes able to carry on his employment again will be entitled to be reinstated in the same employment, if it still exists. The manner of implementing this right will be determined by the worksite committee or, failing that, will be subject to an agreement between the worker and his employer. If the committee cannot come to an agreement or if the worker or his employer is not satisfied, one or the other may ask the Commission to intervene. In addition, the construction worker will be entitled to have his class "A" or "Apprentice" certificate from the Office de la construction du Québec renewed, even if, because of his injury, he has not accumulated the required number of hours of work for that purpose. A construction worker's rights regarding return to work will be exercisable without any time limits.*

*Finally, this bill gives the Commission powers for use when it takes cognizance of a request for intervention in a matter regarding return to work or of a complaint by a worker that he has been subjected to restrictive measures or a penalty by his employer because he has suffered an employment injury or has availed himself of his rights under this Act.*

*This bill sets up the claims procedure before the Commission. A worker suffering an employment injury will be required to notify his employer as soon as possible, and he will be required to notify the Commission, using the prescribed form. The worker will have six months to file his claim.*

*As proposed in the bill, funding will be through assessments from employers by the Commission. From 1984 to 1988, the Commission will capitalize 90% of the cost of projected employment injuries, and 2% more annually for the five years following. Thereafter it will not have authority to assess the employers for deficits related to past operations. It will require employers to annually declare their wage bill for each establishment to the Commission, and require the Commission to classify employers by units, with assessment rates for each unit. It allows the Commission to charge interest in certain cases, and gives it a privileged claim on a debtor's movable and immovable property. Lastly, it sets out the rules for imputing the costs of benefits owing to a worker who has suffered an employment injury.*

*From another standpoint, this bill provides that an employer operating an interprovincial or international railway or sea transport system will be personally liable for the payment of benefits owing to his workers who have suffered employment injuries. Similarly, an employer who is personally liable for payment of indemnities under the existing Workmen's Compensation Act will be authorized to remain so if he applies to the Commission. These employers will be required to ensure their workers against employment injuries or furnish security or another form of guarantee to that effect, and will be assessed by the Commission to cover part of its general expenses.*

*Again, this bill establishes that all decisions of the Commission including notices of classification, assessment and imputation, are subject to administrative review by the Commission and to appeal. However, a decision rendered by the Commission on a question of the right to return to work or a medical question on which the Commission is bound is not subject to administrative review, but it may be appealed directly.*

*This bill establishes a new board, the Commission d'appel en matière de santé et de sécurité du travail, which will have exclusive jurisdiction to hear appeals brought under this Act and under the Act respecting occupational health and safety. The appeal board will be composed of at least twelve commissioners appointed by the Government, and will have an office in each region of Québec. Its president will be authorized to appoint assessors to advise the commissioners and sit with them. All the employees of the appeal board will be appointed and remunerated in accordance with the Public Service Act. The budget of the appeal board will be voted each year by Parliament, but the sums expended will be reimbursed annually by the Commission.*

*A simplified procedure for the recovery of overpayments is provided. Beneficiaries will not have the right to institute ordinary civil proceedings against the employer of an employee who has suffered an employment injury, or against the agent or employees of that employer, in the matter of the employment injury. If the matter concerns another employer, only four cases will be open to civil proceedings. In all cases, the Commission will be subrogated to the rights of the beneficiary. Finally, it contains special provisions to see that no one is doubly indemnified.*

*The Commission is granted certain regulation-making powers, and the mode by which the regulations will come into force is set out.*

*The bill creates offences, enacts penalties and provides that penal proceedings will be taken before the Labour Court.*

*The existing Workmen's Compensation Act is maintained in force for the purposes of the application of the Act to promote good citizenship and the Crime Victims Compensation Act. The bill makes the required*

*amendments for concordance, and provides that workers in good faith whose first diagnosis of asbestosis or silicosis was quashed retain their right to their pension or indemnity. It amends the Act respecting the Commission des affaires sociales to withdraw jurisdiction over work accidents from the social-affairs commission. It makes certain provisions to synchronize the new scheme with the Québec Pension Plan.*

*Finally, it makes the necessary provisions for the transition between the old and new schemes.*

#### ACTS AMENDED BY THIS BILL

- The Civil Code of Lower Canada
- The Workmen's Compensation Act (R.S.Q., chapter A-3)
- The Automobile Insurance Act (R.S.Q., chapter A-25)
- The Health Insurance Act (R.S.Q., chapter A-29)
- The Act respecting the Barreau du Québec (R.S.Q., chapter B-1)
- The Act to promote good citizenship (R.S.Q., chapter C-20)
- The Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)
- The Crime Victims Compensation Act (R.S.Q., chapter I-6)
- The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7)
- The Summary Convictions Act (R.S.Q., chapter P-15)
- The Act respecting probation and houses of detention (R.S.Q., chapter P-26)
- The Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1)
- The Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4)
- The Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5)
- The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)
- The Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)

– The Act respecting occupational health and safety (R.S.Q., chapter S-21)

– The Act respecting income security for Cree hunters and trappers who are beneficiaries under the agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2)



Bill 42  
(REPRINT)

**An Act respecting industrial accidents  
and occupational diseases**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT, INTERPRETATION AND APPLICATION

DIVISION I

OBJECT

**1.** The object of this Act is to provide compensation for employment injuries and the consequences they entail for beneficiaries.

The process of compensation for employment injuries includes provision of the necessary care for the healing of an injury, the physical, social and vocational rehabilitation of a worker who has suffered an injury, the payment of income replacement indemnities, compensation for bodily injury and, as the case may be, death benefits.

This Act, within the limits laid down in Chapter VII, also entitles a worker who has suffered an employment injury to return to work.

DIVISION II

INTERPRETATION

**2.** In this Act, unless the context requires otherwise, “**beneficiary**” means a person entitled to a benefit under this Act;



“**benefit**” means compensation or an indemnity paid in money, financial assistance or services furnished under this Act;

“**board of appeal**” means the Commission d’appel en matière de santé et de sécurité du travail established by this Act;

“**Commission**” means the Commission de la santé et de la sécurité du travail established by the Act respecting occupational health and safety (R.S.Q., chapter S-2.1);

“**construction site**” means a construction site within the meaning of the Act respecting occupational health and safety;

“**dependant**” means a person entitled to an indemnity under Subdivision 2 of Division III of Chapter III;

“**domestic**” means a natural person engaged by an individual for remuneration, whose main duty is, in the dwelling of the individual,

(1) to do housework, or

(2) to care for a child or a sick, handicapped or aged person and who lives in the dwelling;

“**employer**” means a person who, under a contract of hire of personal service or of apprenticeship, uses the services of a worker for the purposes of his establishment;

“**employment injury**” means an injury or a disease arising out of or in the course of an industrial accident, or an occupational disease, including a recurrence, relapse or aggravation;

“**equivalent employment**” means employment of a similar nature to the employment held by the worker when he suffered the employment injury, from the standpoint of vocational qualifications required, wages, social benefits, duration and working conditions;

“**establishment**” means an establishment within the meaning of the Act respecting occupational health and safety;

“**health professional**” means a professional in the field of health within the meaning of the Health Insurance Act (R.S.Q., chapter A-29);

“**independant operator**” means a natural person who carries on work for his own account, alone or in partnership, and does not employ any worker;

“**industrial accident**” means a sudden and unforeseen event, attributable to any cause, which happens to a person, arising out of or in the course of his work and resulting in an employment injury to him;

**“occupational disease”** means a disease contracted out of or in the course of work and characteristic of that work or directly related to the risks peculiar to that work;

**“spouse”** means the man or woman who, at the date of death of a worker,

(1) is married to and cohabits with the worker, or

(2) lives with the worker as if they were married and

(a) has been living with the worker for not less than three years, or one year if a child has been born or is to be born of their union, and

(b) is publicly represented as the worker’s spouse;

**“suitable employment”** means employment that allows a worker who has suffered an employment injury to use his remaining ability to work and his vocational qualifications, that he has a reasonable chance of obtaining and the working conditions of which do not endanger the health, safety or physical well-being of the worker, considering his injury;

**“worker”** means a natural person who does work for an employer for remuneration under a contract of hire of personal services or of apprenticeship, except

(1) a domestic;

(2) a natural person engaged by an individual to care for a child or a sick, handicapped or aged person and who does not live in the dwelling of the individual;

(3) a person who plays sports as his main source of income.

**3.** This Act binds the Government and its departments and agencies.

**4.** This Act is a public Act.

Notwithstanding the first paragraph, any agreement or any regulation or order giving effect to an agreement may provide more favourably for a worker than does this Act.

**5.** An employer who lends or hires out the services of a worker in his employ continues to be the worker’s employer for the purposes of this Act.

**6.** For the purposes of this Act, the Commission shall determine the minimum wage of a worker according to the minimum wage for

a normal workweek to which he may be entitled under the Act respecting labour standards (R.S.Q., chapter N-1.1) and the regulations thereunder.

In the case of a worker having no remunerated employment, or for whose employment no minimum wage is fixed by regulation, the Commission shall apply the minimum wage prescribed in article 3 of the Regulations respecting labour standards (R.R.Q., 1981, chapter N-1.1, r.3) and the normal workweek described in section 52 of the Act respecting labour standards, taking account of modifications and amendments thereto as they read on the day they are to be applied.

### DIVISION III

#### SCOPE

#### § 1.—*General scope*

**7.** This Act applies to every worker to whom an industrial accident happens in Québec or who contracts an occupational disease in Québec and whose employer, when the accident happens or the disease is contracted, has an establishment in Québec.

If the employer has no establishment in Québec when the accident happens or the disease is contracted, this Act applies under the conditions and to the extent provided by an agreement made under the first paragraph of section 170 of the Act respecting occupational health and safety.

**8.** This Act applies to a worker to whom an industrial accident happens outside Québec or who contracts an occupational disease outside Québec if, when the accident happens or the disease is contracted,

(1) his domicile is in Québec,

(2) his employer has an establishment in Québec, and

(3) the work outside Québec is for a duration of not over five years under a contract of hire of personal service made in Québec.

Notwithstanding this section, where any or all of the conditions set out in subparagraphs 2 and 3 of the first paragraph are not fulfilled, this Act may also apply to a worker to whom an industrial accident happens outside Québec or who contracts an occupational disease outside Québec, under the conditions and to the extent provided by an agreement made under the first paragraph of section 170 of the Act respecting occupational health and safety.

§ 2.—*Persons deemed workers*

INDEPENDENT OPERATORS

**9.** An independent operator who in the course of his business carries on activities for a person similar to or connected with those carried on in the establishment of that person is deemed to be a worker in the employ of that person, unless

(1) he carries on the activities simultaneously for several persons or under a remunerated or unremunerated service exchange agreement with another independent operator carrying on similar activities, or

(2) in the case of activities that are only intermittently required by the person who retains his services.

STUDENTS

**10.** A student is deemed to be a worker employed by the educational institution in which he is pursuing his studies, or by the school board, where the institution comes under such a board if, under the responsibility of the institution, he is

(1) undergoing a training period at an establishment, without remuneration, or

(2) carrying on an activity that is similar to an activity carried on in an establishment and that is determined by regulation.

The educational institution or the school board is considered to be the employer of the student solely for the purposes of application of Chapter IX.

PERSONS DEEMED EMPLOYED BY THE GOVERNMENT

**11.** The following are deemed to be workers employed by the Government:

(1) a person carrying on compensatory work under the Summary Convictions Act (R.S.Q., chapter P-15);

(2) a person who, under the Act respecting probation and houses of detention (R.S.Q., chapter P-26),

(a) is detained in a house of detention contemplated in section 15 of the said Act and carries out work under a program of remunerated activities or

(b) executes a probation order involving community work;

(3) a child who executes tasks, renders a service to the community or acts as a trainee, with or without remuneration, under voluntary measures taken pursuant to the Youth Protection Act (R.S.Q., chapter P-34.1) or alternative measures taken under the Young Offenders Act (S.C., 1980-83, chapter 110), or in execution of a decision rendered by the Youth Court under one of such Acts.

Sections 19.2, 19.3 and 19.4 of the Act respecting probation and houses of detention apply to indemnities owing to a detained person.

**12.** A person is deemed to be a worker employed by the Government if he gratuitously lends his assistance to implement emergency measures within the meaning of the Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1) or if, having no other employer, he takes part in a training program set up, organized or approved by the Bureau de la protection civile du Québec.

**13.** The Government is deemed to be the employer of the persons contemplated in sections 11 and 12, but only for purposes of Chapter IX.

#### VOLUNTARY WORKERS

**14.** A person is deemed to be a worker if he voluntarily does work for the purposes of an establishment, provided that his work is done with the agreement of the person who uses his services and that the latter person sends a statement to the Commission setting out

(1) the nature of the activities carried on in the establishment;

(2) the nature of the voluntary work;

(3) the number of persons doing voluntary work for the purposes of the establishment or who are likely to do it within the current calendar year;

(4) the average duration of the volunteer work; and

(5) the period during the current calendar year for which protection is requested under this Act.

This Act, except in respect of the right to return to work, applies to persons who do volunteer work for the purposes of the establishment for the period indicated in the statement.

**15.** A person who sends the statement prescribed in section 14 to the Commission shall keep an up-to-date list of the volunteer workers contemplated in the statement and inform them by a notice posted up in a conspicuous place in his establishment that for the period he indicates

they have protection under this Act, except in respect of the right to return to work.

PERSONS CONTEMPLATED BY AN AGREEMENT

**16.** A recipient within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5) who does work in view of his physical, mental or social reeducation under the responsibility of an establishment contemplated in that Act may be deemed a worker employed by that establishment on the conditions and to the extent provided by an agreement to that effect between the Commission and the Minister of Social Affairs.

**17.** A person doing work under a project of any government, whether or not the person is a worker within the meaning of this Act, may be deemed to be a worker employed by that government, by an agency or by a legal person, on the conditions and to the extent provided by an agreement between the Commission and the government, agency or legal person concerned.

The second and third paragraphs of section 170 of the Act respecting occupational health and safety apply to the agreement.

**18.** Employees of the Government of Canada contemplated in the Government Employees Compensation Act (R.S.C., 1970, chapter G-8) are subject to this Act to the extent that an agreement entered into under section 170 of the Act respecting occupational health and safety sets out the modalities of application of that federal Act.

§ 3.—*Persons registered with the Commission*

**19.** Self-employed workers, domestics, employers and directors of corporations may register with the Commission to have protection under this Act.

**20.** An association of independent operators or of domestics may register its members with the Commission and if it does so is deemed to be their employer, but only for the purposes of Chapter IX.

An individual who engages an independent operator also may register him with the Commission and if he does so is deemed to be his employer, but only for the purposes of application of Chapter IX.

**21.** If a person registered with the Commission suffers an employment injury, he is entitled thereby to the benefits provided for by this Act as if he were a worker.

**22.** Registration with the Commission is made by way of a notice in writing indicating the name and address of the person to be registered, the place, nature and expected duration of the work and the amount of protection applied for.

In no case may the amount be less than the gross annual income determined on the basis of the minimum wage for a regular workweek in force at the time of registration, or exceed the maximum annual insurable amount established under section 65.

**23.** An association of independent operators or of domestics that registers its members with the Commission shall keep an up-to-date list of them and of the amount of protection it has applied for each of them.

The association shall also inform its members that they benefit by the protection afforded by this Act by means of a notice published within thirty days of the registration in a newspaper circulated in each area where they are domiciled.

**24.** Protection afforded a person registered with the Commission granted under section 21 ceases on the day the Commission receives notice in writing to that effect from the person or association having made the registration.

Protection ceases also by failure to pay an assessment when due.

**25.** An association of independent operators or of domestics that wishes to deregister its members with the Commission shall give them at least thirty days' prior notice thereof by publishing the notice in a newspaper circulated in each area where they are domiciled.

The Commission shall cause the notice to be published where an association defaults payment of a due assessment.

## CHAPTER II

### GENERAL PROVISIONS

**26.** Rights vested under this Act are conferred without regard to any personal liability.

**27.** Every worker may exercise his rights under this Act even if his employer fails to fulfil his obligations under it.

**28.** An injury that happens at the workplace is presumed to be an employment injury.

**29.** The diseases listed in Schedule I are characteristic of the work appearing opposite each of such diseases on the schedule and are directly related to the risks peculiar to that work.

A worker having contracted a disease contemplated in Schedule I is presumed to have contracted an occupational disease if he has done work corresponding to that disease according to the Schedule.

**30.** A worker having contracted a disease not listed in Schedule I out of or in the course of employment and not as a result of an industrial accident or of an injury or disease caused by such an accident is deemed to have contracted an occupational disease if he satisfies the Commission that his disease is characteristic of work he has done or is directly related to the risks peculiar to that work.

**31.** An injury or a disease is deemed to be an employment injury if it arises out of or in the course of

(1) the care received by a worker for an employment injury or the lack of such care;

(2) an activity prescribed to the worker as part of the medical treatment he receives for an employment injury or as part of his personal rehabilitation program.

The employment injury described in this section entitles the worker to the continuation or resumption, as the case may be, of the benefits he was receiving, except where the injury or disease gives rise to compensation under the Automobile Insurance Act (R.S.Q., chapter A-25), the Act to promote good citizenship (R.S.Q., chapter C-20) or the Crime Victims Compensation Act (R.S.Q., chapter I-6).

**32.** No employer may dismiss, suspend or transfer a worker or practice discrimination or take reprisals against him, or impose any other sanction upon him because he has suffered an employment injury or exercised his rights under this Act.

A worker who believes that he has been the victim of a sanction or action described in the first paragraph may resort to the grievance procedure set down in the collective agreement applicable to him or, failing that, submit a complaint to the Commission in accordance with section 237.

**33.** No employer may demand or receive any contribution from a worker for performing his obligations under this Act.

The Commission may order the employer to repay the contribution to the worker. The order becomes executory upon being filed in the

office of the court of competent jurisdiction by the Commission or the worker concerned, as in the case of a final judgment of the court that is not subject to appeal, and has all the same effects.

An association of independent operators or of domestics that registers its members with the Commission may, for that purpose, demand and receive a contribution from them.

**34.** The new employer of an establishment that has been alienated or transferred otherwise than by judicial sale assumes the former employer's obligations under this Act toward the worker and, in respect of payment of the assessment, toward the Commission.

The first paragraph applies to the purchaser of an establishment by judicial sale if the purchaser carries on the same activities in the establishment as were carried on there before the sale.

**35.** The failure of a worker to comply with this Act does not exempt his employer from his own obligations thereunder.

The failure of an employer to comply with this Act does not exempt the worker from his own obligations thereunder.

**36.** A beneficiary has a right of access free of charge to the full record kept on him or on the deceased worker, as the case may be, by the Commission, and any person he expressly authorizes to that effect has the same right.

**37.** An employer has a right of access free of charge to the record kept by the Commission on his classification and assessment and the costs charged to him.

**38.** Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), an employer has a right of access to the record kept by the Commission on a worker for the employer who has suffered an employment injury in one of the employer's establishments, except the medical and physical rehabilitation record of the worker, to which only the health professional designated by the employer has a right of access.

The Commission shall notify the worker that the employer has exercised his right under the first paragraph and, where applicable, give him the name and address of the health professional designated by the employer.

**39.** Where, under this Act, a person has a right of access to a record held by the Commission containing computerized documents,

the Commission shall furnish a written and intelligible transcript of them to the person.

**40.** Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information, and notwithstanding Division VII of the Health Insurance Act, the Commission may obtain from the Régie de l'assurance-maladie du Québec, and the latter shall furnish to the Commission, any information held by the Régie on a worker who has suffered an employment injury that the Commission requires for the administration of this Act.

## CHAPTER III

### INDEMNITIES

#### DIVISION I

##### INCOME REPLACEMENT INDEMNITY

#### § 1.—*Right to the income replacement indemnity*

**41.** A worker who suffers an employment injury is entitled to an income replacement indemnity if he becomes unable to carry on his employment by reason of the injury.

A worker who is no longer employed when his employment injury appears is entitled to the income replacement indemnity if he becomes unable to carry on the employment he usually held.

**42.** The income replacement indemnity is equal to 90% of the weighted net income that the worker derives annually from his employment.

**43.** A worker is presumed to be unable to carry on his employment until the employment injury he has suffered has healed.

**44.** A worker whose employment injury has healed is entitled to the income replacement indemnity provided for in section 42 for as long as he requires rehabilitation to become able to carry on his employment again or, if that is not possible, to be able to carry on a suitable full time employment.

**45.** Where a worker who has suffered an employment injury is again able to carry on his employment after the time prescribed to exercise his right to return to work, he is entitled to the income replacement indemnity provided for in section 42 until he returns to his employment or an equivalent employment or until he refuses, without valid reason, to do so, but for not more than one year from the date on which he is again able to carry on his employment.

Notwithstanding the foregoing, the indemnity shall be reduced by any amount paid to the worker by reason of the cessation of his employment under an Act of Québec other than this Act, or of any other.

**46.** A worker who is unable to carry on his employment by reason of an employment injury who becomes able to carry on a suitable full-time employment is entitled to an income replacement indemnity equal to the difference between 90% of the weighted net income that he derived from his employment and the weighted net income that he could derive from the suitable employment.

If the suitable employment is not available, the worker is entitled to the income replacement indemnity provided for in section 42 until he holds that employment or until he refuses it without valid reason, but not for more than one year from the date when he becomes able to carry on that employment.

The indemnity provided for in the second paragraph is reduced by any amount paid to the worker by reason of the cessation of his employment under an Act of Québec other than this Act, or of any other.

**47.** For the purposes of determining the weighted net income that the worker could derive from the suitable employment that he becomes able to carry on full time, the Commission shall evaluate the gross annual income that the worker could derive from that employment by situating him in an income bracket and considering the lowest income in that bracket as the income that the worker could derive from that suitable employment.

The Commission shall publish every year in the *Gazette officielle du Québec* the table of gross annual income for suitable employments, which takes effect on 1 January of the year for which it is made.

The table shall consist of income brackets, the first being limited to not more than \$1 000 from the gross annual income determined on the basis of the minimum wage in force on 1 January of the year for which the table is made, the second to \$2 000 and the following brackets at \$3 000 each, up to the maximum yearly insurable earnings established pursuant to section 65 for that year.

The highest income in the first income bracket is rounded off to the next lower \$500.

**48.** Notwithstanding sections 43 to 45 and the second paragraph of section 46, if a worker holds a new employment, he is entitled to an income replacement indemnity equal to the difference between 90% of the weighted net income he derived from his employment and the weighted net income he derives from his new employment.

**49.** A worker who is the victim of an occupational disease when 55 years of age or over or a person who suffers another employment injury when 60 years of age or over and who sustains, by reason of that disease or other injury, permanent physical or mental impairment that renders him unable to carry on his employment is entitled to the income replacement indemnity provided for in section 42 until he holds a new employment.

If the worker referred to in the first paragraph holds a new employment, he is entitled to the indemnity provided for in section 48.

**50.** Two years after the date on which a worker became able to carry on a suitable full time employment, the Commission shall review his income replacement indemnity if it ascertains that the gross annual income that the worker derives from the employment he holds is greater than the revalorized income it has evaluated pursuant to the first paragraph of section 47.

Where the Commission reviews the income replacement indemnity of the worker under this section, it shall reduce it to an amount equal to the difference between 90% of the weighted net income that the worker derived from his employment when his injury appeared and the weighted net income that he derives from the employment he holds.

**51.** Three years after the review under section 50 and every five years thereafter, the Commission shall, on the same condition and in the same manner, review the income replacement indemnity of the worker until he derives from the employment he holds a gross annual income equal to or greater than the income used, on the date of the review, as the basis for computing his income replacement indemnity or until he reaches sixty-five years of age, whichever occurs first.

