

1985, chapter 6
**AN ACT RESPECTING INDUSTRIAL ACCIDENTS
AND OCCUPATIONAL DISEASES**

Bill 42

Introduced by Mr Raynald Fréchette, Minister of Labour

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Assented to 28 May 1985

Coming into force: 19 August 1985, except sections 367 to 396, 493, 535, 537, 543 (176.20), 549 (244), 574, 577 and 587 to 593 which come into force on 28 May 1985

Acts amended:

Civil Code of Lower Canada

Social Aid Act (R.S.Q., chapter A-16)

Automobile Insurance Act (R.S.Q., chapter A-25)

Health Insurance Act (R.S.Q., chapter A-29)

Act respecting the Barreau du Québec (R.S.Q., chapter B-1)

Act to promote good citizenship (R.S.Q., chapter C-20)

Labour Code (R.S.Q., chapter C-27)

Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)

Crime Victims Compensation Act (R.S.Q., chapter I-6)

Summary Convictions Act (R.S.Q., chapter P-15)

Act respecting probation and houses of detention (R.S.Q., chapter P-26)

Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1)

Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4)

Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5)

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

Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)

Act respecting occupational health and safety (R.S.Q., chapter S-2.1)

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Acts amended (Cont'd):

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)

Acts replaced:

Workmen's Compensation Act (R.S.Q., chapter A-3)

Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7)



CHAPTER 6

An Act respecting industrial accidents and occupational diseases

[Assented to 28 May 1985]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

CHAPTER I

OBJECT, INTERPRETATION AND APPLICATION

DIVISION I

OBJECT

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

Compensation The process of compensation for employment injuries includes provision of the necessary care for the consolidation 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.

Return to work 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

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

- “benefit” “**benefit**” means compensation or an indemnity paid in money, financial assistance or services furnished under this Act;
- “board of appeal” “**board of appeal**” means the Commission d’appel en matière de lésions professionnelles established by this Act;
- “Commission” “**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);
- “consolidation” “**consolidation**” means the healing or stabilization of an employment injury following which no improvement of the state of health of the injured worker is foreseeable;
- “construction site” “**construction site**” means a construction site within the meaning of the Act respecting occupational health and safety;
- “dependant” “**dependant**” means a person entitled to an indemnity under Subdivision 2 of Division III of Chapter III;
- “domestic” “**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” “**employer**” means a person who, under a contract of hire of personal services or of apprenticeship, uses the services of a worker for the purposes of his establishment;
- “employment injury” “**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” “**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” “**establishment**” means an establishment within the meaning of the Act respecting occupational health and safety;
- “health professional” “**health professional**” means a professional in the field of health within the meaning of the Health Insurance Act (R.S.Q., chapter A-29);
- “independent operator” “**independent 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"

"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"

"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;

"paper carrier"

"paper carrier" means a natural person who carries out home delivery of a daily or weekly newspaper for a remuneration;

"spouse"

"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"

"suitable employment" means appropriate 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"

"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.

Government bound

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

Public Act

4. This Act is a public Act.More
favourable
provisions

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

Hiring out
of services

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.

Minimum
wage

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.

Minimum
wage

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 section 3 of the Regulation 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*

Application

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.

Employer
without
establish-
ment 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.

Accident
outside
Québec

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 services made in Québec.

Accident
outside
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

Independent
operator

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
 - (a) simultaneously for several persons;
 - (b) under a remunerated or unremunerated service exchange agreement with another independent operator carrying on similar activities;
 - (c) for several persons in turn, supplies the required equipment and the work done for each person is of short duration; or
- (2) in the case of activities that are only intermittently required by the person who retains his services.

STUDENTS

Student

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 undergoing a training period at an establishment, without remuneration, or if his case is one of the cases determined by regulation.

PERSONS DEEMED EMPLOYED BY THE GOVERNMENT

Government-
employed
worker

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

(1) a person other than a child contemplated in subsection 3, 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 or the Summary Convictions Act;

(4) a recipient of social aid doing work under a program designated under section 11.1 of the Social Aid Act (R.S.Q., chapter A-16), enacted by the Act to amend the Social Aid Act (1984, chapter 5).

Applicable
provisions

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.

Emergency
measures

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 in emergency measures set up, organized or approved by the Bureau de la protection civile du Québec.

VOLUNTARY WORKERS

Voluntary
worker

13. 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.