**52.** For the purposes of computing the income replacement indemnity a worker is entitled to under the first paragraph of section 46, section 48 or the second paragraph of section 50, the weighted net income that the worker derived from his employment is the income that was computed on the basis of the gross annual income used as the basis for computing his income replacement indemnity on the day preceding the day the said paragraph or section becomes applicable.

**53.** The income replacement indemnity is reduced by 25% from the sixty-fifth birthday of the worker, by 50% from the second year and by 75% from the third year following the said date.

Notwithstanding the first paragraph, the income replacement indemnity of a worker who suffered an employment injury when 65 years of age is reduced, by 25% from the second year following the

date of the beginning of his disability, by 50% from the third year and by 75% from the fourth year following the said date.

**54.** The right to an income replacement indemnity is extinguished from the earliest of the following events:

(1) when the worker is again able to carry on his employment, subject to section 45;

(2) the death of the worker; or

(3) the sixty-eight birthday of the worker or, if he suffers an employment injury when 65 years of age or over, four years after the date he became unable to carry on his employment.

**55.** Notwithstanding paragraph 2 of section 54, where a worker who receives an income replacement indemnity dies from a cause unrelated to his employment injury, the income replacement indemnity continues to be paid to his spouse for three months from the date of death.

*§ 2.—Assignment of temporary work*

**56.** The employer of a worker who has suffered an employment injury may assign work to him until he is again able to carry on his employment or until he becomes able to carry on a suitable employment if the attending physician believes that

(1) the worker is reasonably fit to perform the work;

(2) the work, despite the worker's injury, does not endanger his health, safety or physical well-being; and

(3) the work is beneficial to the worker's rehabilitation.

If the worker disagrees with the attending physician, he may avail himself of the procedure provided in section 37 of the Act respecting occupational health and safety, and in that case is not bound to do the work assigned him by his employer until the report of his attending physician has been confirmed.

Until the report of the attending physician is set aside, the worker is required to perform the temporary work assigned to him by his employer.

**57.** A worker who performs the temporary work assigned to him by his employer is entitled to the salary or wages and benefits attaching to the employment he held when his employment injury appeared and to which he would have been entitled if he had continued to carry on that employment.

§ 3.—*Payment by the employer*

**58.** The employer of a worker at the time he suffers an employment injury shall pay him his net salary or wages for that part of the work day during which the worker becomes unable to carry on his employment by reason of his injury, where the worker would normally have worked during that part of the day had he not been disabled.

**59.** The employer of a worker at the time he suffers an employment injury shall pay him, if he becomes unable to carry on his employment by reason of his injury, 90% of his net wages for each day or part of a day the worker would normally have worked had he not been disabled, for fourteen full days following the beginning of his disability.

The employer shall pay the salary or wages referred to in the first paragraph to the worker on the day he would normally have paid them to him if the worker has furnished the medical certificate contemplated in section 186.

The salary or wages referred to in the first paragraph constitute an income replacement indemnity to which the worker is entitled for fourteen full days following the beginning of his disability and the Commission shall reimburse the amount thereof to the employer.

If the Commission subsequently decides that the worker is not entitled to the whole or part of the indemnity, the Commission shall claim reimbursement from the worker in accordance with Division I of Chapter XIII.

**60.** Where a worker who has suffered an employment injury has returned to work, the employer shall pay him his net salary or wages for each day or part of a day when he must be absent from work to receive care or undergo medical examinations in connection with his employment injury, or to take part in a personal rehabilitation program.

The Commission shall reimburse to the employer, on request, the salary or wages he has paid under the first paragraph, except where the worker is absent from work to undergo a medical examination required by the employer.

**61.** For the purposes of sections 58 to 60, the net salary or wages of the worker is equal to his gross salary or wages less the deductions usually made by his employer pursuant to

(1) the Taxation Act (R.S.Q., chapter I-3) and the Income Tax Act (R.S.C., 1952, chapter 148);

(2) the Unemployment Insurance Act, 1971 (S.C., 1970-71-72, chapter 48); and

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

For the purposes of section 59, the gross salary or wages of the worker is taken into consideration up to the maximum yearly insurable earnings established under section 65.

§ 4.— *Computation of the income replacement indemnity*

**62.** The weighted net income that the worker derives annually from his employment is equal to his net annual income less the amount of deductions weighted by income brackets established by the Commission in relation to the family situation of the worker to take account of

(1) the income tax payable under the Taxation Act and the Income Tax Act,

(2) the employee's premiums payable under the Unemployment Insurance Act, 1971, and

(3) the contribution payable by the worker under the Act respecting the Québec Pension Plan.

The Commission shall publish each year in the *Gazette officielle du Québec* a table of income replacement indemnities, which takes effect on 1 January of the year for which it is made.

The table consists of a listing of gross incomes by brackets of \$100, family situations and corresponding income replacement indemnities.

Where the gross income of a worker falls between two income brackets, his income replacement indemnity is determined on the basis of the higher bracket.

**63.** Where the Commission is reviewing an income replacement indemnity, determining a new gross income pursuant to section 75 or revalorizing the gross income used as the basis for the computation of the indemnity it shall apply the table of income replacement indemnities then in force but give consideration to the family situation of the worker existing when his employment injury appeared.

**64.** For the purposes of computing the income replacement indemnity, in no case may the gross annual employment income be less than the gross annual income determined on the basis of the minimum wage in force when the employment injury appears or greater than the maximum yearly insurable earnings then in force.

**65.** The maximum yearly insurable earnings is equal to 150% of a 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 12 months preceding 1 July of the year preceding the year for which the maximum yearly insurable earnings is computed.

The maximum yearly insurable earnings is rounded off to the next higher \$500 and is applicable for a year from 1 January of each year.

If, on 1 October of a year, the data furnished by Statistics Canada are incomplete, the Commission may use the data then available to establish the maximum yearly insurable earnings.

If Statistics Canada changes the period or the scope of the survey contemplated and the change entails a variation in the yearly average of over 1%, the Commission may compute the average regardless of the change.

**66.** The gross income of a worker is determined on the basis of the gross income set forth in his contract of employment, unless the worker proves to the Commission that he derived a higher gross income from his employment with the employer in the service of whom he was when his employment injury appeared or from the same type of employment with different employers during the twelve months preceding the commencement of his disability.

To establish a higher gross income, the worker may include bonuses, premiums, gratuities, commissions, supplements for overtime, leaves, if their cash value is not included in the salary or wages, profit sharing, and the cash value of the use of an automobile or of a dwelling furnished by the employer where he has lost the enjoyment thereof by reason of his employment injury, and unemployment insurance benefits.

**67.** The gross income of a seasonal worker or of a worker on call is the gross income of a worker of the same class holding a similar employment in the same region, except if the worker proves to the Commission that he derived a higher gross income from any employment he carried on during the twelve months preceding the date he became disabled.

The second paragraph of section 66 applies for the purposes of establishing a higher gross income.

**68.** The gross income of a worker who is no longer employed when his employment injury appears is the gross income he derived from the employment out of or in the course of which he suffered his injury, determined pursuant to section 66.

The gross income is revalorized on 1 January each year from the date the worker ceased to hold his employment.

**69.** The gross income of a worker who suffers a recurrence, a relapse or an aggravation is the greater of the income he derives from the employment he holds when he suffers the recurrence, relapse or aggravation and the gross income used as a basis for computing his former indemnity.

For the purposes of the application of the first paragraph, where the recurrence, relapse or aggravation occurs more than one year after the worker has become disabled, the gross income used for computing his former indemnity is revalorized.

**70.** The gross income of a worker who carries on more than one employment is the income he derives from the most remunerative employment that he becomes unable to carry on.

Where the worker becomes unable to carry on only one of his employments, his gross income is the income he derives from that employment; in such a case, section 64 does not apply in respect of the minimum employment income.

**71.** The gross income of an independent operator contemplated in section 9 is the income of a worker of the same class holding a similar employment in the same region, except if the worker proves to the Commission that he derived a greater gross income from an occupation contemplated in section 9 during the twelve months preceding the date he became disabled.

**72.** The net income of a worker who suffers an employment injury while he is the beneficiary of an income replacement indemnity is equal to the total of the weighted net income used as a basis for computing the indemnity and the weighted net income he derives from his new employment.

The income replacement indemnity of the worker who has suffered an employment injury ceases to be paid to him and in no case may his new indemnity be greater than the indemnity computed on the basis of the maximum insurable earnings in force when a subsequent employment injury appears.

**73.** The gross income of a person registered with the Commission is the income he derives from his work up to the amount for which he is registered.

**74.** If it may be more equitable in view of the particular type of work done by a worker, his gross income may be determined in a manner other than that provided under sections 66 to 73.

Notwithstanding the first paragraph, in no case may the gross income determined thereunder be used as a basis for computing the income replacement indemnity if it is lower than the income resulting from the application of the said sections.

**75.** If a worker, by reason of an employment injury, is unable to carry on his employment for more than one year, the Commission shall determine a higher gross income than that provided for under this subdivision if the worker proves to it that he could have held a more remunerative employment when his injury appeared, had it not been for special circumstances.

The new gross income shall be used as the basis for computing the income replacement indemnity due to the worker from the second year of his disablement.

§ 5.—*Provisions regarding certain workers*

**76.** This subdivision applies to a worker who suffers an employment injury while acting as a person contemplated in section 10, 11, 12 or 14 or while he is a full-time student.

The other provisions of Division I of this chapter that are not inconsistent with this subdivision apply with the necessary changes to the persons contemplated in the first paragraph.

**77.** A worker who suffers an employment injury while acting as a person contemplated in section 11, 12 or 14 is entitled to an income replacement indemnity if he becomes unable, by reason of his injury, to carry on the remunerated employment or to perform the work for which he is registered with the Commission when his injury appears.

If the worker referred to in the first paragraph has no remunerated employment and is not registered with the Commission at the time his injury appears, he is entitled to an income replacement indemnity if he becomes unable, by reason of his injury, to carry on his usual employment or, if none, the employment that could have been his usual employment, considering his training and work experience and his physical and intellectual capacity before his injury occurred.

**78.** A worker who suffers an employment injury while he is a student contemplated in section 10 or a full-time student is entitled to an income replacement indemnity if he becomes unable, by reason of his injury, to carry on the remunerated employment that he holds

or would have held, pursue his studies or carry on an employment connected with the completion of his studies.

**79.** The income replacement indemnity of a student contemplated in section 10, of a child contemplated in paragraph 3 of section 11 or of a full-time student is

- (1) \$50 per week until 18 years of age;
- (2) from 18 years of age, computed on the basis of the gross annual income determined on the basis of the minimum wage then in force; and
- (3) from 21 years of age, revised upwards if he proves to the Commission that he could have earned a higher gross employment income had he not suffered an employment injury.

Notwithstanding subparagraphs 1 and 2 of the first paragraph, the student or child may prove to the Commission that he has earned, during the 12 months preceding the date he became disabled, a gross employment income entailing a higher indemnity and in this case section 64 does not apply in respect of the minimum employment income.

The review made under subparagraph 3 of the first paragraph replaces any review under section 75.

**80.** The gross income of a person contemplated in paragraph 1 or 2 of section 11 or in section 12 who has no remunerated employment and is not registered with the Commission when his employment injury appears is determined on the basis of the minimum wage then in force.

**81.** The income replacement indemnity of a voluntary worker contemplated in section 14 is computed

- (1) in accordance with section 79, if the worker is under 18 years of age when his employment injury appears;
- (2) on the basis of the gross annual income determined on the basis of the minimum wage in force when his employment injury appears, if the worker holds no remunerated employment with any employer and is not registered with the Commission.

## DIVISION II

### COMPENSATION FOR BODILY INJURY

**82.** A worker who suffers an employment injury and who sustains permanent physical or mental impairment is entitled, in respect of each industrial accident or occupational disease for which he files a claim with the Commission, to compensation for bodily injury which takes

into account the anatomophysiological deficit and disfigurement resulting from the impairment and the suffering or loss of enjoyment of life resulting from the deficit or disfigurement.

**83.** The amount of compensation for bodily injury is equal to a percentage, not exceeding 100%, of permanent physical or mental impairment multiplied by the amount prescribed in Schedule II at the time his employment injury appeared, in relation to the worker's age at that time.

The percentage of permanent physical or mental impairment is equal to the sum of the percentages determined according to the table of bodily injuries adopted by regulation for anatomophysiological deficit, disfigurement and the suffering or loss of enjoyment of life resulting from the deficit or disfigurement.

If a given bodily injury is not listed in the table, the Commission shall establish the corresponding percentage, using as guidelines the similar bodily injuries that are listed.

**84.** Where a worker has sustained an anatomophysiological deficit, the amount of the compensation for bodily injury shall not be less than \$500.

**85.** Where by reason of an employment injury a worker sustains anatomophysiological deficits in symmetrical organs, the total percentage awarded him for his deficits is equal to the sum of the percentages determined for each organ impaired, adding a second time the percentage determined for the lesser impaired organ.

Where by reason of an employment injury a handicapped worker sustains an anatomophysiological deficit in an organ that is symmetrical to an already impaired organ, the total percentage awarded him for that deficit is equal to the sum of the percentage determined for the deficit resulting from his injury and the percentage corresponding to the lesser of the deficit resulting from his injury and the deficit he formerly had sustained.

**86.** A worker who sustains multiple permanent physical or mental impairments is, where the total of the percentages of these impairments exceeds 100%, entitled to receive, in addition to the compensation determined under section 83, an amount equal to 25% of the amount of the compensation determined on the basis of the excess percentage.

**87.** The Commission shall establish the amount of the compensation for bodily injury as soon as the sequelae of the employment injury are medically determined.

If, two years after the injury appeared, it is impossible to determine medically all the sequelae of the injury, the Commission shall estimate the minimum amount of the compensation on the basis of those sequelae that it is possible to determine medically at that time.

The Commission shall make the required subsequent adjustments as soon as possible.

**88.** A worker who, by reason of a recurrence, relapse or aggravation sustains a new permanent physical or mental impairment at a time when the amount of his compensation for bodily injury has already been established is entitled to a new compensation for bodily injury determined in relation to the percentage of the new impairment.

Where the total percentage of the permanent physical or mental impairment, including the already established percentage and the percentage resulting from the recurrence, relapse or aggravation exceeds 100%, the worker is entitled to receive

(1) compensation in an amount determined in relation to 100% less the percentage that has already been determined; and

(2) an amount equal to 25% of the amount of compensation determined on the basis of the total percentage less 100%.

The amount of the new compensation for bodily injury provided for in the first or second paragraph is computed in accordance with Schedule II in force at the time of the recurrence, relapse or aggravation and in relation to the worker's age at that time.

**89.** The Commission shall pay to the worker interest on the amount of the compensation for bodily injury from the date the claim for the employment injury that caused the permanent physical or mental impairment of the worker is filed.

Interest is determined under section 305 and forms part of the compensation.

**90.** Compensation for bodily injury is not payable in the case of death of the worker.

Notwithstanding the first paragraph, if the worker dies of a cause unrelated to his employment injury and if, on the date of his death it was possible to determine medically the sequelae of his injury, the Commission shall estimate the amount of compensation that it would probably have awarded and pay one-third of that amount to the spouse of the worker and the remaining two-thirds in equal shares to the children who are deemed to be dependants.

In the absence of either, the Commission shall pay the amount of the compensation to the spouse or to the children who are deemed to be dependants, as the case may be.

### DIVISION III

#### COMPENSATION IN THE CASE OF DEATH

##### § 1.—*Interpretation and application*

**91.** For the purposes of this division,

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

(2) the person who stood in *loco parentis* to the worker at the time of his death is deemed to be the father or the mother of the worker.

**92.** A person suffering from severe long-term physical or mental disability is deemed to be invalid for the purposes of this division.

Disability is severe if it prevents the person from regularly being able to engage in truly remunerative occupations.

Disability is long-term if to all appearances it will end in death or last indefinitely.

**93.** A worker who contributes indirectly to the income of his mother or father through his work in the family enterprise is deemed to provide for his mother or father proportionately to his contribution.

**94.** A worker who dies while he is the beneficiary of an income replacement indemnity following an occupational disease that may cause death is presumed to have died from that disease.

The presumption does not operate unless the Commission has had the opportunity to have an autopsy performed on the body.

**95.** Where a worker has disappeared following an event that occurred out of or in the course of his work, under circumstances which raise the presumption that he is dead, the Commission may consider that the worker is dead and that the date of his death is the date of the event.

**96.** The death of a worker by reason of an employment injury gives rise to the indemnities or compensation provided for under this division.

§ 2.—*Compensation to dependants*

**97.** The spouse of the deceased worker is entitled to a lump sum indemnity equal to the product obtained by multiplying the gross annual employment income of the worker determined under subdivisions 4 and 5 of Division I of this chapter by the factor provided in Schedule III in relation to the age of the spouse at the date of death of the worker.

**98.** If invalid at the date of death of the worker, the spouse is entitled to the greater of the following lump sum indemnities:

- (1) an indemnity determined under section 97; and
- (2) an indemnity equal to twice the amount provided in Schedule II in relation to the spouse's age at the date of death of the worker.

**99.** In no case may the lump sum indemnity payable to the spouse be less than \$50 000.

**100.** The child of a worker who is minor at the date of death of the worker, is entitled to an indemnity of \$250 per month until he is of full age.

If the child is attending an educational institution on a full-time basis when he reaches full age, he is then entitled to a lump sum indemnity of \$9 000.

**101.** If the child of the worker who is a minor at the date of death of the worker was an invalid at that date and still is when he reaches full age, he is entitled on the latter date, instead of the indemnity provided for in the second paragraph of section 100, to a lump sum indemnity of:

- (1) \$50 000, unless his invalidity entitles him to benefits under this Act, the Workmen's Compensation Act (R.S.Q., chapter A-3), the Automobile Insurance Act, the Act to promote good citizenship or the Crime Victims Compensation Act;
- (2) \$9 000 if his invalidity entitles him to benefits under any of the Acts referred to in paragraph 1 of this paragraph.

**102.** The child of a worker who is of full age but under 25 years of age at the date of death of the worker and who on that date is attending an educational institution on a full-time basis is entitled to a lump sum indemnity of

- (1) \$9 000 if he is 18 to 20 years of age at that date;
- (2) \$6 000 if he is 21 to 24 years of age at that date.

**103.** The child of a worker who is of full age but under 25 years of age at the date of death of the worker and who is an invalid on that date is entitled, instead of the indemnity provided for in section 102, to

(1) a lump sum indemnity equal to the amount provided in Schedule II in relation to his age on that date, unless his invalidity entitles him to benefits under this Act, the Workmen's Compensation Act, the Act to promote good citizenship or the Crime Victims Compensation Act;

(2) the indemnity provided for under subparagraph 1 or 2 of section 102 of the first paragraph, in relation to his age at the date of death of the worker if his invalidity entitled him to benefits under any of the Acts referred to in paragraph 1.

**104.** A person, other than a dependant contemplated in sections 97 to 103, over half of whose needs were provided for by the worker, at the date of his death, is entitled to a lump sum indemnity

(1) of \$ 6 000, if he is under 35 years of age at that date;

(2) equal to 75% of the gross annual employment income of the worker determined under subsections 4 and 5 of Division I of this chapter, if he is 35 years of age or over at that date.

**105.** If the person contemplated in section 104 is invalid at the date of death of the worker he is entitled, instead of the indemnity provided for in the said section, to

(1) a lump sum indemnity equal to the amount provided in Schedule II in relation to his age at that date, unless his invalidity entitles him to benefits under this Act, the Workmen's Compensation Act, the Automobile Insurance Act, the Act to promote good citizenship or the Crime Victims Compensation Act;

(2) the indemnity provided for in subparagraph 1 or 2 of section 104 in relation to his age at the date of death of the worker if his invalidity entitles him to benefits under any of the Acts referred to in paragraph 1.

### § 3.—*Other indemnities owing to death*

**106.** The spouse is entitled to an indemnity of \$1 000 for expenses relating to the death of the worker.

If there is no spouse, the Commission shall pay the indemnity under the first paragraph to the dependants, in equal shares.

**107.** A person other than a dependant one-half or less of whose needs were provided for by the worker at the date of his death is entitled to a lump sum indemnity of

(1) \$6 000, if the worker provided for his needs in a proportion of 25% to 50%;

(2) \$3 000, if the worker provided for his needs in a proportion of 10% to less than 25%.

**108.** The father and mother of a worker who died without dependants are entitled to an indemnity of \$3 000 each. The share of a dead parent or of a parent deprived of parental authority accrues to the other parent.

If either or both parents is or are also entitled to an indemnity under section 107, each parent is entitled only to the greater of the indemnity under section 107 and the indemnity under this section.

**109.** The Commission shall reimburse to the payer, on the presentation of vouchers,

(1) the funeral expenses, up to \$1 500;

(2) the cost of transportation of the body of the worker from the place of death to the funerarium closest to the habitual residence of the deceased, if he was resident in Québec, or to another place approved by the Commission.

#### DIVISION IV

##### OTHER INDEMNITIES

**110.** A worker who suffers an employment injury is entitled, on the presentation of vouchers, to a maximum indemnity of

(1) \$300 for the cleaning, repair or replacement of clothing damaged as a result of an industrial accident;

(2) \$300 per year for damage caused to his clothing by a prosthesis or orthosis within the meaning of the Public Health Protection Act (R.S.Q., chapter P-35) the use of which is required by reason of an employment injury.

**111.** A worker is entitled, on the production of vouchers, to an indemnity for the repair or replacement of a prosthesis or orthosis within the meaning of the Public Health Protection Act inadvertently damaged in the course of his work to the extent that he is not entitled to such an indemnity under another plan.

The Commission shall determine the maximum indemnities that are payable under this section.

**112.** The indemnities contemplated in paragraph 1 of section 110 and in section 111 are subject to a deductible of \$ 25 each.

**113.** The Commission shall reimburse, on the production of vouchers, to the worker and, if his physical condition requires it, to the person who must accompany him, the transportation and travel expenses incurred to receive care, undergo medical examinations or take part in a personal rehabilitation program, according to the norms and amounts it determines.

#### DIVISION V

#### REVALORIZATION

**114.** The amount of the gross annual income used as the basis for computing the income replacement indemnity and the income evaluated by the Commission under the first paragraph of section 47 are revalorized each year, on the anniversary of the day the worker became unable to carry on his employment.

**115.** The amounts fixed under this chapter, Chapter IV and Schedules II and IV are revalorized each year on 1 January.

An indemnity owing to death received by a beneficiary pursuant to the first paragraph of section 100 also is revalorized on the date determined in the first paragraph.

**116.** Revalorization is made by multiplying the amount to be revalorized by the ratio between the Consumer Price Index of the current year and that of the preceding year.

**117.** 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 12 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 Commission may use the data then available to establish the Consumer Price Index.

The fourth paragraph of section 65 applies for the purposes of this section.

**118.** If the yearly average computed on the basis of the monthly Consumer Price Index carries out to more than one decimal place, only

the first digit is retained and it is increased by one unit if the second digit is greater than 4.

**119.** If the ratio between the Consumer Price Index for the current year and that for the preceding year carries out to more than three decimal places, only the first three digits are retained and the third digit is increased by one unit if the fourth digit is greater than 4.

**120.** The amount obtained through a revalorization is rounded off to the nearest dollar.

## DIVISION VI

### PAYMENT OF INDEMNITIES

**121.** The Commission shall pay to the worker the income replacement indemnity to which he is entitled from the fifteenth full day following the day the worker became unable to carry on his employment.

Notwithstanding the foregoing, the Commission shall pay the worker to whom no employer is bound to pay a salary or wages under section 59 an income replacement indemnity for each day or part of a day during which the worker would normally have worked, had he not been unable to carry on his employment as a result of his employment injury, for the fourteen full days following the day he became disabled if the worker furnishes the medical certificate contemplated in section 186 to the Commission.

**122.** The Commission shall pay the income replacement indemnity, in the form of a pension, once every two weeks.

**123.** The Commission may withhold from an income replacement indemnity, and reimburse to the employer, the equivalent of any amount paid by him to the worker from the fifteenth full day of disability, as an allowance or indemnity, unless the payment is made to make up a difference between the salary or wages of the worker and the indemnity to which he is entitled.

**124.** The Commission may withhold from an income replacement indemnity the equivalent of any amount advanced by an insurance or social aid agency to the worker while he is unable to carry on his employment.

The Commission shall forward the withheld amount to the agency concerned.

**125.** The payment of the income replacement indemnity of a worker is not interrupted if, on the day he returns to work he is forced to abandon his work because of the state of his health.

**126.** The Commission may pay an income replacement indemnity before rendering its decision on the right to the indemnity if it is of opinion that the application appears *prima facie* to be founded.

If the Commission subsequently dismisses the application or grants it in part, no amounts paid may be recovered from the person who received them, unless the person,

(1) obtained the amounts in bad faith; or

(2) is entitled to the benefit of another compensation scheme, public or private, by reason of the injury or disease for which he received the amounts.

In the case of subparagraph 2, the Commission may recover the amounts of overpayments only up to the amount to which the person is entitled under another compensation scheme.

**127.** The Commission may pay an income replacement indemnity directly into the account that a beneficiary has with a bank or a savings and credit union contemplated in the Savings and Credit Unions Act (R.S.Q., chapter C-4) if the beneficiary agrees thereto.

**128.** The Commission may pay an income replacement indemnity in one or several instalments equivalent to the representative capital of the indemnity or at intervals other than those provided in section 122 where

(1) the amount paid at those intervals is minimal;

(2) the beneficiary is not resident or ceases to be resident in Québec;  
or

(3) it believes it beneficial to the rehabilitation of the beneficiary, if he consents to it.

In the third case, the Commission may also pay part of the representative capital of the indemnity and pay the balance as a pension at the intervals it determines.

**129.** The Commission shall cease to pay an income replacement indemnity on the first of the following dates:

(1) that on which it is informed by an employer or the worker himself that he has returned to his employment or to an equivalent employment;

(2) that on which it receives the report of the attending physician indicating the date on which the employment injury suffered by the worker has healed and the fact that the worker retains no resultant

functional disability, if the worker requires no rehabilitation to be again able to carry on his employment.

However, where the time prescribed for the exercise of the worker's right to return to work has expired at the date the injury has healed, the Commission shall cease to pay the income replacement indemnity in accordance with section 45.

**130.** The Commission shall pay the death benefit provided for in the first paragraph of section 100 to the person having custody of the child who is entitled to compensation.

The benefit shall cease to be paid in the month following the month in which the child entitled to it dies or reaches full age.

**131.** The Commission shall pay the death benefit provided for in the second paragraph of section 100 at the end of the three-month period of the school year in which the child entitled to compensation reaches full age or at the end of the three-month period following the date on which the child reaches full age if that birthday falls between two three-month periods.

**132.** The Commission shall pay the death benefit provided for in paragraph 1 or 2 of section 102 at the end of the three-month period of the school year during which the worker died or at the end of the three-month period following the date of death if the death occurred between two three-month periods.

**133.** The Commission shall pay the benefit contemplated in section 131 or 132 on receiving a certificate from the educational institution attended by the beneficiary attesting that he was registered as a full-time student for the three-month period referred to in section 131 or 132, as the case may be, and that he regularly attended the institution during the three-month period.

**134.** The Commission may pay an indemnity to a tutor or curator, or failing such a person, to a person it designates, if the beneficiary is under legal incapacity; the designated person has the powers and duties of a tutor or a curator, as the case may be.

**135.** The Commission may reduce or suspend the payment of an indemnity

(1) if the beneficiary

(a) produces inaccurate information;

(b) refuses or neglects to produce the information it requires or to give the authorization necessary for obtaining it;

(2) if the worker, without valid reason,

(a) interferes with a medical examination prescribed under this Act or neglects or refuses to undergo such an examination, except an examination that usually entails serious danger;

(b) does anything that, according to his attending physician or, if the matter is contested, the referee, prevents or delays a cure;

(c) neglects or refuses to undergo medical treatment, other than a surgical operation, that the attending physician or, in case of objection, the arbitrator, considers necessary in the interest of the worker;

(d) neglects or refuses to perform the temporary work assigned to him by his employer in accordance with section 56 and for which he receives from his employer the salary or wages and the benefits contemplated in section 57;

(e) neglects or refuses to avail himself of the rehabilitation measures prescribed in his personal rehabilitation program;

(f) neglects or refuses to inform his employer in accordance with section 257.

**136.** The Commission may pay an indemnity or a benefit retroactively to the date on which its payment was reduced or suspended when the ground that justified the decision no longer exists.

**137.** Indemnities paid under this Act are unassignable, unseizable and nontaxable except the income replacement indemnity that is paid in the form of a pension, which is seizable for alimentary debts in accordance with article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25).

## CHAPTER IV

### REHABILITATION

#### DIVISION I

##### RIGHT TO REHABILITATION

**138.** A worker who, as a result of the employment injury he has suffered, becomes unable to carry on his employment or sustains permanent physical or mental impairment, is entitled, to the extent provided by this chapter, to the rehabilitation required by his condition in view of his social and professional reintegration.

**139.** To ensure the worker's right to rehabilitation, the Commission shall prepare and implement, with the worker's

collaboration, a personal rehabilitation program, which may include, according to the worker's needs, a physical, social and professional rehabilitation program.

The program may be reviewed, with the worker's collaboration, to take account of new circumstances.

### § 1.—*Physical rehabilitation*

**140.** The purpose of physical rehabilitation is to remove or lessen a worker's physical handicap and to enable him to develop his residual capacity in order to compensate for the functional disability resulting from his employment injury.

**141.** A physical rehabilitation program may include, in particular, medical and nursing care, physiotherapy and ergotherapy treatments, exercises to adapt to a prosthesis or an orthosis and any other care and treatment deemed necessary by the attending physician.

**142.** A physical rehabilitation program may also include home care provided by a nurse, a nursing assistant or nurse's aide, according to the requirements of the worker's condition following his employment injury, where prescribed by his attending physician.

The Commission shall assume the cost of the care and, in addition, reimburse, according to the standards and in the amounts it determines, the travel and living expenses incurred by the nurse, nursing assistant or nurse's aide.

Where the care cannot be provided by the community health department established in a hospital centre or by the local community services centre, the Commission shall reimburse the worker for the cost of the care, fixing its amount according to the cost of similar services under the public plan.

### § 2.—*Social rehabilitation*

**143.** The purpose of social rehabilitation is to help the worker overcome so far as possible the personal and social consequences of his employment injury, adapt himself to the new situation resulting from his injury and become self-sufficient in carrying on his usual activities.

**144.** A social rehabilitation program may include, in particular,

(1) professional psycho-social services;

(2) the implementation of means to provide the worker with a residence and a vehicle adapted to his residual capacity;

- (3) the payment of the cost of personal home assistance;
- (4) the reimbursement of child care expenses;
- (5) the reimbursement of the cost of ordinary maintenance work on the residence;

**145.** A worker's residence may be adapted if

- (1) the worker has sustained severe permanent physical impairment;
- (2) the adaptation is necessary and constitutes the appropriate solution to enable the worker to enter and leave his residence by himself and to have access independently to the things and conveniences in his residence; and
- (3) the worker undertakes to live in the residence for at least three years.

Where the worker is a lessee, he shall provide the Commission with a copy of a lease for a minimum term of three years.

**146.** Where the residence of a worker referred to in section 145 is not adaptable to his residual capacity, the worker may be reimbursed, up to \$3 000, for the cost he may incur to move into a new residence that is adapted or adaptable to his residual capacity.

For the purposes of the first paragraph, the worker shall furnish to the Commission at least two detailed estimates containing the information it may require.

**147.** The principal vehicle of a worker may be adapted if the worker has sustained severe permanent physical impairment and if the adaptation is necessary, owing to his employment injury, to enable him to drive the vehicle.

**148.** The Commission has no authority to assume the cost of work to adapt the residence or principal vehicle of a worker referred to in section 145 or 147 unless the worker provides the Commission with at least two detailed estimates of the work to be executed, prepared by two specialized contractors and containing the information required by the Commission, and unless the worker provides the Commission with copies of the required authorizations and permits for executing the work.

**149.** Where the Commission assumes the cost of the work to adapt a worker's residence or principal vehicle, it shall also assume the

additional cost of insurance and maintenance arising from the adaptation of the residence or vehicle.

**150.** Personal home assistance may be granted to a worker who, as a result of his employment injury, is unable to care for himself and to do, without assistance, the household tasks that he would normally do himself, if the assistance proves necessary for his remaining in or return to his residence.

**151.** Personal home assistance includes the cost of engaging a person to help the worker care for himself and to do the household tasks he would normally do himself were it not for his injury.

The person may be the worker's spouse.

**152.** The amount payable for personal home assistance is determined according to the standards and tables published each year by the Commission in the *Gazette officielle du Québec* but must not exceed \$800 a month.

**153.** The amount payable for personal home assistance must be reviewed periodically to take account of changes in the worker's health and the needs arising therefrom.

**154.** The amount of personal home assistance ceases to be paid when the worker

(1) is again able to care for himself or to do the household tasks he was unable to do himself by reason of his employment injury; or

(2) is sheltered in a reception centre, within the meaning of the Act respecting health services and social services, or hospitalized.

**155.** The amount of personal home assistance is paid to the worker once every two weeks.

The amount is adjusted or cancelled, as the case may be, from the first due date after the occurrence giving rise to the adjustment or cancellation.

**156.** A worker who receives personal home assistance, carries on an activity as part of his personal rehabilitation program or, as a result of his employment injury, is sheltered in a reception centre within the meaning of the Act respecting health services and social services, or who is hospitalized may be reimbursed for child care expenses up to the amounts mentioned in Schedule IV if

(1) the worker assumes alone the custody of his children;

(2) the worker's spouse is unable, owing to illness or disability, to care for the children living under their roof; or

(3) the worker's spouse must be absent from the residence to be with the worker when the latter is sheltered in a reception centre or hospitalized, or to accompany the worker to any activity carried on by the latter as part of his personal rehabilitation program.

**157.** A worker who is unable, as a result of his employment injury, to do the ordinary maintenance work on his residence that he would normally do himself were it not for his injury may be reimbursed for the cost he incurs to have the work done, up to \$1 500 a year.

### § 3.—*Vocational rehabilitation*

**158.** The purpose of vocational rehabilitation is to facilitate the worker's reinstatement in his employment or an equivalent employment or, where that object is not attainable, to facilitate his access to suitable employment.

**159.** A vocational rehabilitation program may include, in particular,

- (1) a refresher program;
- (2) evaluation of vocational potential;
- (3) a vocational training program;
- (4) assistance in finding employment;
- (5) the payment of subsidies to an employer to favour the employment of workers who have sustained permanent physical or mental impairments;
- (6) the adaptation of a position;
- (7) the payment of any cost incurred to explore an employment market or to move near a new place of employment;
- (8) the payment of subsidies to the worker.

**160.** A worker who, as a result of his employment injury, needs to update his knowledge in order to be able to carry on his employment or equivalent employment may follow a refresher program in an educational institution or in an industrial establishment.

**161.** Where a worker is unable to carry on his employment because he retains a functional disability resulting from his employment injury, the Commission shall inform the worker and his employer of the

existence, where that is the case, of a rehabilitation measure that may enable the worker to carry on his employment or an equivalent employment before the expiry of the period for the exercise of his right to return to work.

In the case of the first paragraph, the Commission, with the worker's collaboration and after consulting the employer, shall prepare and implement the appropriate vocational rehabilitation program, at the end of which the worker shall inform his employer that he is again able to carry on his employment or equivalent employment.

**162.** Where no rehabilitation measure exists that may enable a worker to carry on his employment or equivalent employment, the Commission shall ask the employer whether he has any suitable employment available and, if so, the Commission shall inform the worker and his employer of the existence, where that is the case, of a rehabilitation measure that may enable the worker to carry on that employment before the expiry of the period for the exercise of his right to return to work.

In the case of the first paragraph, the Commission, with the worker's collaboration and after consulting the employer, shall prepare and implement the appropriate vocational rehabilitation program, at the end of which the worker shall inform his employer that he has become able carry on the available suitable employment.

**163.** Where no rehabilitation measure exists that may enable the worker to carry on his employment or equivalent employment and his employer has no available suitable employment, the worker may have his vocational potential evaluated to help him to determine what employment would be suitable for him.

The main factors of the evaluation are the worker's formal training, his work experience, his functional aptitudes and the labour market.

**164.** A worker who remains unable to carry on his employment again by reason of his employment injury may follow a vocational training program where it is otherwise impossible for him to obtain suitable employment.

The purpose of the program is to enable the worker to acquire the knowledge and skills required to carry on a suitable employment and the worker may follow the program in an educational institution or in an industrial establishment.

**165.** A worker who has suffered an employment injury and who becomes again able to carry on his employment may receive assistance in finding employment if the period for exercising his right to return

to work has expired and his employer does not reinstate him in his employment or in equivalent employment.

A worker who is unable to carry on his employment as a result of his employment injury and who becomes able to hold suitable employment also may receive assistance in finding employment where suitable employment is not available.

**166.** Where the Commission provides assistance in finding employment it shall advise the worker on his applications to possible employers, inform him about the labour market and, if need be, refer him to the appropriate specialized services for assistance in finding the employment he has become able to carry on.

**167.** The Commission may pay a subsidy to an employer who hires a worker who has suffered an employment injury, for such period, not exceeding one year, as the worker is unable to meet the normal requirements for the employment.

The purpose of the subsidy is to provide the worker with a period of readjustment to his employment or adaptation to his new employment, or to enable him to acquire new vocational qualifications.

**168.** The Commission may reimburse the cost of adapting a position if the adaptation enables a worker who has sustained permanent physical impairment as a result of his employment injury to carry on his employment, equivalent employment or suitable employment.

The cost includes the expenses incurred for purchasing and installing the materials and equipment necessary for adapting the position, but no cost may be reimbursed except to the person who incurred it with the prior authorization of the Commission to that effect.

**169.** A worker who, following an employment injury, becomes able to carry on his employment again or who becomes able to carry on suitable employment may be reimbursed, up to \$3 000, for any cost incurred by him

(1) to explore an employment market more than 50 kilometres from his residence, if such employment is not available within a radius of 50 kilometres of his residence; and

(2) to move to a new residence if he obtains employment outside a radius of 50 kilometres from his present residence, if the two residences are at least 50 kilometres apart and if his new residence is situated within 50 kilometres of his new place of employment.

The worker shall furnish to the Commission at least two detailed estimates containing the information it may require.

**170.** The Commission may grant subsidies to a worker who has suffered an employment injury and who devises a plan to create and manage an undertaking providing him with suitable employment, if the worker

(1) becomes able to carry on his employment again after the period for exercising his right to return to work has expired and his employer does not reinstate him in his employment or equivalent employment; or

(2) remains unable to carry on his employment as a result of his injury.

The plan must be accompanied with a study confirming the feasibility and the mid-term profitability of the planned undertaking, and the worker must show that he has the capacity to operate the undertaking.

## DIVISION II

### FUNCTIONS OF THE COMMISSION

**171.** The cost of rehabilitation is assumed by the Commission.

In implementing a personal rehabilitation program, the Commission shall assume the cost of the most economical means of attaining the desired objective.

**172.** The Commission itself shall provide the professional services determined as part of a personal rehabilitation program or refer the worker to the appropriate persons or services.

**173.** The Commission may suspend or terminate all or part of a personal rehabilitation program if the worker omits or refuses to avail himself of any rehabilitation measure prescribed in his program.

**174.** The Commission may

(1) develop and support the activities of persons and organizations dealing with rehabilitation and cooperate with them;

(2) assess the efficiency of the available policies, programs and services relating to rehabilitation;

(3) carry out studies and research on rehabilitation or have them carried out;

(4) take any measure it deems useful to favour the vocational reintegration of the spouse of a worker who has died as the result of an employment injury;

(5) take any measure it deems useful to lessen or remove the consequences of an employment injury.

**175.** The Commission may take measures to facilitate the rehabilitation of any worker who is entitled to an income replacement indemnity because he exercised his right to protective re-assignment described in the Act respecting occupational health and safety, with a view to preventing any possible recurrence, relapse or aggravation.

**176.** The Commission may grant subsidies to a person who creates permanent employment reserved for workers who have sustained permanent physical or mental impairment as a result of an employment injury.

No subsidy may exceed \$4 000 for each employment or be renewed.

The Commission may also offer any person creating employment as described in the first paragraph professional consultation services and reimburse the fees and expenses of the professionals providing the services.

## CHAPTER V

### MEDICAL AID

**177.** A worker who has suffered an employment injury is entitled to the medical aid required by his condition as a result of the injury.

**178.** Medical aid includes

- (1) the services of a health professional;
- (2) hospital care;
- (3) medicines and other pharmaceutical products;

(4) prostheses and orthoses within the meaning of the Public Health Protection Act, prescribed by a health professional and available at any supplier's approved by the Régie de l'assurance-maladie du Québec;

(5) any other care or costs determined by the Commission.

**179.** The employer shall immediately furnish to his worker who suffers an employment injury, first-aid services and, where required, conveyance and transportation, at his own expense, to a health

establishment, to a health professional or to the worker's residence, as required by his condition.

On a construction site, the obligation imposed by the first paragraph applies to the principal contractor within the meaning of the Act respecting occupational health and safety.

**180.** An employer or the principal contractor referred to in the second paragraph of section 179 shall, in the cases determined by regulation, maintain at his own expense first-aid services, including the staff and equipment determined by regulation, provide premises for that purpose and keep a register of the first-aid services in accordance with the regulations.

**181.** Every worker is entitled to receive care from the health establishment or health professional of his choice.

Where the Commission considers that the care required by the condition of the worker is not available within a reasonable time in the establishment he has chosen, the Commission may, in the interest of the worker, refer him to another establishment to receive the required care more promptly.

**182.** The Commission shall assume the cost of medical aid.

No cost of medical aid may be claimed from a worker entitled to it, and no action in respect thereof lies in any court of justice.

**183.** Acts performed by health professionals under this Act, including those of an arbitrator or of a member of a pneumoconiosis committee or of a special committee acting under Chapter VI, except acts performed by a health professional at the employer's request, are paid to those professionals by the Régie de l'assurance-maladie du Québec in accordance with the rates appearing in the agreements made under section 19 of the Health Insurance Act.

The Commission shall reimburse the Régie for the cost thereof.

**184.** The Commission shall fix the cost of hospital care according to the cost of similar services under the public hospital insurance plan in force in Québec, taking into account the accessibility of the health establishments and the circumstances of each case.

**185.** The Commission and the Régie de l'assurance-maladie du Québec shall enter into an agreement on the mode of reimbursement of the sums paid by the Régie for the carrying out of this Act.

## CHAPTER VI

## MEDICAL EVALUATION PROCEDURE

## DIVISION I

## GENERAL PROVISIONS

**186.** The first attending physician who examines and treats a worker who has suffered an employment injury shall immediately provide the worker, on the form prescribed by the Commission, with a certificate containing the diagnosis and

(1) where he expects the worker's employment injury to heal within fourteen full days from the date of its appearance, the foreseeable date when the injury will heal; or

(2) where he expects the worker's employment injury to take more than fourteen full days after the date of its appearance to heal, the foreseeable time the injury will take to heal.

**187.** In the case described in paragraph 2 of section 186, the attending physician shall also send to the Commission, within six days of his first examination, on the form prescribed by the Commission, a summary report containing the following particulars:

(1) the diagnosis;

(2) the nature and duration of the treatments prescribed or administered;

(3) the foreseeable time the employment injury will take to heal;

(4) the date of the next examination, if any;

(5) the fact that the worker is awaiting physiotherapeutic or ergotherapeutic treatment or awaiting hospitalization;

(6) so far as he can determine, the fact that there may be permanent sequelae.

**188.** If changes in the worker's pathological condition significantly change the nature and duration of the treatment prescribed or administered, the attending physician shall so inform the Commission immediately.

**189.** The attending physician, within ten days of receiving a request from the Commission to that effect, shall furnish a report to it containing the information required by the Commission on the development of the worker's pathological condition.

**190.** In the case of paragraph 2 of section 186, the attending physician shall, when the employment injury of the worker has healed, send to the Commission, on the form it prescribes, a final report indicating

(1) the date of healing;

(2) the percentage of the worker's permanent physical or mental impairment according to the table of bodily injuries referred to in section 83;

(3) a description of the worker's functional disability resulting from his injury;

(4) the aggravation of functional disabilities previous to those resulting from the injury, where that is the case.

The attending physician shall inform the worker of the content of his report without delay.

**191.** Where the attending physician elects to refer the worker to another physician to complete the certificate referred to in section 186 or a report described in sections 187 to 190, he shall

(1) obtain the worker's consent; and

(2) ensure himself that the other physician agrees to receive the worker without delay.

**192.** The physician to whom a worker is referred shall complete the required certificate or report and send it to the Commission within ten days of the reference.

**193.** Where the attending physician of a worker or the physician to whom a worker is referred refuses or neglects to provide the Commission with the certificate or a report he is required to provide, the Commission shall refer the worker to the physician it may designate.

The certificate or report the Commission receives from the physician is deemed, for the purposes of section 129 and this chapter, to be the certificate or report of the worker's attending physician.

The Commission shall send a copy of the certificate or report to the worker concerned.

**194.** Notwithstanding section 22 of the Health Insurance Act, a health professional who fails to furnish a certificate or report within the prescribed time loses his right to remuneration for services rendered to a worker in relation to his employment injury.

The Régie de l'assurance-maladie du Québec shall in the case of the first paragraph refuse to pay for the services or shall recover their cost by way of compensation or otherwise, as the case may be.

**195.** The health establishment where the worker has been treated shall send to the Commission, within six days of a request to that effect, a copy of the worker's record or of that part of the record that is required by the Commission and that is related to the employment injury. The Commission shall reimburse the health establishment for the cost of photocopies.

A health establishment failing to comply with the Commission's request within the prescribed time loses the right to receive payment for services provided to the worker in relation to his employment injury.

**196.** An employer may require a worker in his employ who has suffered an employment injury to be examined by the health professional he designates but in no case may he require more than one medical examination.

However, where according to the attending physician the employment injury would not be healed within fourteen full days after the date on which it appeared, no employer may require more than one medical examination per month for an assessment of when the injury will heal.

**197.** An employer who requires a worker in his employ to undergo a medical examination shall give him the reasons therefor.

The employer shall assume the cost of the examination and the expenses incurred by the worker to go for his examination.

**198.** A worker who suffers an employment injury shall undergo the examination required by his employer in accordance with sections 196 and 197.

**199.** An employer may contest the certificate or report of the attending physician of a worker who has suffered an employment injury if he obtains a report from a health professional the conclusions of which call in question the conclusions of the attending physician regarding one or several of the following subjects:

- (1) the diagnosis,
- (2) the foreseeable date or time of healing of the injury,
- (3) the fact or the degree of the worker's functional disability.

The employer shall forward a copy of the report to the Commission which shall submit it to arbitration under section 204.

**200.** The Commission may require a worker who has suffered an employment injury to be examined by the health professional it designates.

The Commission shall assume the cost of the examination and the expenses incurred by the worker to go for the examination, according to the standards and amounts it determines under section 113.

The worker shall undergo the examination required by the Commission in accordance with the first and second paragraphs.

**201.** The Commission may contest the certificate or report of the attending physician of a worker who has suffered an employment injury if it obtains a report from a health professional the conclusions of which call in question the conclusions of the attending physician regarding one or several of the following subjects:

- (1) the diagnosis;
- (2) the foreseeable date or time of the healing of the injury;
- (3) the nature, necessity, adequacy or duration of the treatments administered or prescribed;
- (4) the fact or the percentage of the worker's permanent physical or mental impairment;
- (5) the fact or the degree of the worker's functional disability.

**202.** The employer and the Commission, upon receiving the medical reports obtained by them under this division, shall send copies of them to the worker and his attending physician.

**203.** The Conseil consultatif du travail et de la main-d'oeuvre shall every year draw up a list of the health professionals who have agreed to act as referees and shall for that purpose consult the professional orders concerned.

**204.** The Commission shall submit the contestations contemplated in sections 199 and 201 to arbitration by advising the Minister of the subject of contention and providing him with the names and addresses of the parties and health professionals concerned.

**205.** The Minister shall designate a referee from among the health professionals whose names appear on the list contemplated in section 203.

The Minister shall inform the parties to the contestation, the Commission and the health professionals concerned of the name and address of the referee he has designated.

**206.** The Commission shall without delay transmit to the designated referee the complete medical record it holds on the worker in regard to his injury and, where such is the case, the report of the health professional obtained by the employer.

**207.** The referee shall study the submitted record. Where he deems it expedient, he may examine the worker or require any medical information or document from the Commission that it holds or may obtain regarding the worker.

**208.** The referee shall, in a substantiated opinion in writing, quash or confirm the diagnosis and the other conclusions of the attending physician relating to matters set out in section 199 or 201, as the case may be, and substitute therefor his own diagnosis and conclusions, where required.

**209.** The referee shall give his opinion within thirty days of the date on which the record was transmitted to him, unless the Minister, for cause, agrees to extend the time in writing, and he shall send it to the Minister without delay, with copies to the Commission and the parties.

**210.** Referees shall not be prosecuted for any act done by them in good faith in the performance of their duties.

**211.** For the purposes of rendering a decision under this Act, the Commission is bound by the diagnosis and the other conclusions established by the referee under section 208.

**212.** A referee who fails to give his opinion within the prescribed time or the time extension granted by the Minister or who fails to send it without delay shall receive no remuneration for the work he has already performed.

The Minister, where he deems it advisable, may designate another referee, in which case the original referee is no longer authorized to act.

## DIVISION II

SPECIAL PROVISIONS RESPECTING  
OCCUPATIONAL LUNG DISEASES

**213.** Where a worker files a claim with the Commission alleging that he is suffering from an occupational lung disease, the Commission shall refer him, within the next ten days, to a pneumoconiosis committee.

**214.** The Minister shall form not fewer than four pneumoconiosis committees, the function of which is to determine whether a worker is suffering from an occupational lung disease.

A pneumoconiosis committee shall be composed of three pneumologists, including the chairman, who shall be the head of the pneumology department of a hospital centre affiliated with a university in Québec.

**215.** The pneumologists are appointed for four years by the Minister from a list provided by the Collège des médecins and after consultation with the Conseil consultatif du travail et de la main-d'oeuvre.

The pneumologists remain in office notwithstanding the expiry of their term until they are reappointed or replaced.

**216.** The pneumoconiosis committee to which the Commission refers a worker shall examine him within twenty days of the Commission's request.

The committee shall make a report in writing to the Commission on its diagnosis within twenty days of the examination and, where its diagnosis is positive, it shall also include in its report its findings relating to the functional disability, the percentage of physical impairment and the worker's tolerance for a contaminant within the meaning of the Act respecting occupational health and safety that caused his disease or that is likely to expose him to a recurrence, relapse or aggravation.

**217.** Upon receiving the report, the Commission shall submit the worker's report to a special committee composed of three persons whom it shall designate from among the chairmen of the pneumoconiosis committees, except the chairman who made the report to be examined by the special committee.

The worker's record includes the report of the pneumoconiosis committee and all the documents used by the committee in arriving at its diagnosis and other findings.

The special committee shall confirm or quash the diagnosis and other findings arrived at by the pneumoconiosis committee under the

second paragraph of section 216 and substitute therefor its own diagnosis and findings, where necessary; it shall substantiate its opinion and give it to the Commission within thirty days of the date on which the Commission submitted the record to it.

**218.** No member of a pneumoconiosis committee or special committee may be prosecuted by reason of an act performed in good faith in carrying out his duties.

**219.** For the purposes of rendering a decision under this Act on the rights of a worker who files a claim with the Commission alleging that he is suffering from an occupational lung disease, the Commission is bound by the diagnosis and other findings arrived at by the special committee under the third paragraph of section 217.

## CHAPTER VII

### RIGHT TO RETURN TO WORK

#### DIVISION I

##### WORKER'S RIGHTS

**220.** This division applies to every worker who on the date he suffers an employment injury is bound by a contract of employment for an indeterminate term and who has three months or over of uninterrupted service with the same employer within the meaning of the collective agreement applicable to him or, if none, within the meaning of the Act respecting labour standards.

Notwithstanding the foregoing, this division does not apply to a worker contemplated in Division II of this chapter.

**221.** A worker who is absent from work as a result of an employment injury

(1) continues to accumulate seniority within the meaning of the collective agreement that is applicable to him, and uninterrupted service within the meaning of the agreement and the Act respecting labour standards;

(2) continues to come under the retirement and insurance plans offered in the establishment, provided he pays his share of the exigible assessment, if any, in which case his employer shall assume his own share;

(3) ceases to accumulate holidays and sick leave.

**222.** A worker who has suffered an employment injury and again becomes able to carry on his employment is entitled to be reinstated in his employment in the establishment where he was working when the employment injury appeared or in equivalent employment in that establishment or in another establishment of his employer.

**223.** Where an employer bound by a collective agreement does not reinstate a worker who has again become able to carry on his employment on the ground that the worker would have been transferred, suspended or dismissed or would have lost his employment otherwise if he had been at work, the relevant provisions of the collective agreement apply as if the worker had been at work at the time of the transfer, suspension, dismissal or loss of employment.

**224.** A worker who remains unable to carry on his employment as a result of an employment injury and who becomes able to carry on suitable employment is entitled to hold the first suitable employment that becomes available in an establishment of his employer.

The right conferred by the first paragraph is exercised subject to the rules respecting seniority prescribed by the collective agreement applicable to the worker.

**225.** The rights conferred by sections 222 to 224 may be exercised

(1) within one year following the beginning of the period of continuous absence of the worker as a result of an employment injury if he held employment in an establishment numbering twenty workers or fewer at the beginning of the period; or

(2) within two years following the beginning of the period of continuous absence of the worker as a result of an employment injury if he held employment in an establishment numbering more than twenty workers at the beginning of the period.

**226.** A worker who is reinstated in his employment or equivalent employment is entitled to the wages or salary and benefits, at the same rates and on the same conditions, as if he had continued to carry on his employment during his absence.

A worker who holds suitable employment is entitled to the salary or wages and benefits connected with that employment, taking into account the seniority and uninterrupted service he has accumulated.

**227.** A collective agreement may contain clauses respecting the implementation of the right to return to work provided for in this division.

The right to return to work of a worker is implemented in the manner prescribed by the collective agreement applicable to him, if the agreement contains the clauses provided for in the first paragraph or clauses respecting the return to work after accident or disease.

In the case of this section, a worker who believes he has been wronged in exercising his right to return to work may have recourse to the grievance procedure prescribed by the agreement.

**228.** In the absence of a collective agreement contemplated in the second paragraph of section 227, the modalities of application of a worker's right to return to work are determined by the health and safety committee established under the Act respecting occupational health and safety for the entire establishment where the employment that the worker is entitled to be reinstated in or to hold is available.

In case of disagreement on the committee or if a worker or employer is dissatisfied with the recommendations of the committee, the worker or employer may request the Commission to intervene.

**229.** In the absence of a collective agreement contemplated in the second paragraph of section 227 and where a health and safety committee has not been established for the entire establishment where the employment that the worker is entitled to be reinstated in or to hold is available, the worker and his employer shall agree on the modalities of application of the worker's right to return to work.

If the worker and the employer cannot agree, either of them may request the Commission to intervene.

## DIVISION II

### RIGHTS OF CONSTRUCTION WORKERS

**230.** This section applies to a worker who is an employee within the meaning of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) and who works on a construction site.

**231.** A worker who has suffered an employment injury and again becomes able to carry on his employment is entitled to be reinstated in his employment on the construction site where he was working when the employment injury appeared, with the employer for whom he was working at the time, provided his employment still exists.

**232.** A worker who, when he suffers an employment injury, holds a classification certificate "A" or "Apprentice" under a regulation respecting the placement of employees made under the Act respecting labour relations in the construction industry and who again becomes

able to carry on his employment is entitled to renew his certificate even if, as a result of his injury, he has not accumulated the number of working hours required under that regulation.

The Office de la construction du Québec shall issue the certificate to the worker.

**233.** No person may refuse or neglect to refer a worker for purposes of placement or refuse to hire him because he has suffered an employment injury, if the worker is again able to carry on his employment.

**234.** The modalities of application of the right to return to work of a worker contemplated in section 231 are determined by the job-site committee established under the Act respecting occupational health and safety.

Where no job-site committee exists, the worker and his employer shall agree on the modalities of application of the right.

**235.** In case of disagreement on the job-site committee or if a worker or his employer is dissatisfied with the recommendations of the committee, or if the worker and the employer do not agree between themselves on the modalities of application of the right to return to work, either the worker or his employer may request the Commission to intervene.

### DIVISION III

#### RECOURSE TO THE COMMISSION

**236.** The Commission has exclusive jurisdiction to decide any complaint filed under section 32 and any request for intervention made under sections 228, 229 and 235.

**237.** Any complaint brought under section 32 must be filed in writing within thirty days of the action, sanction or measure of which the worker complains.

**238.** The Commission may attempt to reconcile a worker who files a complaint under section 32 and his employer, if the worker consents to it.

**239.** If it is shown to the satisfaction of the Commission that the worker was the object of a sanction or action referred to in section 32 within six months of the date on which he had suffered an employment injury or the date on which he had exercised a right conferred on him by this Act, there is a presumption in his favour that the sanction was

imposed on him or the action was taken against him because he had suffered an employment injury or had exercised that right.

In the case of the first paragraph, the employer must prove that the sanction was imposed or the action taken in respect of the worker for another good and sufficient reason.

**240.** If the presumption in favour of the worker applies, the Commission may order the employer to reinstate the worker immediately in his employment with all his rights and privileges, and to pay him his wages and the other benefits connected with his employment until it decides the complaint.

**241.** Where the Commission decides a complaint filed under section 32, it may order the employer to reinstate the worker in his employment with all his rights and privileges, to cancel a sanction or to cease practising discrimination or taking reprisals against the worker, and to pay him an amount equivalent to the wages and benefits of which he was deprived.

**242.** Where a request for intervention under section 228, 229 or 235 has been referred to the Commission, the Commission shall inquire of the parties the reasons for their disagreement and attempt to reconcile them.

Where no agreement is possible, the Commission shall, before rendering a decision, inform the parties of the decision it is proposing to render and inquire of them whether they have any reasons to believe that the decision should not be rendered.

**243.** Where the Commission decides a request for intervention under section 228, 229 or 235, it may order the employer to reinstate the worker in his employment or in an equivalent employment with all his rights and privileges or to assign him the employment he should have been assigned in accordance with section 224 and to pay him an amount equivalent to the wages and benefits of which he was deprived.

**244.** The amount ordered to be paid by the Commission under section 241 or 243 is payable for the period between the day the employer should have reinstated or maintained the worker in his employment or assigned him other employment, as the case may be, and the day the order is carried out or on which the worker fails to occupy the employment designated in the order after being duly recalled by the employer.

If the worker held another employment during the period described, the wages he earned must be deducted from the amount payable to him.

If the worker has received an income replacement indemnity, it must also be deducted from the payable amount and reimbursed to the Commission by the employer.

**245.** Where the Commission orders the employer to pay to the worker an amount equivalent to the wages and benefits of which he was deprived, it may also order the payment of interest, computed from the date of filing of the complaint or of the request for intervention, on the amount payable.

The interest is computed at the rate fixed under section 28 of the Act respecting the Ministère du Revenu.

**246.** The Commission shall render its decision within sixty days of a complaint filed with it or of a request for intervention referred to it.

**247.** An employer shall comply with an order of the Commission under this division within eight days of notification thereof, even where he appeals it.

**248.** The worker concerned may file, in the office of the prothonotary of the Superior Court of the district in which the employer's establishment is situated,

(1) a decision rendered under section 240, within fifteen days of notification thereof;

(2) any decision rendered under section 241, 243 or 245 that has not been appealed, upon the expiry of the time for the appeal.

The decision of the Commission becomes executory upon its filing as in the case of a final judgment of the Superior Court, and it has every effect thereof.

## CHAPTER VIII

### CLAIMS AND NOTIFICATION PROCEDURE

**249.** A worker who suffers an employment injury or, if he is deceased or unable to act, his representative, shall notify his immediate superior or, failing him, another representative of the employer, of the injury or death, before leaving the premises if possible or, otherwise, as soon as possible.

**250.** Notification as in section 247 is sufficient if the person giving it correctly identifies the worker and describes in ordinary language the place and circumstances in which the employment injury occurred.

The employer shall help the worker to give the notification.

The Commission may put forms at the disposal of employers and workers for the purpose of giving notification.

**251.** A worker who suffers an employment injury that makes him unable to carry on his employment beyond the day on which the injury appears shall give his employer the medical certificate referred to in section 186.

If no employer is bound to pay wages or a salary to the worker under section 59, the worker shall send the report to the Commission.

**252.** An employer bound to pay a salary or wages under section 59 shall notify the Commission that the worker is unable to carry on his employment beyond the day on which the employment injury appeared and claim in writing the amount repayable to him under that section.

The employer shall give the notification and make the claim on the form prescribed by the Commission.

The form must indicate the following particulars:

(1) the worker's surname and given name, his address, and his social insurance and health insurance numbers;

(2) the name and address of the employer and of his establishment as well as the number assigned to each of them by the Commission;

(3) the date of the beginning of the worker's disability or the date of his death;

(4) the place and circumstances of the industrial accident, where that is the case;

(5) the gross income described in the worker's contract of employment;

(6) the amount payable under section 59; and

(7) if the employer contests the fact that there is an employment injury or the foreseeable date or time of healing of the injury, the grounds for his contestation.

**253.** The employer shall transmit to the Commission the form provided for in section 252, along with a copy of the medical certificate referred to in section 186, within two days after

(1) the date on which the worker returns to work if he does so within 14 full days after the beginning of his inability to carry on his employment as a result of his employment injury; or

(2) 14 full days after the beginning of the worker's inability to carry on his employment as a result of his employment injury, if he has not returned to work at the end of that period.

The employer shall give the worker a copy of the form duly filled out and signed.

**254.** A worker who suffers an employment injury that makes him unable to carry on his employment for more than 14 full days or, if he dies as a result of it, the beneficiary, shall file his claim with the Commission, on the form prescribed by it for that purpose, within six months after the beginning of his disability or from his death.

The employer shall assist the worker or, if such is the case, the beneficiary in filling out the claim and furnish him with any information necessary therefor.

The worker or, if such is the case, the beneficiary shall remit a copy of the form duly filed out and signed to the employer.

**255.** A worker who suffers an employment injury that does not make him unable to carry on his employment beyond the day on which the injury appeared or to whom no employer is bound to pay a salary or wages under section 59 shall file his claim with the Commission, on the form it prescribes for that purpose, within six months after the beginning of his inability to carry on his employment as a result of his injury, whatever may be the duration of his disability.

**256.** A worker entitled to a benefit by reason of an occupational disease or, if he dies as a result of the disease, the beneficiary shall file with the Commission the name and address of each employer for whom he has carried on employment conducive to that disease.

**257.** A worker who is informed by his attending physician of the date of healing of the employment injury he has suffered and of the fact that he will retain a certain degree of functional disability, or that he will retain no such disability, shall pass on the information to his employer without delay.

A worker referred to in Division II of Chapter VII shall also communicate the information to the Office de la construction du Québec without delay.

**258.** An employer who is informed by a worker pursuant to section 257 and who reinstates the worker in his employment or an equivalent employment shall so inform the Commission without delay.

**259.** A worker shall without delay inform the Commission that he has been reinstated in his employment or equivalent employment.

**260.** In the cases referred to in sections 258 and 259, the worker mentioned in Division II of Chapter VII, or his employer, as the case may be, shall also inform the Office de la construction du Québec without delay.

**261.** A beneficiary shall inform immediately the Commission without delay of any change in his situation that might have effect on any right he has under this Act or on the amount of an indemnity.

**262.** An employer shall keep the register furnished to him by the Commission relating to employment injuries occurring in his establishment and resulting in disability for less than one full day.

He shall present the register to the worker for his signature in the space provided therefor to certify the accident and its date.

The register belongs to the Commission, and the employer shall put it at the disposal of the Commission, transmit the copies from it to the Commission, or return it to the Commission, as it may require.

## CHAPTER IX

### FINANCING

#### DIVISION I

##### GENERAL PROVISIONS

**263.** The Commission shall collect from employers the sums required for the administration of this Act.

**264.** The sums collected and the amounts recovered by the Commission in administering this Act are part of the assets of the Commission.

**265.** The Commission shall keep separate accounts for each employer and each establishment of an employer, but the assets of the Commission are indivisible for the payment of benefits.

**266.** The Commission shall choose its manner of financing according to the method it considers appropriate to allow it to meet

its expenses as they become payable and avoid unduly burdening employers in future years with payments to be made for employment injuries which have occurred previously.

However, for the years 1984 to 1988, the Commission shall collect a sum equal to 90% of the sum sufficient to allow the payment of benefits to which beneficiaries are entitled for employment injuries that have occurred during those years respectively, then to 2% more per year for each of the five subsequent years.

For the years 1986 to 1993, the Commission shall not increase the rate of assessment by reason of an experience loss respecting employment injuries that occurred before 1 January 1985, nor by reason of a loss resulting from the application of the second paragraph.

**267.** The Commission shall make a valuation at the end of every year of the amount of the actuarial reserve required taking into account the manner of financing it has elected.

**268.** The valuation of the actuarial reserve and the actuarial valuation contemplated in section 286 shall be made by an actuary being a Fellow of the Canadian Institute of Actuaries or having equivalent status recognized by the Institute.

**269.** The sums collected by the Commission, as and when collected, shall be deposited in a bank or a savings and credit union governed by the Savings and Credit Unions Act.

**270.** Sums which the Commission does not expect to be immediately needed for the administration of this Act shall be deposited in the Caisse de dépôt et placement du Québec.

However, the Commission may use a part of the sums which it does not expect to be immediately needed to acquire, construct, lease or convert an immovable for its purposes.

**271.** For the purposes of this chapter, the gross wages of a worker for one week of work are taken into consideration up to the maximum rate of annual earnings prescribed in section 65 and divided weekly.

Any fraction of a week is considered a whole week.

## DIVISION II

### STATEMENTS TO BE FURNISHED BY EMPLOYERS, AND REGISTER

**272.** An employer shall forward to the Commission a written notice of his identity and the name and address of each of his establishments within 14 days after the beginning of his activities.

Within sixty days after the beginning of his activities, he shall forward to the Commission, for each of his establishments, the following information:

- (1) the nature of his activities;
- (2) an estimate of the gross wages that he expects to pay to his workers until the following 31 December.

**273.** The employer shall transmit written notice to the Commission of any significant change in the nature of the activities carried on in any of his establishments, within 14 days of the change.

**274.** An employer shall transmit to the Commission every year, before 1 March, a statement indicating the following particulars for each of his establishments:

- (1) the amount of the gross wages earned by his workers during the preceding calendar year, and
- (2) an estimate of the gross wages he expects to pay to his workers during the current calendar year.

The correctness of the statement is attested by a declaration signed by the employer or his representative who has personal knowledge of the matters mentioned therein.

**275.** An educational institution or the school board it comes under where such is the case shall transmit to the Commission every year a statement indicating the following particulars:

- (1) the nature and the average duration of activities carried on by a student under the responsibility of the educational institution and that are contemplated in subparagraph 1 or 2 of section 10; and
- (2) the number of students under the responsibility of the educational institution who have carried on activities contemplated in subparagraph 1 or 2 of section 10 during the preceding year and of those likely to do so during the current year.

**276.** The Government shall transmit to the Commission every year, before 1 March, a statement indicating the following particulars:

- (1) the nature of the employment carried on by a person contemplated in section 11;
- (2) the number of persons who have carried on employment contemplated in section 11 or participated in a course or in emergency measures contemplated in section 12 during the preceding year and those likely to do so during the current year; and

(3) the average duration of the employment, course or emergency measures contemplated in section 11 or 12.

**277.** An employer shall use the form prescribed by the Commission, where applicable, for the purposes of sections 272 to 276.

**278.** An employer shall keep in Québec a detailed register of the wages paid to his workers in each of his establishments.

The Government shall keep a detailed register of the names and addresses of the persons contemplated in sections 11 and 12.

An educational institution or the school board it comes under where such is the case shall keep a detailed register of the names and addresses of the persons contemplated in section 10.

Every person who keeps a register under this section shall put it at the disposal of the Commission, transmit copies from it to the Commission or return it to the Commission, as it may require.

### DIVISION III

#### CLASSIFICATION

**279.** The Commission shall determine sectors of economic activity that it shall divide into groups and, where necessary, into subgroups, and then subdivide the groups or subgroups into units of activity according to the nature of the activities and the specific risks related thereto.

**280.** For the purposes of assessment, the Commission shall classify every employer under a unit according to the sum of the activities carried on in his establishments.

For the purposes of the Act respecting occupational health and safety, the Commission shall also classify every establishment under a unit according to the sum of the activities carried on therein.

**281.** If the activities carried on by an employer or in an establishment do not appear among the units determined by the Commission, it shall classify the employer or establishment under the unit that best corresponds to those activities.

**282.** Where an employer has failed to transmit the information required as to the nature of his activities or those of his establishments, the Commission shall identify the sector, group or subgroup of activities contemplated for the employer and for each of his establishments and classify each one of them under the unit related thereto with the highest rate of assessment.

If, subsequently, the employer transmits the information allowing him to be classified, the Commission shall reclassify the employer and each of his establishments accordingly and adjust his assessment, but the employer remains liable to pay the interest resulting from delay in acting.

**283.** Where various kinds of activities are carried on by an employer or in an establishment, the Commission shall classify the employer or establishment under several units if

- (1) more than one unit exists for the activities; and
- (2) no unit exists which groups all of the activities.

To be classified under this section, the employer must transmit the statements provided for in Division II of this chapter for each of the various kinds of activities that he carries on or that are carried on in one of his establishments.

If the employer fails to transmit the statements, the Commission may classify the employer or the establishment under the unit with the highest rate of assessment.

**284.** Where several employers form a related group within the meaning of sections 17 to 21 of the Taxation Act and the services furnished by one employer of the group are mainly for the service of another employer of the same group and the services are normally an integral part of the activities of the other employer, the Commission may classify the employer furnishing the services in the same manner as the other employer.

**285.** The Commission shall notify the employer in writing of his classification and that of his establishment.

The notice constitutes a decision of the Commission.

#### DIVISION IV

##### FIXING OF ASSESSMENT

**286.** The Commission shall fix annually, according to the manner of financing that it has elected and after actuarial valuation, the rate of assessment applicable to each unit of activity.

**287.** The Commission shall assess every employer annually at the rate applicable to the unit under which he is classified, and indicate to him the amount of his assessment for each of his establishments.

Notwithstanding the first paragraph, the Commission may make an agreement with an employer to assess him more than once a year and set down for that purpose modalities of application respecting the transmission of statements and the payment of the assessment other than those prescribed in Divisions II and V of this chapter.

**288.** The Commission shall compute the amount of an assessment on the basis of the amount that the employer estimates he will expend for wages during the current year and adjust the amount of the assessment for the preceding year on the basis of the statement made by the employer of the amount of wages that he paid during that year.

**289.** Where an employer fails to transmit the statement contemplated in section 274 within the prescribed time, the Commission shall evaluate the wages earned by the workers of the employer to be 200% of those declared in his last statement to the Commission, and the wage bill that he should have estimated to be 250% of that in the last statement.

If the employer has never transmitted such a statement, the Commission may evaluate the wages earned by his workers and the wage bill he should have estimated by multiplying the number of workers the Commission knows he has by the maximum rate of annual earnings established under section 65.

If the employer subsequently transmits the required statement, the Commission shall adjust the amount of the wages and fix the corresponding assessment, but the employer remains liable to pay the interest resulting from the delay.

**290.** An employer who should have been assessed for a year and was not remains liable to pay to the Commission the amount for which he should have been assessed for the year and the interest on the amount.

**291.** Where the difference between the salaries or wages actually paid for a year by an employer and the estimate he furnished for the same year in accordance with section 272 is greater than 25% of the estimate, the Commission shall charge him the interest on the difference between the amount of the assessment that he should have paid and the amount that he did pay, from 1 March of the year for which the insufficient estimate was filed or, where such is the case, from the sixty-first day after the beginning of the activities of an employer contemplated in section 272.

Notwithstanding the foregoing, where an employer corrects his insufficient estimate before 31 October of the year for which it was filed and pays to the Commission the difference between the amount of the assessment that he should have paid for the year and the amount

he did pay, the Commission may consider the new estimate for the purposes of determining the percentage contemplated in the first paragraph if the employer substantiates the reasons for which he could not, at the prescribed time, make a sufficient estimate of the salaries and wages he estimated he would pay for the year.

**292.** The Commission may establish the amount of the assessment of

(1) the employer of a self-employed worker contemplated in section 9, according to the proportion of the price agreed upon for the work he carries out that corresponds to the cost of labour;

(2) the employer of a voluntary worker or the government as employer of a person contemplated in section 11 or 12, according to the minimum wage in force on 31 December of the year during which the work was carried out;

(3) the employer of a student contemplated in section 10, as a lump sum determined by it.

**293.** The Commission may increase the rate of assessment of all the units or impose a supplementary assessment on all the employers to make up a deficit caused by a disaster or by the failure of certain employers to pay their assessment.

The supplementary assessment is considered in all respects as a regular assessment.

**294.** The Commission may increase the rate of assessment of one, several or all the units or add to the assessment imposed on one, several or all the employers, as it considers fair, a percentage or additional amount in order to create a reserve to pay costs due to

(1) circumstances that, in its opinion, would entail too great an increase in the rate of assessment of a unit of activity;

(2) occupational diseases and protective re-assignments provided by the Act respecting occupational health and safety.

**295.** The Commission may fix a minimum assessment.

**296.** The Commission may adopt by regulation a system of merit or demerit rating for assessing an employer on the basis of the classes of employers it designates.

## DIVISION V

## PAYMENT OF THE ASSESSMENT

**297.** The employer shall pay the amount of his assessment to the Commission within thirty days after the mailing of the notice of assessment.

Notwithstanding the first paragraph, the Commission may allow that part of the assessment that it computes on the basis of the estimate which the employer transmits to it in accordance with subparagraph 2 of section 274 to be paid in a maximum of 6 monthly payments, including the amount of interest due for the staggering of payments.

If an employer fails to pay the part of the assessment due for the previous year on the due date, he is not entitled to avail himself of the second paragraph.

**298.** The Commission may demand payment of the assessment of an employer who is a contractor from the employer who retains his services.

In the case of the first paragraph, the Commission may establish the amount of the assessment according to the proportion of the price agreed upon for the work corresponding to the cost of labour, rather than the wages indicated in the statement made according to section 274.

The employer who has paid the amount of the assessment is entitled to be reimbursed by the contractor concerned and the employer may retain the amount due out of the sums that he owes the contractor.

**299.** The Commission, within 4 years after the day of mailing of a notice of assessment, may redetermine the assessment and interest payable by an employer for any period included in that time and consequently make a new assessment.

The time prescribed in the first paragraph does not apply where an employer or his representative has falsely represented facts by willful negligence or omission or has committed a fraud in filing a statement or furnishing information required by this chapter.

A new assessment may be made under this section notwithstanding section 341.

**300.** When at the commencement of the activities of an establishment it appears that they will be exercised for a period of less than 12 months, the Commission may require the employer of the establishment to pay or guarantee the payment to it of a sum sufficient to cover the payment of the assessment due for the period.

The Commission may recover the sum as if it were an assessment.

**301.** If an employer fails to furnish the documents required by sections 272 to 276 within the prescribed time, he shall pay, as interest, a sum equal to the aggregate of

(1) for the first month of delay, 5% of the assessment that he should have paid; and

(2) for subsequent months of delay, the interest on the assessment he should have paid.

**302.** If an employer fails to pay his assessment within the prescribed time, he shall pay, as interest, 5% of the unpaid amount for the first month of delay and the interest on that amount for subsequent months of delay.

**303.** If an employer refuses or neglects to forward to the Commission the documents required by Division II of this chapter or neglects or refuses to pay an assessment in the manner and within the prescribed time, he may in addition be required to pay to the Commission an amount equal to 10% of the cost of the benefits for an employment injury suffered by one of his workers while he is so in default.

In no case may the amount be less than \$100.

For the purposes of this section, the Commission shall convert the cost of benefits into a capital sum representing the payments to become due and issue a corresponding notice of assessment.

**304.** Where an employer fails to pay an assessment, interest or the cost of benefits he is liable to pay under section 303, the Commission may, at the expiry of the period for payment, issue a certificate attesting

(1) the name and address of the debtor;

(2) the amount due;

(3) the rate of interest applicable on the amount until payment in full; and

(4) the exigibility of the debt.

Upon deposit of the certificate with the clerk of the court of competent jurisdiction, the decision of the Commission becomes executory as if it were a final decision without appeal of the court and has all the effects of such a decision.

**305.** For the purposes of this chapter, the Commission shall apply for any year the rate of interest fixed according to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) in force on 30 September of the previous year.

The rate of interest is apportioned monthly and remains the same for every month of the year.

For the purposes of computing interest, any part of a month is considered a whole month.

The interest is not capitalized.

**306.** The amounts due under this chapter constitute a privileged claim of the Commission on the movable and immovable property of the employer, ranking immediately after law costs.

The privilege of the Commission on the immovable property of the employer must be registered in the manner provided in article 2121 of the Civil Code.

**307.** The notice of assessment, including the amount of interest imposed on the employer, constitutes a decision of the Commission.

## DIVISION VI

### ASSIGNMENT OF COSTS

**308.** The Commission shall impute to the employer the cost of benefits payable by reason of an industrial accident and post it to the account of the establishment in which the worker held his employment at the time of the accident.

It may also impute the cost of benefits payable by reason of an industrial accident to the employers of one, several or all units if the imputation under the first paragraph would have the effect of causing an employer to support unduly the cost of benefits due by reason of an industrial accident imputable to a third person or unduly burdening an employer.

**309.** The Commission shall impute to the employers of all the units the cost of medical aid benefits due by reason of an employment injury that entails disability for less than one full day.

**310.** In the case of an occupational disease, the Commission shall impute the cost of the benefits to the employer for whom the worker carried on employment of a kind that would induce the disease.

If the worker carried on the employment for more than one employer, the Commission shall impute the cost of benefits to all employers for whom the worker carried on the employment, in proportion to the duration of his employment with each of the employers.

Where the cost is not imputable to one of the employers for whom the worker carried on employment of a kind that would induce his occupational disease because the employer no longer exists or where the imputation would have the effect of unduly burdening the employer, the Commission shall impute the proportion of the cost of benefits imputable to the employer to the employers of all the units.

**311.** In the case of a worker already handicapped when his employment injury appears, the Commission may impute all or part of the cost of the benefits to the reserve provided for in section 294.

**312.** The Commission may impute the cost of benefits due as a result of a disaster to the reserve provided for in paragraph 1 of section 294.

**313.** Where the Commission imputes the cost of benefits to an employer, it shall so notify him in writing.

The notice constitutes a decision of the Commission.

## CHAPTER X

### SPECIAL PROVISIONS FOR EMPLOYERS HELD PERSONALLY RESPONSIBLE FOR THE PAYMENT OF BENEFITS

**314.** An employer operating an interprovincial or international railway transport or shipping firm is personally liable for the payment of benefits awarded by the Commission for any industrial accidents that occur in that firm or any occupational diseases contracted in such firm.

Chapter IX does not apply to the employer, except to the extent indicated in section 327, and any other provisions of the said Act which are consistent with this chapter apply to that employer and his workers, *mutatis mutandis*.

**315.** An employer who is personally liable for the payment of benefits shall transmit to the Commission, within 14 days of the commencement of his activities, a written notice indicating his identity and the names and addresses of each of his establishments located in Québec which are used in operating his interprovincial or international railway transport or shipping firm.

**316.** An employer who is personally liable for the payment of benefits is required to insure his workers against employment injuries for benefits equal to those provided for in this Act or to provide, to the satisfaction of the Commission, security or another guarantee to the same effect.

The employer shall file with the Commission, within the time it indicates, proof of his insurance, security or guarantee.

**317.** An employer who fails to comply with his obligations under section 314 ceases to be governed by this chapter and becomes subject to Chapter IX.

**318.** If a worker suffering from an occupational disease has carried on more than one kind of work that would induce his disease, of which at least one kind of work was for an employer who is personally liable for the payment of benefits, the Commission shall determine by whom the benefits are to be paid and shall determine each employer's share.

If the worker is no longer in the employ of the employer who is personally liable for the payment of benefits for whom he carried on a kind of work of a kind that would induce his disease, the employer shall pay each year to the Commission or to the employer who is required to pay the benefits, as the case may be, the share the Commission allocated to him, within 30 days of mailing a written notice given to him by the Commission to that effect.

**319.** If the employer contemplated in the second paragraph of section 318 fails to make the required payment to the Commission, the Commission may claim reimbursement thereof as if it were an assessment.

If the employer fails to make the payment required to another employer, the other employer may claim reimbursement thereof from him by taking the appropriate civil action.

**320.** An employer who is personally liable for the payment of benefits may enter into an agreement with the beneficiary concerning the mode of payment of the income replacement indemnity or the death benefit provided for in the first paragraph of section 100; the agreement takes effect only with the Commission's approval.

Failing an agreement approved by the Commission, it may require the employer to pay an indemnity according to the mode of payment specified by the Commission in accordance with Division VI of Chapter III.

**321.** A final decision awarding an indemnity payable by an employer who is personally liable for the payment of benefits may be filed in the office of the court of competent jurisdiction by the Commission or the beneficiary concerned.

On filing, the decision becomes executory as if it were a final judgment without appeal of the court and has all the effects of such a judgment.

**322.** The Commission shall claim from an employer who is personally liable for the payment of benefits to a worker the amount of benefits for medical aid and rehabilitation it has furnished to the worker, by means of a notice in writing indicating

- (1) the surname and given name of the worker;
- (2) the date, nature and amount of benefits provided; and
- (3) the employer's right to apply for administrative review of the decision.

For the purposes of payment, computation of interest and determining the due date and, where such is the case, contestation, the notice constitutes a notice of assessment.

**323.** The Commission may require an employer who is personally liable for the payment of benefits, his insurer, or his surety to deposit sums out of which it may pay the benefits to which the workers for the employer are entitled.

The deposit may be maintained for as long as the benefits are payable and the sums deposited must be equal to all the benefits the employer is personally liable to pay for a period of three months.

**324.** The Commission may pay to the beneficiary the benefits owing by an employer who is personally liable for the payment of benefits where the employer and his insurer or surety have disappeared or are insolvent.

**325.** The Commission shall levy, each year, from employers who are personally liable for the payment of benefits, an assessment to defray the general costs resulting from the application of this chapter.

The assessment shall correspond to a percentage of the cost of the benefits payable by each employer.

For the purposes of this section, the Commission may fix a minimum assessment.

**326.** The Commission may also levy, each year, from the employers who are personally liable for the payment of benefits until the sums it has paid under section 324 and the interest on them have been fully reimbursed, an additional assessment not exceeding 25% of the general costs resulting from the application of this chapter for the taxation year.

The interest is determined in accordance with section 305.

**327.** Division V of Chapter IX applies to the payment of an assessment or an additional assessment levied from an employer who is personally liable for the payment of benefits, with the exception of the second and third paragraphs of section 297 and sections 301 and 303.

**328.** An employer who is personally liable for the payment of benefits and who has paid to a beneficiary a benefit to which he is not entitled or of a greater amount than he is entitled to may claim reimbursement thereof by taking the appropriate civil action.

**329.** An employer who is personally liable for the payment of benefits may exercise the recourse in subrogation conferred on the Commission in section 423; section 424 applies to him in this case.

**330.** An employer who is personally liable for the payment of benefits may apply to the Commission to cease to be governed by this chapter and to be subject to Chapter IX.

The Commission may, if it accepts an employer's application pursuant to the first paragraph, charge to its assets the obligations resulting from accidents that occurred before the change, on the remittance, by the employer, his insurer or surety, of a reserve established to pay for the benefits owing for each of those accidents.

## CHAPTER XI

### JURISDICTION OF THE COMMISSION AND RIGHT OF APPEAL

**331.** The Commission has exclusive jurisdiction to decide any matter or question contemplated in this Act unless a special provision gives the jurisdiction to another person or agency.

**332.** Except on a question of jurisdiction, no proceedings under article 33 of the Code of Civil Procedure nor any extraordinary recourse within the meaning of the said Code may be taken, nor any provisional remedy be ordered against the Commission by reason of an act performed or decision rendered pursuant to an Act under its administration.

**333.** The Commission shall render its decisions according to equity and upon the real merits and justice of the case.

The Commission is not bound to follow the ordinary rules of evidence in civil matters; it may, by any legal means which it sees fit, inquire into the matters it is empowered to investigate.

**334.** The Commission may, on such grounds as it considers reasonable, extend any time period granted in this Act for the exercise of a right.

**335.** No proceedings brought pursuant to this Act may be deemed null or dismissed for defect of form or irregularity.

**336.** Decisions of the Commission must be in writing, substantiated and notified to the interested parties.

Notwithstanding the foregoing, where the Commission grants a benefit, the stub of the cheque drawn in payment of the benefit constitutes a written and substantiated decision if it mentions

(1) the surname and given name of the beneficiary and the record number assigned to him by the Commission;

(2) the date of the event that gives rise to the payment;

(3) the object of the payment and, in the case of an income replacement indemnity, death benefit provided for in the first paragraph of section 100 or benefit for personal home assistance, the period for which the payment is made;

(4) the amount of the benefit;

(5) the data used as a basis for computing the benefit;

(6) the date of the next cheque drawn in payment of an income replacement indemnity, death benefit provided for in the first paragraph of section 100 or benefit for personal home assistance, where such is the case, or the fact that the cheque constitutes the final payment for the indemnity or benefit.

**337.** Decisions of the Commission need not be signed but the name of the person who rendered a decision must appear thereon.

**338.** The Commission may authorize a person required to transmit to it a notice, report, statement or other document to send it by means of a magnetic medium or an electronic system.

**339.** A decision of the Commission awarding an income replacement indemnity, the death benefit provided for in the first paragraph of section 100 or in section 106 or an indemnity for funeral expenses or for the cost of transporting the body of a worker, a decision rendered under section 135 or under Division III of Chapter VII, a notice of classification and a notice of assessment are executory immediately, notwithstanding administrative review or appeal.

Any other decision of the Commission has effect on the expiry of the period for applying for administrative review or of the time for appeal, or, if the application has been made or the appeal brought, on the day of the final decision confirming that decision.

**340.** A person who believes he has been wronged by a decision rendered by the Commission under this Act may, within 30 days of notification of the decision, apply to the Commission for an administrative review.

Notwithstanding the first paragraph, a person wishing to contest a decision of the Commission solely with respect to a question of a medical nature to which the Commission is bound under section 211 or 219 or a decision of the Commission rendered under Division III of Chapter VII has no right to apply for administrative review of the decision.

**341.** The Commission may also within the time prescribed in section 338 review of its own motion a decision which may be the object of an application for administrative review.

**342.** In no case may the person who rendered the decision under administrative review review the decision himself.

**343.** The Commission, before rendering its decision following administrative review, shall inform the parties of the decision it proposes to render and ask them if there are any reasons why they consider the decision should not be rendered.

**344.** A decision rendered following administrative review cancelling an income replacement indemnity or reducing the amount thereof, cancelling the death benefit provided for in the first paragraph of section 100 or which causes a change in the classification or assessment of an employer has effect on the expiry of the time for appeal or, if an appeal is brought, on the day of the final decision confirming that decision.

Any other decision rendered following administrative review has effect immediately, notwithstanding appeal.

**345.** A person who believes he has been wronged by a decision rendered following administrative review may, within 60 days of notification, bring an appeal before the board of appeal.

**346.** A person wishing to contest a decision of the Commission solely with respect to a question of a medical nature to which it is bound to under section 211 or 219 may, within 60 days of notification, bring an appeal before the board of appeal.

**347.** A person who believes he has been wronged by a decision of the Commission rendered pursuant to Division III of Chapter VII may, within 30 days of notification of the decision, appeal therefrom to the board of appeal.

**348.** Where a decision of the Commission rendered following administrative review or a decision of the board of appeal cancels an income replacement indemnity or reduces the amount thereof or cancels the death benefit provided for in the first paragraph of section 100, the sums already paid to a beneficiary are not recoverable unless they were obtained through bad faith.

**349.** If a decision of the Commission rendered following administrative review or a decision by the board of appeal acknowledges the right of a beneficiary to a benefit which he had been refused initially, increases the amount of a benefit or causes the employer to be reimbursed, the Commission shall pay to him the interest accrued

(1) from the date of the initial decision in the case of an indemnity payable to a beneficiary;

(2) from the date on which he made the overpayment in the case of a reimbursement to the employer.

The interest is determined in accordance with section 305 and, in the case contemplated in paragraph 1 of the first paragraph, is part of the indemnity.

**350.** The Commission may, of its own initiative or at the request of a person concerned, review a final decision it rendered and render the decision that should have been rendered, in the following cases:

(1) where the decision to be reviewed has been rendered upon documents that have only been discovered since then to be false or following fraud by a person other than the plaintiff;

(2) where, since the decision, decisive documents have been discovered whose production had been prevented by a circumstance of irresistible force or because of the act of a person other than the plaintiff; or

(3) where, since the decision, new evidence has been discovered and it appears that

(a) if it had been brought forward in time, the decision would probably have been different;

(b) it was known to neither party; and

(c) it could not, with all reasonable diligence, have been discovered in time.

**351.** A decision rendered pursuant to section 350 has effect immediately. In no case may it be submitted for administrative review but it may be appealed under this chapter within the time and on the conditions prescribed therein.

Sections 348 and 349 apply to the decision from the expiry of the time for appeal if no appeal has been brought.

## CHAPTER XII

### COMMISSION D'APPEL EN MATIÈRE DE SANTÉ ET DE SÉCURITÉ DU TRAVAIL

#### DIVISION I

##### ESTABLISHMENT OF THE BOARD OF APPEAL

**352.** A board of appeal, called the “Commission d’appel en matière de santé et de sécurité du travail”, is hereby established.

**353.** The board of appeal is composed of not fewer than 12 commissioners, including a president and several vice-presidents, appointed by the Government for a term of not over five years.

**354.** The board of appeal has its corporate seat at the place determined by the Government; a notice of the location or any change of location of the corporate seat is published in the *Gazette officielle du Québec*.

The board of appeal has an office in each administrative region in which the Commission has a regional office.

**355.** The commissioners, except the president and vice-presidents, are assigned to the various administrative regions of Québec.

**356.** The Government, by regulation, may establish a procedure for selecting commissioners, other than the president and the vice-presidents and, in particular, prescribe the creation of a selection committee for that purpose.

Where a selection committee is created, the president or vice-president designated by it is *ex officio* a member of the committee.

A regulation made under this section comes into force on the tenth day after its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

**357.** Before taking office, a commissioner, other than the president or vice-president, shall make the oath or solemn affirmation provided in Schedule V before the president or vice-president.

**358.** Before taking office, the president and vice-presidents shall make the oath or solemn affirmation provided in Schedule VI before the chief judge, the senior associate chief judge or the associate chief judge of the Provincial Court.

**359.** The commissioners remain in office, notwithstanding the expiry of their term, until they are reappointed or replaced.

The selection procedure determined by regulation does not apply at the time of renewal of a term of office.

**360.** The commissioners appointed pursuant to section 353 shall devote themselves exclusively to the duties of their office.

**361.** The Government shall determine the salary and, where such is the case, the additional salary, fees or allowances of the commissioners and the indemnities to which they are entitled.

**362.** The president shall designate the commissioner responsible for the administration of an office of the board of appeal.

**363.** The president may appoint full-time assessors to advise and sit with the commissioners.

**364.** The president, to expedite the business of the board of appeal, may assign a commissioner to a region other than that to which he was assigned at the time of his appointment.

**365.** The president, to expedite the business of the board of appeal, may appoint part-time assessors and fix their fees.

The president may also, for the same reason, designate part-time commissioners from a list prepared by the Government after consultation with the Conseil consultatif du travail et de la main-d'oeuvre.

The selection procedure determined by regulation does not apply to part-time commissioners.

**366.** The president is responsible for the administration and the general management of the board of appeal.

For the purposes of this section, the president shall periodically consult the vice-presidents and commissioners who are responsible for the administration of an office.

**367.** The president shall coordinate, distribute and supervise the work of the commissioners and, in that respect, they are required to submit to his orders and directives.

**368.** The president may, after consultation with the commissioners, establish norms and amounts concerning the costs and allowances of witnesses.

**369.** The president may delegate all or part of his powers to a vice-president.

If the president is absent or unable to act, he is replaced by a vice-president designated by the Minister.

**370.** In no case may the commissioners or assessors, under pain of forfeiture of office, have a direct or indirect interest in any undertaking causing their personal interest to conflict with their duties of office unless where the interest devolves to them by succession or gift, provided they renounce or dispose of it with dispatch.

**371.** The majority of the commissioners appointed pursuant to section 353 may at a meeting called for that purpose by the president adopt a code of ethics for commissioners and assessors.

The board of appeal shall publish a draft of the code of ethics it wishes to adopt in the *Gazette officielle du Québec* with a notice that on the expiration of 60 days from the notice it will be adopted with or without amendment by the board of appeal and submitted to the Government for approval.

The code comes into force ten days after the date of publication in the *Gazette officielle du Québec* of the order approving it or, if it has been amended by the board of appeal or the Government, of the order and the final text of the code, or on any later date fixed in the order.

**372.** Full-time assessors, the secretary and the other employees of the board of appeal are appointed and remunerated in accordance with the Civil Service Act (R.S.Q., chapter F-3.1).

**373.** No proceedings may be brought against the commissioners, assessors or employees of the board of appeal by reason of an act performed in good faith in the exercise of their duties.

**374.** The minutes of the sittings approved by the board of appeal and certified by the president, a vice-president, the secretary or, where such is the case, the person designated by the president to perform that duty for a region, are authentic.

Copies of the documents signed by the president, a vice-president, the secretary or, where such is the case, the person designated by the president to perform that duty for a region also are authentic.

**375.** Not later than 30 June each year, the board of appeal shall transmit to the Minister a report of its activities for the fiscal period ending on the preceding 31 March.

In the report, the board of appeal may make recommendations on the Acts, regulations, policies, programs and administrative practices on which it hears appeals.

The Minister shall table the report in the National Assembly within 30 days after receiving it if it is in session or, if it is not sitting, within 30 days after the opening of the next session or resumption.

**376.** The board of appeal shall establish a central bank of jurisprudence and a computerized minute book and take the necessary measures to render them available in each of its offices.

**377.** The board of appeal shall periodically publish a collection of typical decisions it has rendered.

It may omit the names of persons involved where it considers that a decision contains confidential information the disclosure of which could be prejudicial to the persons.

[[**378.** The sums required for the application of this chapter are taken out of the consolidated revenue fund to the extent determined by the Government for the fiscal periods 1984-85 and 1985-86 and for the following fiscal periods, out of the sums voted annually for such purpose by the Legislature.

The Commission shall annually reimburse to the Minister of Finance the cost of the application of this chapter according to the modalities determined by the Minister of Finance.]]

**379.** The books and accounts of the board of appeal shall be audited by the Auditor General each year and also whenever ordered by the Government.

## DIVISION II

### JURISDICTION

**380.** The board of appeal shall hear and dispose exclusively of

(1) appeals brought under sections 345 to 347 and 351 of this Act;

(2) appeals brought under sections 37.3 and 193 of the Act respecting occupational health and safety.

If the object of an appeal brought under section 37.3 of the Act respecting occupational health and safety is the closing, in whole or in part, of a workplace or the exercise of the right of refusal, or under section 193 of the said Act, the appeal must be heard and decided by preference.

**381.** The board of appeal may confirm the decision or the order brought before it; it may also quash the decision or the order and shall in that case render the decision or make the order that should have been given initially.

**382.** Where the board of appeal ascertains, on examining the notification of appeal and the decision appealed from that the authority in question failed to decide a question the law required it to settle, it may of its own motion, if the date for the hearing of the appeal has not been set, issue an order to return the case to that authority for decision.

The new decision may be appealed from to the board of appeal in the same manner and within the same time as if it were the initial decision.

**383.** A commissioner has competence to hear and decide alone an appeal within the jurisdiction of the board of appeal.

The decision of the commissioner constitutes the decision of the board of appeal.

**384.** The president, if he considers it advisable, may assign one or several assessors to a commissioner.

The president may also, if he considers it advisable owing to the complexity or importance of an appeal, designate three commissioners to hear it, one of whom shall preside at the proof and hearing.

In the case of the second paragraph, the decision of the board of appeal is taken by a majority of the designated commissioners.

**385.** Every decision of the board of appeal must be in writing and substantiated, and notified to the parties and to the Commission.

Decisions are final and without appeal and every person contemplated in the decision shall comply therewith without delay.

**386.** The board of appeal may, for cause, review or revoke a decision or an order it has rendered.

### DIVISION III

#### POWERS

**387.** A commissioner has all the powers necessary for the exercise of his jurisdiction.

He may rule on any question of law or of fact.

**388.** A commissioner is 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.

**389.** Except on a question of jurisdiction, no proceedings under article 33 of the Code of Civil Procedure nor any extraordinary recourse within the meaning of the said Code may be taken, nor any provisional remedy be ordered against the board of appeal or one of its commissioners acting in his official capacity.

A judge of the Court of Appeal may annul summarily, upon a motion, any action granted, any writ, order or injunction issued or granted contrary to this section.

**390.** A commissioner may sit at any place in Québec and even on a holiday.

Where a commissioner holds a hearing in a locality where the Provincial Court sits, the clerk of the court shall allow the commissioner to use the premises used by the Provincial Court free of charge unless it is sitting there at that time.

**391.** A commissioner may award the expenses and allowances of witnesses according to the norms and amounts established by the president.

The commissioner may order the Commission or, if he considers the appeal frivolous, the appellant, to assume all or part of the cost of the expenses and allowances of witnesses.

**392.** The majority of the commissioners appointed pursuant to section 353 may, at a meeting called for that purpose by the president, adopt rules of evidence, procedure and practice applicable to the conduct of the proceedings and the hearing of cases before the board of appeal.

The board of appeal shall publish in the *Gazette officielle du Québec* a draft of the rules it wishes to adopt with a notice that at the expiry of 60 days following the notice, they will be adopted by the board of appeal with or without amendment and submitted to the Government for approval.

The rules come into force on the tenth day after publication in the *Gazette officielle du Québec* of an order approving them or, if they are amended by the board of appeal or by the Government, of the order and their final text or on any later date fixed in the order.

#### DIVISION IV

##### PROOF AND PROCEDURE

**393.** An appeal is brought by means of a written declaration filed in the office of the board of appeal of the region in which the residence of the worker is located or if no worker is party to the appeal, of a region in which the employer has an establishment.

**394.** The declaration must

- (1) identify the decision or the order appealed from;
- (2) contain a summary account of the grounds invoked in support of the appeal;
- (3) contain any other information required by the rules of evidence, procedure and practice of the board of appeal.

**395.** The board of appeal may, on reasonable grounds and appropriate conditions, extend a time limit or relieve one party from the consequences of his failure to comply with it, if the other party suffers no prejudice thereby.

**396.** Upon receipt of a declaration of appeal, the board of appeal shall issue a copy to every party against whom the appeal is brought and the Commission.

Once the Commission has received a copy of the declaration, it shall transmit to the board of appeal three copies of the entire record in its possession respecting the matter that is the subject of the appeal and a copy of that record to each of the parties.

If the record contains computerized documents, the Commission shall transmit a written and intellegible transcript thereof.

**397.** No proceedings instituted under this chapter may be deemed null or dismissed for defect of form or irregularity.

**398.** If the parties to an appeal consent thereto, the board of appeal may give an assessor the responsibility of meeting them and attempting to reach an agreement.

**399.** Several appeals, whether or not the same parties are involved, in which the matters in dispute are substantially the same or which could appropriately be joined, may be joined by order of the president on such conditions as he may fix.

**400.** The board of appeal, before rendering a decision on an appeal, shall give the parties an opportunity to be heard and for such purpose shall give them prior notice of the proof and hearing.

Where possible, the hearing shall be set for a time and date that will allow the parties and their witnesses to attend without too much disruption of their ordinary activities.

**401.** In the absence of any provision applicable to a particular case, the board of appeal may, in any case submitted to it, compensate by making an order consistent with this Act and the rules of evidence, procedure and practice.

**402.** A party wishing to hear witnesses and file documents shall proceed in the manner prescribed in the rules of evidence, procedure and practice of the board of appeal.

**403.** A party is entitled to be represented at the proof or hearing by the person of his choice.

**404.** If a duly notified party does not attend or refuses to be heard, the board of appeal may nevertheless proceed to hear the case and render a decision.

**405.** A commissioner may visit the premises or order an expert appraisal by a qualified person designated by him to examine and assess the facts of the case referred to him.

The owner and the lessee of premises that a commissioner wishes to visit shall facilitate his access thereto.

**406.** A party or the Commission may file a decision rendered in appeal by the board of appeal in the office of the prothonotary of the Superior Court of the district in which the appeal was brought.

Upon filing, the decision of the board of appeal becomes executory as if it were a final judgment of the Superior Court without appeal and has all the effects thereof.

## CHAPTER XIII

### REDRESS

#### DIVISION I

##### RECOVERY OF BENEFITS

**407.** Subject to sections 126 and 348, a person who has received a benefit 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 Commission.

**408.** The Commission may recover the amount of the debt within 3 years of payment of the debt not owed or in the case of bad faith, within one year following the date on which the Commission became aware of the fraud.

**409.** The Commission shall give a formal notice to the debtor stating the amount and reasons for the due date of the debt and the right of the debtor to apply for administrative review of the decision.

The formal notice interrupts the prescription provided for in section 408.

**410.** The debt is exigible on the expiry of the time for applying for administrative review or bringing an appeal or, if the application has been made or the appeal brought, on the day of the final decision confirming the decision of the Commission.

**411.** If the debtor is also the creditor of an income replacement indemnity, the Commission may deduct up to 25% from the amount of the indemnity if the debtor has no dependants, up to 20% if he has one dependant and up to 15% if he has more than one dependant unless the debtor consents to the Commission deducting more.

**412.** If the debtor fails to reimburse the debt, the Commission may, 30 days after the due date of the debt or from that date if it is of the opinion that the debtor is attempting to evade payment, issue a certificate attesting

- (1) the surname and address of the debtor,
- (2) the amount of the debt, and
- (3) the date of the final decision fixing the due date of the debt.

**413.** Upon filing of the certificate in the office of the court of competent jurisdiction, the decision of the Commission or the board of appeal becomes executory as if it were a final decision without appeal of such court and has all the effects of such a decision.

**414.** The Commission may, even after filing the certificate, remit the debt if it considers it fair to do so, in particular by reason of the debtor's good faith or his financial position.

## DIVISION II

### CIVIL LIABILITY

**415.** No worker who has suffered an employment injury may institute a civil liability action against his employer by reason of his employment injury.

**416.** In no case may the beneficiary of a worker who dies by reason of an employment injury, may institute a civil liability action against the employer of the worker by reason of the death.

**417.** A person with whom a student is undergoing an unremunerated training period benefits from the immunity granted by sections 415 and 416.

**418.** No beneficiary may bring a civil liability action, by reason of an employment injury, against an employer governed by this Act other than the employer of the injured worker, except

(1) where the fault of the employer constitutes an offence or indictable offence within the meaning of the Criminal Code (R.S.C. 1970, chapter C-34);

(2) to recover the amount by which the loss sustained exceeds the benefit;

(3) in the case of a person responsible for an injury or a disease contemplated in section 31; or

(4) in the case of an employer who is personally liable for the payment of benefits.

A civil liability action for a fault contemplated in subparagraph 1 of the first paragraph may be instituted within 6 months of the admission of guilt or the final conviction.

**419.** No beneficiary may bring a civil liability action, by reason of an employment injury, against a worker or a mandatary of an employer governed by this Act for a fault committed in the performance of his duties.

**420.** A beneficiary who may bring a civil liability action must elect to do so and notify the Commission thereof within 6 months of the industrial accident of the date on which it was medically established and brought to the knowledge of the worker that he was suffering from an occupational disease or, as the case may be, of the death resulting from an employment injury.

Notwithstanding the first paragraph, a beneficiary who may bring a civil liability action for a fault contemplated in subparagraph 1 of the first paragraph of section 418 must elect to do so and notify the Commission thereof not later than 6 months after the date of the admission of guilt or the final conviction.

If the beneficiary fails to elect, he is presumed to have renounced the benefits provided in this Act.

**421.** If the beneficiary contemplated in section 420 elects to bring a civil liability action and collects a sum less than the amount provided for in this Act, he is entitled to a benefit for the difference.

**422.** If the beneficiary contemplated in section 420 elects to claim a benefit under this Act, he is entitled to recover from the person liable for it the amount by which the loss sustained exceeds the benefit.

**423.** A claim made by a beneficiary from the Commission subrogates it of right to the rights of the beneficiary against the person responsible for the employment injury up to the amount of benefits it has paid and the capital sum representing the benefits to become due.

No agreement having the effect of depriving the Commission of all or part of its recourse in subrogation may be set up against it unless it ratifies the agreement.

**424.** The action brought by the beneficiary against the person responsible for an employment injury interrupts, in favour of the Commission, the prescription enacted by articles 1056 and 2262 of the Civil Code.

## DIVISION III

## REDRESS UNDER OTHER PLANS

**425.** A person to whom the Commission pays an income replacement indemnity or a total disability benefit under an Act administered by it and who, by reason of a new event, claims such indemnity or benefit under the Automobile Insurance Act or an Act administered by the Commission other than that under which he is already receiving the indemnity or benefit, is not entitled to both one and the other indemnity for the same period.

The Commission shall continue to pay to the person the income replacement indemnity or the total disability benefit that he is already receiving, where required, while awaiting the determination of the entitlement to and the amount of benefits payable under each of the applicable Acts.

**426.** The Commission shall reach an agreement with the Régie de l'assurance automobile du Québec to settle a mode of processing claims made under the Automobile Insurance Act by the persons contemplated in section 425.

The agreement must make possible to

(1) distinguish between the damages resulting from the new event and those attributable to the employment injury, to the injury sustained by the rescuer within the meaning of the Act to promote good citizenship or to the indictable offence sustained by the victim within the meaning of the Crime Victims Compensation Act, as the case may be;

(2) determine accordingly the entitlement to and the amount of the benefits payable under each of the applicable Acts;

(3) determine the benefits each agency is required to pay and specify the cases, amounts and modalities of reimbursement among them.

**427.** Where a person contemplated in section 425 claims an income replacement indemnity under the Automobile Insurance Act, the Commission and the Régie de l'assurance automobile du Québec shall, in carrying out the agreement contemplated in section 426, jointly render a decision which distinguishes between the damages attributable to each event and determine the corresponding entitlement to and amount of the benefits 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 to promote good citizenship or the Crime Victims Compensation Act, as the case may be, or under the Automobile Insurance Act.

An appeal brought under one of the Acts referred to in the first paragraph prevents an appeal under any other of them and the decision rendered in appeal binds both agencies.

**428.** Where a person to whom the Commission pays an income replacement indemnity or a total disability benefit under an Act administered by it, by reason of a new event, an income replacement indemnity or a total disability benefit under another Act administered by the Commission, the Commission shall distinguish between the damages attributable to each event and determine the corresponding entitlement to and amount of benefits payable under each of the applicable Acts.

**429.** Where, by reason of one and the same employment injury, a person is entitled to both a benefit under this Act and a benefit under an Act other than an Act of the Parliament of Québec, he shall elect one of them and notify the Commission of his election within six months of the industrial accident or of the date when it is medically established and brought to the attention of the worker that he has contracted an occupational disease or, where such is the case, of the death as a result of the employment injury.

If the person fails to make the election, he is presumed to waive any benefit under this Act.

**430.** An application to the Commission for benefits preserves the beneficiary's right to claim benefits under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or under any other public or private insurance plan, notwithstanding the expiry of the time limit for claims under the plan.

The time limit begins to run anew from the date of the final decision on the application for benefits.

## CHAPTER XIV

### REGULATIONS

**431.** The Commission may make regulations

(1) amending Schedule I by adding thereto any disease it recognizes as characteristic of a particular type of work or directly related to the risks peculiar to that particular type of work;

(2) determining the activities a student carries out under the responsibility of an educational institution which qualify him as a worker in the employ of that institution;

(3) prescribing an impairment table including a table for anatomophysiological deficits, a table for disfigurements and a table for suffering or loss of enjoyment of life and determining the criteria for and modalities of application of the impairment table, for the purposes of computing compensation for bodily injuries;

(4) determining, according to the classes of establishments and of construction sites it designates, the cases in which the employer or on a construction site, the principal contractor within the meaning of the Act respecting occupational health and safety shall maintain a first-aid service and the cases in which he shall furnish premises for such purpose and the staff and equipment such service must include;

(5) establishing a system of merit or demerit rating for assessing employers based on the classes of employers it designates;

(6) generally, prescribing any measure it considers necessary for the administration of this Act.

**432.** The Commission shall publish in the *Gazette officielle du Québec* any draft regulation it wishes to adopt with a notice that on the expiry of 60 days following the notice, the draft regulation will be adopted by the Commission with or without amendments and submitted to the Government for approval.

**433.** A regulation comes into force on the tenth day after publication in the *Gazette officielle du Québec* of an order approving the regulation or, where amended by the Commission or the Government, of the order and of its final text, or on any later date fixed in the order.

**434.** If the Commission fails to adopt a regulation within what the Government considers a reasonable time, the Government may adopt the regulation.

The Government shall subsequently publish in the *Gazette officielle du Québec* the draft regulation it wishes to adopt with a notice that on the expiry of 60 days following the notice, the draft regulation will be adopted by the Government, with or without amendments.

Publication is not required if the Commission has already caused the draft regulation to be published in the *Gazette officielle du Québec* and if no amendments have been made to it by the Government.

The regulation comes into force on the tenth day after publication in the *Gazette officielle du Québec* of its final text together with the order that adopt it or on any later date fixed in the order.

## CHAPTER XV

## OFFENCES

**435.** Every employer who contravenes the first paragraph of section 32 or 33, section 58, the first or second paragraph of section 59, the first paragraph of section 60, section 179, 180 or 202, paragraph 2 of section 221, the second paragraph of section 250, section 252 or 253, the second paragraph of section 254 or the first paragraph of section 316 is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**436.** Every principal contractor within the meaning of the Act respecting occupational health and safety who contravenes section 179 or 180 is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**437.** Every employer who, without reasonable cause, the proof of which lies on him, acts or fails to act, to delay or prevent the exercise of a worker's right under this Act to return to work is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**438.** Every person who contravenes section 15, every association of independent operators or domestics who or which contravenes the first or second paragraph of section 23 or the first paragraph of section 25 or the employer who contravenes sections 258, 262, 272 to 278 or 315 or the second paragraph of section 316 or who fails to pay all or part of an assessment one month after its due date is guilty of an offence and liable, in addition to costs, to a fine of not less than \$300.

**439.** Every health professional or health establishment who or which refuses or neglects to make a certificate, notice or report prescribed in sections 186 to 190, 192, 195 or 209, the second paragraph of section 216 or the third paragraph of section 217, or a person who contravenes section 191 or 198, the third paragraph of section 200, section 249, the third paragraph of section 254 or section 256, 257, 259, 260 or 261 is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$300.

**440.** Every person who acts or fails to act, in view of obtaining an advantage to which he knows he is not entitled or of avoiding an obligation imposed on him by this Act is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**441.** Every person who makes a false declaration or, without reasonable cause, the proof of which lies on him, impedes or attempts to impede an inquiry, an examination or a hearing of the Commission

or refuses or fails to comply with an order or decision of the Commission is guilty of an offence and liable, in addition to costs, to a fine of not less than \$300.

**442.** Every person who contravenes a provision of this Act or any regulations thereunder for which a penalty has not been provided is guilty of an offence and liable, in addition to costs, to a fine of not more than \$300.

**443.** Every person who, knowingly, by an act or omission, attempts to aid a person to commit an offence or advises a person to commit an offence, encourages or incites him thereto, is himself a party to the offence and liable to the same penalty as that provided for the person who committed it, whether or not such person has been prosecuted or convicted.

**444.** For the first subsequent offence within two years, the offender, in addition to costs, is liable to a fine of an amount that must not be less than double the fine provided for that offence.

For any other subsequent offence within two years, the amount of the fine must not be less than treble the fine provided for that offence.

**445.** Every worker prosecuted for an offence against this Act is released from all responsibility if he proves that the offence was committed notwithstanding his disagreement and following formal instructions from his employer.

**446.** If a corporation commits an offence, the director, chief executive officer, employee or the representative of the corporation having prescribed or authorized the performance of the act or omission which constitutes the offence or who gave his consent is deemed to have participated in the offence and is liable to the penalty prescribed for the offence, whether or not the corporation has been prosecuted or convicted.

**447.** Subject to section 450, penal proceedings brought pursuant to this Act are instituted in accordance with the Summary Convictions Act.

Notwithstanding the first paragraph, except in the case of a subsequent offence, the prosecutor shall serve notice of the offence on the offender by mail. The notice constitutes an accusation.

**448.** The notice of an offence must describe the offence, specify the minimum fine and the amount of the costs and notify the offender that he may pay the amount required within 30 days at the place specified.

The costs are \$5.

If the offender pays the amount required within the prescribed time and at the place specified, he is deemed to have pleaded guilty. The payment may not, however, be considered a confession of civil liability.

If the offender fails to make the payment, a notice of the offence is deposited before a justice of the peace who, if of the opinion that it is necessary to do so, shall issue a summons.

**449.** In no case may failure to serve notice of an offence be invoked against the prosecutor and it is not necessary to allege that it was served nor to prove it.

However, if the offender, when appearing, pleads guilty and subsequently proves that notice of the offence was not given to him, he shall not be condemned to pay an amount greater than what he would have been required to pay pursuant to the notice.

**450.** Proceedings pursuant to this chapter are instituted before the Labour Court created by the Labour Code and sections 121, 123 to 128 and 133 to 136 of that Code apply.

No proceedings may be brought except by the Commission or by a person generally or specially designated by it for that purpose within one year after the Commission becomes aware of the offence.

**451.** The fines imposed belong to the Commission.

## CHAPTER XVI

### FINAL AND TRANSITIONAL PROVISIONS

#### DIVISION I

##### FINAL PROVISIONS

##### CIVIL CODE

**452.** Article 1056*a* of the Civil Code, enacted by section 1 of chapter 106 of the statutes of 1933 and replaced by section 1 of chapter 91 of the statutes of 1935 and by section 1 of chapter 67 of the statutes of 1941, is again replaced by the following article:

**“1056*a*.** No recourse provided for under this chapter shall lie, in the case of an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*), except to the extent permitted by such Act.”

## WORKMEN'S COMPENSATION ACT

**453.** Subject to section 455, the provisions of the Workmen's Compensation Act (R.S.Q., chapter A-3) are replaced by the provisions of this Act to the extent indicated by proclamation in accordance with section 556.

**454.** Subject to section 455, any reference in any Act, regulation, proclamation, order in council, order, contract or any other document to the Workmen's Compensation Act or any provision thereof is deemed to be a reference to this Act or the corresponding provision of this Act.

**455.** The Workmen's Compensation Act, amended by sections 456 to 460, and the regulations made thereunder, remains in force for the purposes of the processing of claims made for industrial accidents and deaths that occurred before the date of coming into force of this Act and for claims made before that date for occupational diseases.

The said Act, so amended, and the regulations thereunder remain in force also for the purposes of the application of the Act to promote good citizenship (R.S.Q., chapter C-20) and the Crime Victims Compensation Act (R.S.Q., chapter I-6).

**456.** Section 38 of the Workmen's Compensation Act is amended by replacing the first paragraph of subsection 3 by the following paragraph:

“(3) Where the payment provided for in the preceding subsections does not exceed sixty dollars a month at the commencement of the right to that payment, the Commission must, unless it is not in the worker's interest to do so, convert the payment into a capital sum that is paid to him at the expiry of the time limit to apply for an administrative review or to bring an appeal or, where the application is made or the appeal brought, on the day of the final decision.”

**457.** Section 55 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**55.** Reports to the Commission made by a physician, practitioner or expert are confidential. No person may give or receive written or verbal communication of a report or otherwise have access to it except for the purposes of the application of this Act or purposes of an inquiry held for an administrative review or an appeal before the Commission des affaires sociales, except with the express or implied authorization of the beneficiary, or on a court order.”

**458.** Section 63 of the said Act is amended

(1) by replacing subsection 3 by the following subsection:

“(3) Subject to section 64, the Commission may at any time, with respect to matters within its jurisdiction, reconsider any question decided by it, and rescind, amend or alter its decisions and order.”;

(2) by striking out subsections 4, 5 and 6.

**459.** Sections 64 to 65.1 of the said Act are replaced by the following sections:

“**64.** Every person who believes he has been wronged by a decision rendered by the Commission under this Act as to the right to an indemnity, the amount of an indemnity or the degree of impairment of earning capacity may apply to the Commission for the administrative review thereof within

(1) thirty days of notification of the decision if the decision regards the right to an indemnity or the amount of an indemnity;

(2) ninety days of notification of the decision if the decision regards the degree of impairment of earning capacity.

The Commission may also, within the same period, review such a decision *ex officio*.

“**64.1** The person who rendered a decision that is under administrative review shall not review the decision.

“**64.2** Before the Commission renders its decision following an administrative review, it shall inform the parties of the decision it intends to render and inquire of them the reasons for which the parties believe the decision should not be rendered.

“**64.3** The Commission may allow a person to act after the expiry of the time limit fixed to apply for an administrative review if the person shows that it was in fact impossible for him to act sooner.

“**65.** Every person who believes he has been wronged by a decision rendered following an administrative review under section 64 may appeal from it to the Commission des affaires sociales within the same time limits as those set out in the first paragraph of the said section.

“**65.1** An application for administrative review or appeal under sections 64 and 65 does not suspend the payment of an indemnity paid in the form of a pension.”

**460.** Section 119.2 of the said Act is replaced by the following section:

“**119.2** Any person who, without reasonable cause, the proof of which is on him, hinders an inquiry, an examination or a hearing of the Commission under this Act, or refuses or fails to comply with a decision or an order of the Commission under this Act, is guilty of an offence and is liable, in addition to the costs,

- (a) to a fine of not less than \$150, in the case of an individual;
- (b) to a fine of not less than \$300, in the case of a legal person.”

AUTOMOBILE INSURANCE ACT

**461.** Section 4 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the second paragraph by the following paragraph:

“Subject to section 18, where bodily injury was caused by an automobile, the benefits provided for the compensation of such injury by the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*), the Act to promote good citizenship (R.S.Q., chapter C-20) or by the Crime Victims Compensation Act (R.S.Q., chapter I-6) are in the place and stead of all rights, recourses and rights of action of any one by reason of such bodily injury and no action in that respect shall be admitted before any court of justice.”

**462.** Section 10 of the said Act is replaced by the following section:

“**10.** In the cases contemplated in the second paragraph of section 7 and, notwithstanding section 4, in the cases contemplated in section 9, the following persons, when subrogated in the victim’s rights under the Acts hereinafter mentioned, have the same recourses as the Régie to recover their claim against the person not resident in Québec and who is responsible for the accident or against the person held liable for compensation for bodily injury caused in such accident by a person not resident in Québec: the Commission de la santé et de la sécurité du travail and, if such is the case, the employer under the Act respecting industrial accidents and occupational diseases, the Commission de la santé et de la sécurité du travail under the Act to promote good citizenship and the Crime Victims Compensation Act, the Régie de l’assurance-maladie du Québec under the Health Insurance Act (R.S.Q., chapter A-29), and the Government, under the Hospital Insurance Act (R.S.Q., chapter A-28) and under the Social Aid Act (R.S.Q., chapter A-16).”

**463.** Section 18 of the said Act is replaced by the following sections:

**“18.** Where, by reason of bodily injury caused by an automobile, a person is entitled to both an indemnity under this title and to a compensation or pecuniary benefit under the Act respecting industrial accidents and occupational diseases or another Act relating to compensation of certain persons who are victims of an industrial accident, in force in or outside Québec, that person shall claim the compensation or pecuniary benefit provided for under the said Act or such other Act.

If a person claims the compensation or pecuniary benefit provided 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 indemnity provided for in this title for the excess, if any.

**“18.1** Where, by reason of bodily injury caused by an automobile, a person is entitled to both any benefit or compensation under the Act to promote good citizenship or the Crime Victims Compensation Act and the indemnity under this title, that person may elect to claim benefit or compensation under such Act or avail himself of the indemnity provided for in this title.

Compensation under the Act to promote good citizenship or the Crime Victims Compensation Act sets aside any right to compensation under this title.

**“18.2** If a person receives an income replacement indemnity under this title and claims, by reason of a new event, an income replacement indemnity under the Act respecting industrial accidents and occupational diseases, or an annuity for total disability under the Act to promote good citizenship or the Crime Victims Compensation Act, he is not entitled to receive both one and the other indemnity during the same period.

The Régie shall continue to pay the income replacement indemnity, if necessary, until the entitlement to and the amount of the benefits payable under each of the Act applicable is determined.

**“18.3** The Régie and the Commission de la santé et de la sécurité du travail shall agree on a mode of processing claims under the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act, made by any person referred to in section 18.2.

The agreement must make it possible to

(1) distinguish between the damages resulting from the new event and those damages that may be attributed to the accident;

(2) determine accordingly the entitlement to and the amount of benefits payable under each of the Acts applicable;

(3) determine the benefits each body shall pay and specify the cases, amounts and conditions of reimbursement among them.

**“18.4** Where a person referred to in section 18.2 claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or an annuity for total disability 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, in carrying out the agreement referred to in section 18.3, shall render a joint decision to distinguish the damages resulting from each event and determine the consequential entitlement to the benefits payable under each of the Acts applicable.

A person who believes he has been wronged by a decision under the first paragraph may elect to bring an appeal under this Act, or under 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 Acts referred to in the first paragraph sets aside any appeal under any other of those Acts and the decision rendered in appeal binds both bodies.”

#### HEALTH INSURANCE ACT

**464.** Section 19 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing the first paragraph by the following paragraph:

**“19.** With the approval of the Government, the Minister may make with the bodies representing any class of professionals in the field of health, any agreement for the purposes of the carrying out of this Act and section 183 of the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*); in the latter case, the agreement shall be made jointly with the Commission de la santé et de la sécurité du travail established pursuant to the Act respecting occupational health and safety.”

**465.** Section 22 of the said Act is amended by replacing the sixth paragraph by the following paragraph:

“He shall not exact or receive payment from the Board for a service not considered insured by regulation or not established as an insured service by regulation, except in the case of an act referred to in section 183 of the Act respecting industrial accidents and occupational diseases.”

## ACT RESPECTING THE BARREAU DU QUÉBEC

**466.** Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended

(1) by replacing subparagraph 3 of paragraph *a* of subsection 2 by the following subparagraph:

“(3) the Commission de la santé et de la sécurité du travail established pursuant to the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) or the Commission d’appel en matière de santé et de sécurité du travail established pursuant to the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*);”;

(2) by adding after subparagraph 4 of paragraph *a* of subsection 2 the following subparagraph:

“(5) the rescuers and crime victims compensation division of the Commission des affaires sociales established pursuant to the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34).”

## ACT TO PROMOTE GOOD CITIZENSHIP

**467.** Section 18 of the Act to promote good citizenship (R.S.Q., chapter C-20) is replaced by the following section:

“**18.** An application validly made under the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*) or under the Crime Victims Compensation Act (R.S.Q., chapter I-6) and refused by the commission on the ground that it should have been made under this Act is nevertheless deemed to have been validly made under this Act.”

**468.** Section 21 of the said Act is replaced by the following sections:

“**21.** No benefit shall be granted under this Act if the rescuer has sustained an injury or died in circumstances to which the Act respecting industrial accidents and occupational diseases, the Crime Victims Compensation Act or an Act other than an Act of the Parliament of Québec are applicable.

“**21.1** If, by reason of an injury sustained by a rescuer or of a death occurring thereafter, a person is entitled to an indemnity under the Automobile Insurance Act (R.S.Q., chapter A-25) and compensation under this Act, that person may elect to claim either an indemnity under the Automobile Insurance Act or compensation under this Act.

Compensation under the Automobile Insurance Act sets aside any right to benefit under this Act.”

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

**469.** Section 6 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is amended by replacing subparagraph 5 of the second paragraph by the following subparagraph:

“(5) the rescuers and crime victims compensation division;”.

**470.** Section 21 of the said Act is amended by replacing paragraphs *m*, *n* and *o* by the following paragraphs:

“(*m*) the appeals respecting the right to compensation or the quantum of compensation brought under section 65 of the Workmen’s Compensation Act (R.S.Q., chapter A-3) for the purposes of the application of the Act to promote good citizenship (R.S.Q., chapter C-20) and the Crime Victims Compensation Act (R.S.Q., chapter I-6);

“(*n*) the appeals respecting the degree of impairment of earning capacity brought under section 65 of the Workmen’s Compensation Act (R.S.Q., chapter A-3) for the purposes of the application of the Act to promote good citizenship and the Crime Victims Compensation Act;”.

**471.** The said Act is amended by replacing subdivision 6 of Division II by the following subdivision:

“§ 6.—*Rescuers and Crime victims compensation*

“**31.** The appeals contemplated in paragraphs *m* and *n* of section 21 shall be heard by the rescuers and crime victims compensation division.

The quorum is two members and one assessor who is a physician.”

**472.** Section 38 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

“At the proof and hearing before the rescuers and crime victims compensation division, each party is entitled to be assisted by the person of his choice.”

CRIME VICTIMS COMPENSATION ACT

**473.** Section 15 of the Crime Victims Compensation Act (R.S.Q., chapter I-6) is replaced by the following section:

**15.** The provisions of the Workmen’s Compensation Act (R.S.Q., chapter A-3), except subsection 1 of section 3, that are not inconsistent with this Act apply with the necessary adjustments.”

**474.** Section 20 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) if the victim is injured or killed in circumstances giving recourse to the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*) or an Act other than an Act of the Parliament of Québec, either in his favour or in that of his dependents;”.

**475.** The said Act is amended by adding, after section 20, the following section:

**20.1** Where, by reason of an injury sustained by a crime victim or of his death as a result thereof, a person is entitled to an indemnity under the Automobile Insurance Act (R.S.Q., chapter A-25) and compensation under this Act, that person may elect to claim either an indemnity under the Automobile Insurance Act or compensation under this Act.

Compensation under the Automobile Insurance Act sets aside any right to compensation under this Act.”

**476.** Sections 22 and 23 of the said Act are replaced by the following sections:

**22.** An application validly made under the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*) or the Act to promote good citizenship (R.S.Q., chapter C-20) and refused by the Commission on the ground that it should have been made under this Act is nevertheless deemed to have been validly made under this Act.

**23.** Not later than 30 June each year the Commission shall file with the Minister a report of its activities, in the administration of this Act, for the preceding fiscal period.

The Minister shall table the report of the Commission before the National Assembly within thirty days of receiving it, if the Assembly is in session or, if it is not sitting, within thirty days of the next session or of resumption, as the case may be.”

**477.** The schedule to this Act is replaced by the following schedule:

## “SCHEDULE

(Section 3)

<i>Section of Criminal Code</i>	<i>Description of offence</i>
66	taking part in a riot
76(1)	hijacking of an aircraft
76(2)	actions endangering the safety of an aircraft in flight or rendering the aircraft incapable of flight
76(3)	taking offensive weapons and explosive substances on board an aircraft
78	failure to take reasonable care in respect of explosives where death or bodily harm results
79	intentionally causing death or bodily harm by explosive substance
84	pointing a firearm or using a firearm in a dangerous manner
146	sexual intercourse with female under 14 or under 16 years of age
176	common nuisance causing harm
197	failure to provide necessities
200	abandoning child
203	causing death by criminal negligence
204	causing bodily harm by criminal negligence
212	murder
217	manslaughter
222	attempted murder
228	causing bodily harm with intent
229	administering poison
230	overcoming resistance to commission of offence
231	setting traps likely to cause death or bodily harm
232	interfering with transportation facilities
240(1)	dangerous operation of vessel or towed object
240(4)	impaired operation of vessel
241	impeding attempt to save life
244	assault by use of motor vehicle
245	assault
245.1	armed assault or causing bodily harm
245.2	aggravated assault
245.3	causing illegally bodily harm
246	assault interfering with lawful process
246.1	sexual assault
246.2	armed sexual assault
246.3	aggravated sexual assault
247(1)	kidnapping

247(2)	illegal confinement
302	robbery
381	intimidation by violence
387(2)	mischief causing actual danger to life
389	arson
392	causing fire resulting in loss of life
393	false fire alarm”.

ACT RESPECTING INDEMNITIES FOR VICTIMS  
OF ASBESTOSIS AND SILICOSIS IN MINES  
AND QUARRIES

**478.** Subject to section 480, the provisions of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7) are replaced by the provisions of this Act to the extent indicated by proclamation in accordance with section 556.

**479.** Subject to section 480, every reference in any Act, regulation, by-law, proclamation, order in council, decree, contract or other document to a provision of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries or to any of its provisions is deemed a reference to this Act or the corresponding provision of this Act.

**480.** The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries, amended by section 481, remains in force for the purposes of the processing of claims made under this Act, before the date of coming into force of this Act, or under the first paragraph of section 539.

**481.** Section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries is amended

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

“**12.** Every decision under subsection 1 of section 2 and every decision under sections 5 and 8 rendered by the Commission following an administrative review in accordance with section 64 of the Workmen’s Compensation Act, enacted by section 459 of the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*), is subject to appeal before the Commission des affaires sociales.”;

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

“Where the Commission makes an administrative review of a decision rendered under subsection 1 of section 2 it must, when so required, in respect of any decision of a medical nature, render its decision on the report of a committee of three medical experts, one

member being appointed by the employer, one member being appointed by the worker and the third being selected by them from a list of medical specialists furnished by the Conseil consultatif du travail et de la main-d'oeuvre or, if there is disagreement, by the Commission.”

SUMMARY CONVICTIONS ACT

**482.** Section 63.6 of the Summary Convictions Act (R.S.Q., chapter P-15) is repealed.

ACT RESPECTING PROBATION AND HOUSES OF DETENTION

**483.** Section 19.6 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is repealed.

ACT RESPECTING THE PROTECTION OF PERSONS  
AND PROPERTY IN THE EVENT OF DISASTER

**484.** Sections 39 and 44 of the Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1) are repealed.

ACT RESPECTING THE RÉGIE DE L'ASSURANCE  
AUTOMOBILE DU QUÉBEC

**485.** Section 24 of the Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4) is amended by replacing the fourth paragraph by the following paragraph:

“The second paragraph of section 172 of the Act respecting occupational health and safety applies to officers to whom the Commission has delegated its functions.”

ACT RESPECTING THE RÉGIE DE L'ASSURANCE-MALADIE  
DU QUÉBEC

**486.** The Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) is amended by inserting, after section 22, the following section:

“**22.1** Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the Board may obtain from the Commission de la santé et de la sécurité du travail, and the Commission shall furnish to the Board, any information contained in a medical or physical rehabilitation record the Commission has on a worker who has suffered an employment injury and that the Board needs to assess the remuneration of a health professional for an act he has performed under the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*).”

## ACT RESPECTING THE QUÉBEC PENSION PLAN

**487.** The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by adding, after section 96, the following subtitle and sections:

*“Indemnity*

**“96.1** The expression “replacement indemnity” means the income replacement indemnity unreduced and payable under the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*).

**“96.2** The expression “month of indemnity” means any calendar month for all of which a replacement indemnity is paid to a contributor.

**“96.3** The expression “period of indemnity” means a term of at least 24 consecutive months of indemnity.

**“96.4** The expression “total period of indemnity” means all the months of all the periods of indemnity of a contributor, from which the first twenty-four months have been subtracted.”

**488.** The said Act is amended by adding, after section 99, the following section:

**“99.1** For the purposes of the second and third paragraphs of section 99, a contributor is deemed to have received a disability pension for any portion of a year included in his total period of indemnity.”

**489.** Section 101 of the said Act, amended by section 7 of the Act to favour early retirement and improve the surviving spouse’s pension (1983, chapter 12), is again amended

(1) by inserting, after the third paragraph, the following paragraph:

“In addition no month of indemnity shall be included in such period if that month is part of the total period of indemnity of the contributor.”;

(2) by replacing the word “fourth” in the first line of the last paragraph by the word “fifth”.

**490.** Section 102.4 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“102.4** Partition shall not be effected in respect of a month during which one of the former spouses is less than 18 years of age, is 70 years of age or more or is the beneficiary of a retirement or disability pension under this Act or under a similar plan or for any months included in the total period of indemnity of such contributor.”

**491.** The said Act is amended by adding, after section 165, the following section:

“**165.1** Notwithstanding paragraph *b* of section 105 and notwithstanding section 165, no disability pension may be paid to a contributor for a month for which a replacement indemnity is paid to him.

The first paragraph does not apply where the contributor is already entitled to a disability pension when he becomes qualified to receive a replacement indemnity.”

**492.** The said Act is amended by adding, after section 174, the following section:

“**174.1** Notwithstanding paragraph *e* of section 105 and notwithstanding section 172, no disabled contributor’s child’s pension shall be paid to a child for a month for which a replacement indemnity is payable to the contributor.

The first paragraph does not apply where the contributor is already entitled to a disability pension when he becomes qualified to receive a replacement indemnity.”

**493.** The third paragraph of section 101 of the said Act does not apply for any month included in a period of indemnity having begun before 1 January 1985.

**494.** Sections 165.1 and 174.1 of the said Act do not apply for any month prior to 1 January 1985 or any month comprised in a term of consecutive months of indemnity the first of which is prior to 1 January 1985.

ACT RESPECTING THE GOVERNMENT AND PUBLIC  
EMPLOYEES RETIREMENT PLAN

**495.** Schedule I to the Act respecting the Government and public employees retirement plan (R.S.Q., chapter R-10) is amended by adding, in subsection 4, after the words “the Centre d’Insémination artificielle du Québec (C.I.A.Q.) inc. if they are employed full-time”, the following words:

“the Commission d’appel en matière de santé et de sécurité du travail if they are employed full-time”.

ACT RESPECTING OCCUPATIONAL HEALTH  
AND SAFETY

**496.** Section 1 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended

(1) by adding, after the definition of the word “agreement”, the following definition:

“**board of appeal**” means the Commission d’appel en matière de santé et de sécurité du travail established by the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*);”;

(2) by replacing the definitions “inspector” and “regional chief inspector” by the following definition:

“**inspector**” means a person appointed under section 177;”.

**497.** Sections 20 to 23 of the said Act are replaced by the following section:

“**20.** The inspector’s decision may be the object of administrative review and appeal in accordance with sections 191.1 to 193.

The inspector’s decision has effect immediately, notwithstanding administrative review; if no administrative review is made within the prescribed time, the inspector’s decision is final.”

**498.** Sections 30 and 31 of the said Act are replaced by the following sections:

“**30.** No employer may dismiss, suspend or transfer a worker, practise discrimination or take reprisals against him or impose any other penalty on him on the ground that the worker exercised the right contemplated in section 12.

However, the employer may, within the ten days following a final decision, dismiss, suspend or transfer the worker or impose another penalty on him if the worker abused his right.

“**31.** No employer may dismiss, suspend or transfer a safety representative or the person replacing him, practise discrimination or take reprisals against him or impose any other penalty on him on the ground that the safety representative or person replacing him exercised a function conferred on him by this Act.

However, the employer, within the ten days following a final decision respecting a worker’s exercise of his right of refusal, may dismiss, suspend or transfer the safety representative or person replacing him or impose another penalty on him if the representative or person abused his function.”

**499.** Section 36 of the said Act is replaced by the following section:

**“36.** A worker is entitled, for the first five working days of his work stoppage, to be remunerated at his regular wage rate.

At the end of that period, the worker is entitled to the income replacement indemnity to which he would be entitled under the Act respecting industrial accidents and occupational diseases if he then became unable to carry on his employment by reason of an employment injury within the meaning of that Act.

To decide a case under this section, the Commission shall apply the Act respecting industrial accidents and occupational diseases to the extent that it is consistent with this Act; its decision may be the object of administrative review and appeal in accordance with this Act.”

**500.** The said Act is amended by replacing the second paragraph of section 37 by the following paragraphs and sections:

“If there is no safety committee or safety representative, the worker may send his request directly to the Commission.

The decision rendered under the first or second paragraph has effect immediately notwithstanding administrative review.

**“37.1** A worker or an employer may apply to the Commission for administrative review of a decision rendered under section 37 within ten days of being notified of the decision.

Sections 332 to 337 and 343 of the Act respecting industrial accidents and occupational diseases apply in the case of the first paragraph.

The decision rendered as a result of the administrative review has effect immediately, notwithstanding appeal.

**“37.2** The Commission shall render its decision under the second paragraph of section 37 or under section 37.1 within twenty days of the application.

**“37.3** A worker or an employer may bring an appeal from a decision rendered under the second paragraph of section 37 or section 37.1 before the board of appeal within ten days of being notified of the decision.”

**501.** Section 45 of the said Act is replaced by the following section:

**“45.** The funds required for payment of the indemnity are taken by the Commission out of the reserve fund established under section 294 of the Act respecting industrial accidents and occupational diseases.”

**502.** Section 62 of the said Act is amended by replacing what precedes subparagraph 1 of the first paragraph by the following:

**62.** Every employer must inform the Commission of an incident, by the most rapid means of communication, and, within 24 hours, make a written report to it, in the form and with the information prescribed by regulation, if it has caused”.

**503.** Section 81 of the said Act is replaced by the following section:

**81.** No employer may dismiss, suspend or transfer a worker, practise discrimination or take reprisals against him or impose any other penalty on him on the ground that the worker is a member of a health and safety committee.

However, the employer may dismiss, suspend or transfer a worker or impose any other penalty on him if he abused his function on a health and safety committee.”

**504.** Section 90 of the said Act is amended by replacing paragraph 8 by the following paragraph:

“(8) to submit complaints to the Commission;”.

**505.** Section 97 of the said Act is replaced by the following section:

**97.** No employer may dismiss, suspend or transfer a safety representative, practise discrimination or take reprisals against him or impose any other penalty on him on the ground that he performed the functions of a safety representative.

However, the employer may dismiss, suspend or transfer the safety representative or impose any other penalty on him if he abused his functions.”

**506.** The said Act is amended by adding, after section 99, the following section:

**99.1** A sector-based association is a corporation within the meaning of the Civil Code; it is invested with the general powers of such a corporation and the special powers conferred on it by this Act.”

**507.** Section 145 of the said Act is replaced by the following section:

**145.** The Minister responsible for the application of this Act and the Minister of Social Affairs shall each appoint an observer to the board of directors of the Commission.

The observers shall participate in all the meetings of the board of directors with no voting rights.”

**508.** Section 158 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The Photographic Proof of Documents Act (R.S.Q., chapter P-22) applies to the documents emanating from the Commission or forming part of its records, except that, notwithstanding section 2 of that Act, the documents may be destroyed as soon as they have been reproduced.”

**509.** Section 163 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**163.** Before 30 June each year, the Commission shall make a report to the Minister of its activities for the previous fiscal period. The report must contain all the information prescribed by the Minister.”

**510.** Section 167 of the said Act is amended by replacing paragraph 6 by the following paragraph:

“(6) to make an annual grant to the Institut de recherche en santé et en sécurité du travail du Québec;”.

**511.** Section 171 of the said Act is repealed.

**512.** Section 172 of the said Act is amended

(1) by striking out the words “its review boards,” in the first paragraph;

(2) by replacing the words “the persons, the members of the executive committee and the members of the review boards” in the second and third paragraphs by the words “the persons and the members of the executive committee”.

**513.** Sections 177 and 178 of the said Act are replaced by the following sections:

“**177.** For the purposes of the application of this Act and the regulations, inspectors shall be appointed and remunerated in accordance with the Public Service Act, and they are officers of the Commission.

“**178.** Sections 160 and 161 apply to an inspector appointed under section 177.”

**514.** The said Act is amended by replacing sections 191 to 193 by the following sections:

“**191.** An order or decision of an inspector has effect immediately, notwithstanding administrative review.

**“191.1** Any person who believes he has been wronged by an order or decision of an inspector may apply for administrative review to the Commission within ten days of being notified of the decision.

The Commission may also, within the time prescribed in the first paragraph, review an order or decision of an inspector of its own motion.

Sections 332 to 337, 342 and 343 of the Act respecting industrial accidents and occupational diseases apply in the case of this section.

**“191.2** Where an administrative review relates to the complete or partial closing of a workplace or to the exercise of the right of refusal, the Commission shall proceed with the review by preference.

**“191.3** Where the Commission proceeds with an administrative review, it may render any provisional decision it believes in the best interests of the health and safety of the workers.

The decision has effect immediately until a decision is rendered following the administrative review.

**“192.** A decision rendered following an administrative review has effect immediately, notwithstanding appeal.

**“193.** Any person who believes he has been wronged by a decision rendered following an administrative review may, within ten days of being notified of the decision, bring an appeal therefrom to the board of appeal.”

**515.** Section 210 of the said Act is amended by replacing paragraph 8 by the following paragraph:

“(8) to submit complaints to the Commission.”

**516.** Section 223 of the said Act is amended

(1) by replacing subparagraph 37 by the following subparagraph:

“(37) enacting rules of proof, procedure and practice applicable to the examination, hearing and decision of matters under the authority of an inspector or the Commission itself or matters on which persons or executive committee have authority pursuant to section 172;”;

(2) by striking out subparagraph 38;

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

“A regulation may refer to an approval, certification or homologation of the Bureau de normalisation du Québec or of another standardizing body.”

**517.** Sections 224 to 226 and Chapter XIII, including sections 227 to 233, of the said Act are replaced by the following sections:

**“224.** The Commission shall publish in the *Gazette officielle du Québec* every draft regulation it wishes to adopt with a notice indicating that at the expiry of 60 days following the notice, it will be adopted by the Commission with or without amendment and submitted to the Government for approval.

**“225.** The Government itself may adopt regulations if the Commission fails to adopt them within the time it considers reasonable.

The Government then publishes in the *Gazette officielle du Québec* the draft regulations that it wishes to adopt with a notice indicating that at the expiry of 60 days following the notice, they will be adopted by the Government with or without amendment.

The publication is not required if the Commission has already caused the draft regulation to be published in the *Gazette officielle du Québec* and no amendment is made thereto by the Government.

The regulations come into force on the tenth day following the publication in the *Gazette officielle du Québec* of its final text together with the order under which they were made or on any later date fixed in the order.

**“226.** Every regulation comes into force on the tenth day following the publication in the *Gazette officielle du Québec* of the order approving the regulation or in case of amendment by the Commission or by the Government, of the order and its final text, or on any later date fixed in the order.

## “CHAPTER XIII

### “RECOURSES

**“227.** Any worker who believes he has been dismissed, suspended, transferred or subjected to a discriminatory measure or reprisals or any other penalty for exercising his rights or functions under this Act or the regulations may resort to the grievance procedure provided by the collective agreement applicable to him or, where there is none, submit a complaint in writing to the Commission within thirty days of the penalty or measure about which he is complaining.

**“228.** Division III of Chapter VII and section 345 of the Act respecting industrial accidents and occupational diseases apply, *mutatis mutandis*, to a complaint submitted pursuant to section 227 as if it were a complaint submitted under section 32 of the said Act.”

**518.** Section 242 of the said Act is replaced by the following section:

**“242.** Proceedings under this Act may be instituted by a certified association, the Commission or a person it designates generally or specially for that purpose, or by any interested person.”

**519.** Sections 254 and 334 of the said Act are repealed.

ACT RESPECTING INCOME SECURITY FOR CREE  
HUNTERS AND TRAPPERS WHO ARE BENEFICIARIES  
UNDER THE AGREEMENT CONCERNING JAMES BAY  
AND NORTHERN QUÉBEC

**520.** Section 4 of the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2) is replaced by the following section:

**“4.** Every beneficiary is entitled to receive, in addition to income security benefits, benefits paid under a transfer payment programme, under the Unemployment Insurance Act, 1971 (Statutes of Canada, 1970-71-72, chapter 48), under the Act respecting work income supplement (R.S.Q., chapter S-37.1) or under the Act respecting industrial accidents and occupational diseases (1984, chapter *insert here the chapter number of this Act*) and pensions paid under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any equivalent plan, if he otherwise has the right to such benefits, indemnities or pensions under the said programme or the said Acts.”

DIVISION II

TRANSITIONAL PROVISIONS

**521.** Every regulation made under the Workmen’s Compensation Act, to the extent that it is consistent with this Act, remains in force and is a regulation made under this Act until it is repealed or replaced.

**522.** Subject to section 526, the provisions of this Act apply to industrial accidents and deaths which occur from the date of their coming into force.

Subject to section 526 and the first paragraph of section 539, the provisions of this Act apply to occupational diseases for which a claim is made from the date of their coming into force.

The provisions of this Act also apply to the issued notices of classification, assessment and imputation, from the date of their coming into force.

**523.** Any person who, on the coming into force of Chapter III, receives permanent disability benefits under the Workmen's Compensation Act remains entitled to his benefits and the said Act continues to apply to him, except if he converts his benefits into capital in accordance with section 524 or 525 or if he elects as in section 530.

**524.** Any person under 65 years of age who, on the coming into force of Chapter III, receives benefits for a permanent disability of 15% or less under the Workmen's Compensation Act may send to the Commission an application to convert his benefits into capital computed in accordance with Schedule VII, according to his age on the date of the application, if his total regular income, except such benefits, is sufficient to meet his ordinary needs and those of his dependants.

The right must be exercised within three years after the coming into force of Chapter III.

**525.** The Commission may pay to a person under 65 years of age who, on the coming into force of Chapter III, is receiving benefits for a permanent disability of 15% or more under the Workmen's Compensation Act, all or part of the capital computed in accordance with Schedule VII, if it believes that to be necessary for the rehabilitation of the person and he consents thereto.

The capital is computed according to the age of the person on the date the Commission offers to convert his benefits into capital.

**526.** A person who, before the date of the coming into force of Chapter III, suffered an industrial accident or filed a claim for an occupational disease under the Workmen's Compensation Act and suffers a recurrence, relapse or aggravation after that date becomes subject to this Act.

Notwithstanding the first paragraph, the person is not entitled to an income replacement indemnity if, at the time of the recurrence, relapse or aggravation, he does not hold any employment and

- (1) is 65 years of age or more, or
- (2) his physical or mental capacity has been permanently impaired 100%, whatever his age.

**527.** For the purposes of computing an income replacement indemnity of a person contemplated in the first paragraph of section 526, the gross income of the person is that

- (1) that he receives from the employment he holds at the time of the recurrence, relapse or aggravation, or

(2) that he received from any employment he carried on during the 12 months preceding the beginning of his inability to carry on his ordinary employment, if he does not have any employment at the time of the recurrence, relapse or aggravation.

Notwithstanding the foregoing, the sum of the indemnity and the benefits for permanent disability received by the person, where such is the case, under the Workmen's Compensation Act shall not be greater than the income replacement indemnity of a worker of the same class holding similar employment in the same region nor less than the income replacement indemnity computed from the yearly gross income determined on the basis of the minimum wage in force on 1 January of the year of the recurrence, relapse or aggravation.

**528.** Where a degree of permanent disability has already been recognized respecting a person contemplated in section 526 under the Workmen's Compensation Act, as a result of an industrial accident or occupational disease that is the cause of the recurrence, relapse or aggravation suffered by the person, section 88 applies for the purposes of computing the indemnity for physical injuries, with the necessary changes.

**529.** A person who, on the date of the coming into force of Division III of Chapter III, is entitled to an indemnity under the Workmen's Compensation Act on account of the death of a worker which occurred before that date, remains entitled to the indemnity and the Workmen's Compensation Act, except subsection 2 of section 36 and section 49, continues to apply for that purpose, except if he elects as in section 530.

**530.** A person who, at the coming into force of Chapter III, is receiving permanent disability benefits under the Workmen's Compensation Act, or a person contemplated in section 529 as a surviving spouse of a deceased worker may, if he is under 65 years of age, transmit to the Commission a notice in writing so that it may recompute the amount of his monthly benefits on the basis of the capital representing the benefits according to as he elects between the two following options:

(1) a redistribution option, allowing the person to receive monthly benefits greater than his present benefits and that cease on his reaching 65 years of age;

(2) a smoothing option, allowing the person to receive monthly benefits greater than his present benefits until he reaches 65 years of age and, subsequently, monthly benefits reduced so that he maintains an income at the same level as before that age, taking into account any pension he may receive at that age under the Act respecting the Québec Pension Plan and the pension to which he is entitled under the Old Age Security Act (R.S.C. 1970, chapter O-6).

The amount of the new benefits shall not exceed the amount of the income replacement indemnity determined from the maximum yearly insurable earnings established under section 65.

Where a person elects the redistribution option and has not received by the date of his sixty-fifth birthday, the capital equivalent of his former benefits, the Commission may pay him the balance existing on that date in the form of benefits or capital.

**531.** The Commission shall furnish to a person who may elect under section 530 the assistance and information necessary to allow him to make an informed election.

**532.** A worker who suffered an industrial accident before the coming into force of Chapter III or who filed a claim for an occupational disease before that date is entitled to benefit from any economic or social stabilization program adopted under sections 56 to 56.2 of the Workmen's Compensation Act.

**533.** Sections 64 to 65.1 of the Workmen's Compensation Act, enacted by section 459, apply to any decision rendered under subsection 4 of section 63 of the said Act if, at the date of the coming into force of section 459, the time limit for a review of the decision has not expired and no application for review has been filed.

**534.** An application for review filed pursuant to section 64 of the Workmen's Compensation Act at the time of the coming into force of section 459 becomes an application for administrative review to which sections 64 to 65.1 of the said Act, enacted by section 459, apply.

However, if the application for review has been heard at the coming into force of section 459, the board of appeal to which the application has been referred shall render its decision, which may be appealed from in accordance with section 65 of the Workmen's Compensation Act.

**535.** Proceedings for an infringement of the Workmen's Compensation Act or any regulation thereunder are instituted or continued in accordance with the said Act.

**536.** The employer who was personally bound to pay benefits under the Workmen's Compensation Act and who is not contemplated in Chapter X may elect to be subject to the said chapter if he informs the Commission thereof in writing within six months of the date of the coming into force of Chapter X.

**537.** The Commission may pay benefits owing by an employer who was personally liable for the payment of benefits under the

Workmen's Compensation Act and claim reimbursement from him for them where the amount for which the employer is insured or that he has deposited with the Commission under this Act is insufficient to cover the benefits he is required to pay.

This section is declaratory.

**538.** The Regulation respecting the appointment of members of the Medical Experts Committee (R.R.Q., 1981, chapter I-7, r. 1) remains in force for the sole purpose of terminating the processing of claims made by persons who are entitled to an indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries.

**539.** A person who, before the date of the coming into force of Division I of Chapter III, who received an indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries and who suffers a recurrence, relapse or aggravation after that date remains subject to the said Act, if he receives a supplementary indemnity under the Act at the time of the recurrence, relapse or aggravation.

If the person does not receive an indemnity as in the first paragraph at the time, he becomes subject to this Act and the first paragraph of section 527 and section 528 apply to him, with the necessary changes.

**540.** A person recognized by the Commission or its review board as suffering from permanent disability resulting from asbestosis or silicosis and who, for that reason, received before the coming into force of Chapter III, benefits under the Workmen's Compensation Act or an indemnity under the Act respecting indemnities for victims of asbestosis or silicosis in mines and quarries, is entitled to keep the benefits or indemnity he received and to continue to receive such benefits or indemnity, as the case may be, notwithstanding any subsequent decision or judgment denying his right to the benefits or indemnity, unless obtained by fraud.

The cost of the benefits or indemnity is charged to the reserve provided for in section 294.

**541.** Provisions of this Act which apply to rescuers within the meaning of the Act to promote good citizenship and to the crime victims within the meaning of the Crime Victims Compensation Act, apply to any injury contemplated in the said Acts occurring from the date of the coming into force of the provisions.

Sections 524, 525, 529 and 530 do not apply to any person who is entitled to benefits under one of the said Acts.

**542.** Notwithstanding sections 469 to 472, the Commission des affaires sociales retains its jurisdiction to hear any appeal concerning the right to compensation, the amount of a compensation and the degree of impairment of earning capacity brought, before or from the date of the coming into force of sections 459 and 481, under section 65 of the Workmen's Compensation Act or under the Act respecting indemnities for victims of asbestosis or silicosis in mines and quarries.

**543.** Sections 497 and 514 apply to a decision rendered by an inspector from the date of their coming into force.

**544.** Notwithstanding paragraph 2 of section 496 and section 513, a regional chief inspector appointed under section 177 of the Act respecting occupational health and safety retains his authority to examine, hear and decide any application to review an order or decision rendered by an inspector, before the coming into force of sections 497 and 514, under section 19, of Chapter X or Division V of Chapter XI of the said Act.

**545.** Notwithstanding section 511, a revision office in matters of inspection established under section 171 of the Act respecting occupational health and safety to examine, hear and decide any application to review a decision rendered by a regional chief inspector continues to exist and retains its jurisdiction for that purpose, but the Commission may change its composition.

**546.** Sections 227 and 228 of the Act respecting occupational health and safety enacted by section 517 apply to a penalty or measure imposed from the date of the coming into force of section 517.

**547.** Section 506 has effect from 1 January 1981.

**548.** Section 508 has effect from 13 March 1980 and ceases to have effect from the date of coming into force of section 81 of the Archives Act (1983, chapter 38).

**549.** The Commission de la santé et de la sécurité du travail is responsible for the administration of this Act.

**550.** The Government shall appoint a Minister to be responsible for the administration of this Act.

**551.** Within 60 days after the coming into force of section 203, the Conseil consultatif du travail et de la main-d'oeuvre shall carry out the obligation imposed on it by that section, for the current year.

**552.** If Chapter III or IV comes into force on 1 January 1985 or after that date, all the amounts fixed by that chapter and, where such is the case, in Schedule II or IV, will be revalorized, from the date of coming into force of that chapter, in accordance with Division V of Chapter III.

**553.** Division I of Chapter XII and sections 456 to 460, 481, 506, 508, 533, 534, 542 and 547 to 550 come into force on the day of sanction of this Act.

**554.** Sections 469 to 472 come into force on the same date as Division II of Chapter XII.

**555.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

**556.** Subject to sections 553 and 554, this Act comes into force on the date fixed by proclamation of the Government, with the exception of the provisions excluded by that proclamation, which will come into force, in whole or in part, on any later dates fixed by proclamation of the Government.

Every proclamation shall indicate the provisions of the Workmen's Compensation Act and the Act respecting indemnities for victims of asbestosis or silicosis in mines and quarries that are replaced by provisions of this Act put into force by the proclamation.

## SCHEDULE I

## OCCUPATIONAL DISEASES

*(Section 29)*

## DIVISION I

## DISEASES CAUSED BY TOXIC PRODUCTS OR SUBSTANCES

DISEASE	TYPE OF WORK
(1) Poisoning by metals and their organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to those metals;
(2) Poisoning by halogens and their organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to those halogens;
(3) Poisoning by the organic and inorganic compounds of boron recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to the compounds of boron;
(4) Poisoning by silicium and its organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to silicium and those compounds of silicium;
(5) Poisoning by phosphorous and its organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to phosphorous or those compounds of phosphorous;
(6) Poisoning by arsenic and its organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to arsenic or those compounds of arsenic;
(7) Poisoning by the organic or inorganic compounds of sulfur recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to those compounds of sulfur;
(8) Poisoning by selenium and its organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to selenium or those compounds of selenium;
(9) Poisoning by tellurium and its organic or inorganic compounds recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to tellurium or those compounds of tellurium;

DISEASE	TYPE OF WORK
(10) Poisoning by the organic or inorganic compounds of nitrogen recognized as being toxic for man:	any work involving the utilization, handling or other form of exposure to those compounds of nitrogen.

## DIVISION II

## DISEASES CAUSED BY INFECTIOUS AGENTS

DISEASE	TYPE OF WORK
(1) Bacterial cutaneous or fungus infections (pyodermatosis, bacterial folliculitis, panaris, phytodermatosis, candida cutaneous infection):	any work involving contact with tissues or material contaminated by bacteria or fungi;
(2) Parasitosis:	any work involving contact with humans, animals or material contaminated by parasites such as sarcoptes scabiei, pediculus humanus;
(3) Anthrax:	any work involving the utilization, handling or other form of exposure to wool, hair, bristles, hides and contaminated skins;
(4) Brucellosis:	any work related to the care, slaughtering, cutting, transport of slaughterhouse animals or any work involving contact with brucella;
(5) Viral hepatitis:	any work involving contact with contaminated humans or animals, human or animal products or other contaminated substances;
(6) Tuberculosis:	any work involving contact with humans or animals, human or animal products or other contaminated substances;
(7) Multiple warts on the hands:	any work carried on in a slaughterhouse or involving the handling of animals or animal products under humid conditions (maceration).

## DIVISION III

## SKIN DISEASES CAUSED BY AGENTS OTHER THAN INFECTIOUS AGENTS

DISEASE	TYPE OF WORK
(1) Irritative contact dermatitis:	any work involving contact with any solvent, detergents, soap, acid, alkali, cement or lubricant;
(2) Allergic contact dermatitis:	any work involving contact with substances such as nickel, chrome, epoxy, mercury or antibiotic;
(3) Dermatoses caused by plants (phyto dermatosis):	any work involving contact with plants;
(4) Dermatoses caused by mechanical action (localized callosities and keratoderma):	any work involving friction or pressure;
(5) Dermatoses caused by tar, pitch, asphalt, mineral oils, anthracene and its compounds, products and residues of those substances (photodermatitis, folliculitis, dyaschromia, epithelioma, or paraneoplastic lesions):	any work involving the utilization or the handling of tar, pitch, asphalt, mineral oils, anthracene or their compounds, products and residues;
(6) Dermatitis caused by ionizing radiations (radiodermatitis):	any work involving exposure to ionizing radiations;
(7) Cutaneous telangiectasia:	any work performed in aluminium plants, involving repeated exposure to ambient air in potrooms;
(8) Dermatoses caused by oil or grease (chemical folliculitis):	any work involving the utilization or handling of oil or grease.

DIVISION IV  
DISEASES CAUSED BY PHYSICAL AGENTS

DISEASE	TYPE OF WORK
(1) Hearing impairment caused by noise:	any work involving exposure to excessive noise;
(2) Muscular-skeletal lesions manifested by objective signs (bursitis, tendinitis tenosynovitis):	any work involving repeated movements or pressures over an extended period of time;
(3) Illnesses caused by working in compressed air:	any work carried on in compressed air;
(4) Disease caused by heat:	any work performed at high temperatures;
(5) Disease caused by ionizing radiations:	any work involving exposure to ionizing radiations;
(6) Disease caused by the vibrations of a manual tool:	any work involving the utilization of a manual tool which creates vibrations;
(7) Retinitis:	any work involving electro-welding or acetylene welding.

## DIVISION V

## DISEASES CAUSED BY ORGANIC AND INORGANIC DUST

DISEASE	TYPE OF WORK
(1) Asbestosis, lung cancer or mesothelioma caused by asbestos:	any work involving exposure to asbestos fibre;
(2) Bronchopneumopathy caused by dust from hard metals:	any work involving exposure to the dust of hard metals;
(3) Siderosis:	any work involving exposure to iron oxide and iron dust;
(4) Silicosis:	any work involving exposure to silica dust;
(5) Talcosis:	any work involving exposure to talc dust;
(6) Byssinosis:	any work involving exposure to cotton, flax, hemp or sisal dust;
(7) Extrinsic allergic alveolitis:	any work involving exposure to an agent recognized as causing extrinsic allergic alveolitis;
(8) Bronchial asthma:	any work involving exposure to a specific sensitizing agent.

## SCHEDULE II

## INDEMNITY FOR PHYSICAL INJURIES

*(Section 83)*

AGE	INDEMNITY (\$)	AGE	INDEMNITY (\$)
18 years or less	50 000	42	37 234
19	49 468	43	36 702
20	48 936	44	36 170
21	48 404	45	35 638
22	47 872	46	35 106
23	47 340	47	34 754
24	46 809	48	34 043
25	46 277	49	33 511
26	45 745	50	32 979
27	45 213	51	32 447
28	44 681	52	31 915
29	44 149	53	31 383
30	43 617	54	30 851
31	43 085	55	30 319
32	42 553	56	29 787
33	42 021	57	29 255
34	41 489	58	28 723
35	40 957	59	28 191
36	40 426	60	27 660
37	39 894	61	27 128
38	39 362	62	26 596
39	38 830	63	26 064
40	38 298	64	25 532
41	37 766	65 or over	25 000

## SCHEDULE III

## INDEMNITY TO THE SPOUSE OF A DECEASED WORKER

*(Section 97)*

AGE	FACTOR
24 or under	2,00
25 to 29	2,25
30 to 34	2,50
35 to 39	2,75
40 to 44	3,00
45 to 49	2,75
50 to 54	2,50
55 to 59	2,25
60	2,00
61	1,80
62	1,60
63	1,40
64	1,20
65 or over	1,00

SCHEDULE IV

CHILD CARE EXPENSES

*(Section 156)*

1. In day nurseries:

\$13/day per child, less assistance granted by the Ministère des Affaires sociales;

2. In the home of the children or of the baby sitter:

\$1.50/hour for 1 child

\$1.75/hour for 2 children

\$2.00/hour for 3 children or more

or

\$20/day (24 hours) for 1 child

\$22/day (24 hours) for 2 children

\$25/day (24 hours) for 3 children or more.

SCHEDULE V

OATH OR SOLEMN AFFIRMATION  
OF A COMMISSIONER OF THE  
BOARD OF APPEAL

*(Section 357)*

I swear (or solemnly declare) that I will fulfil the duties of my office of commissioner of the Commission d'appel en matière de santé et de sécurité du travail with honesty, impartiality and justice, and that I will not accept any sum of money or advantage for anything I do in carrying out the duties of my office, apart from any allowance that is given to me by law.

SCHEDULE VI

OATH OR SOLEMN AFFIRMATION OF THE  
PRESIDENT AND VICE-PRESIDENTS OF THE  
BOARD OF APPEAL

*(Section 358)*

I swear (or solemnly declare) that I will fulfil the duties of my office of president (or vice-president) of the Commission d'appel en matière de santé et de sécurité du travail with honesty, impartiality and justice, and that I will not accept any sum of money, or advantage for anything I do in carrying out the duties of my office, apart from any allowance that is given to me by law.

## SCHEDULE VII

TABLE OF ACTUARIAL VALUES FOR CAPITALIZATION  
OF A MONTHLY AMOUNT OF \$ 1.00*(Sections 524 and 525)*

AGE	VALUE (\$)	AGE	VALUE (\$)	AGE	VALUE(\$)
15	168,45	44	137,42	73	65,22
16	168,00	45	135,45	74	62,47
17	167,55	46	133,43	75	59,74
18	167,08	47	131,34	76	57,04
19	166,60	48	129,20	77	54,36
20	166,09	49	127,00	78	51,71
21	165,54	50	124,75	79	49,11
22	164,95	51	122,47	80	46,56
23	164,31	52	120,15	81	44,08
24	163,61	53	117,81	82	41,66
25	162,86	54	115,44	83	39,31
26	162,06	55	113,04	84	37,03
27	161,20	56	110,62	85	34,84
28	160,27	57	108,16	86	32,73
29	159,29	58	105,68	87	30,71
30	158,25	59	103,16	88	28,77
31	157,16	60	100,61	89	26,91
32	156,00	61	98,02	90	25,15
33	154,80	62	95,39	91	23,47
34	153,54	63	92,71	92	21,88
35	152,22	64	89,98	93	20,36
36	150,83	65	87,24	94	18,92
37	149,38	66	84,48	95	17,57
38	147,87	67	81,72	96	16,28
39	146,29	68	78,96	97	15,07
40	144,64	69	76,20	98	13,90
41	142,93	70	73,46	99	12,76
42	141,16	71	70,72	100 or over	
43	139,32	72	67,98		11,54

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