Application

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.

Posting up
of notice

14. A person who sends the statement prescribed in section 13 to the Commission shall, at the request of the Commission, 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

Health or
social serv-
ices recip-
ient

15. 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.

Government
project

16. 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.

Applicable
provisions

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

Federal
government
employees

17. 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

Registration

18. Independent operators, domestics, employers and directors of corporations may register with the Commission to have protection under this Act.

Association

19. 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.

Independent
operator

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 Chapters IX and XIII; in this case, the individual shall inform the independent operator of the fact that he benefits by the protection afforded by this Act, and of the amount of the protection.

Right to
benefits

20. 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.

Notice

21. 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.

Amount of
protection

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 Yearly Insurable Earnings established under section 66.

List of
members

22. 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.

Public
notice

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.

Cessation of
protection

23. Protection afforded a person registered with the Commission ceases on the day the Commission receives notice in writing to that effect from the person or association having made the registration.

Unpaid
assessment

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

Public
notice

In the case of failure to pay by an association having registered its members, the protection afforded them ceases ten days after the day the Commission causes notice to that effect to be published in a newspaper circulated in each area where they are domiciled; the notice shall be published within thirty days of the failure to pay.

Notice to
member

24. An association of independent operators or of domestics that wishes to deregister one of its members shall so inform that member in writing at least thirty days in advance.

Public
notice

If the association wishes to deregister several or all of its members, it shall so inform them, within the same time limit, by means of a notice published in a newspaper circulated in each area where they are domiciled.

CHAPTER II

GENERAL PROVISIONS

Vested
rights

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

Unfulfilled
obligations

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

Negligence
of worker

27. An injury or a disease arising solely as a result of the gross and wilful negligence of the worker who is the victim thereof is not an employment injury unless it ends in his death or causes him severe permanent physical or mental impairment.

Presumed
employment
injury

28. An injury that happens at the workplace while the worker is at work is presumed to be an employment injury.

Peculiar
risks

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.

Presumed
occupational
disease

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.

Unlisted
disease

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.

Presumed
employment
injury

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.

Provision
not
applicable

The first paragraph does not apply if 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).

Prohibited
action

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.

Recourses

A worker who believes that he has been the victim of a sanction or action described in the first paragraph may, as he elects, resort to the grievance procedure set down in the collective agreement applicable to him or submit a complaint to the Commission in accordance with section 253.

Prohibition

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

Order of
repayment

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.

Contribution

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.

New
employer

34. Where an establishment or part thereof is alienated or transferred otherwise than by judicial sale, the new employer assumes the obligations of the former employer under this Act toward the worker and, in respect of payment of the assessment due at the time of the alienation or transfer, toward the Commission.

Judicial sale

Where an establishment is sold by judicial sale, the new employer assumes the obligations of the former employer under this Act toward the worker if the new employer carries on the same activities in the establishment as were carried on there before the sale.

Non-
compliance
of worker

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

Non-
compliance
of employer

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

Access to
record

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.

Access to
record

37. An employer, as well as any person expressly authorized by him for that purpose, 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.

Access to
record

38. An employer, as well as any person expressly authorized by him for that purpose, has a right of access free of charge to the record kept by the Commission in respect of an employment injury suffered by one of his workers while he was employed by him.

Access to
medical
record

Only the health professional designated by the employer has a right of access free of charge to the medical and physical rehabilitation record kept by the Commission in respect of the employment injury suffered by the worker.

Notice to
worker

The Commission shall notify the worker that the right contemplated in the first or second paragraph has been exercised and give him the name and address of the health professional designated by the employer.

Report to
employer

39. A health professional shall report to the employer who designated him in respect of the medical and physical rehabilitation record of a worker to which the Commission gives him access; he may on that occasion give the employer a summary of the record and an opinion to enable him to exercise his rights under this Act.

Restriction

No person to whom the health professional reports may use or communicate the information or opinion received by him on that occasion for any other purpose than the exercise of the rights of the employer under this Act.

Computer-
ized docu-
ments

40. 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.

Reasonable
time

41. The information requested pursuant to sections 36, 37, 38, 39 and 40 shall be furnished within a reasonable time.

Information
held by
Régie

42. The Commission may, for the purposes of the administration of this Act, 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

(1) the identification of a worker who has suffered an employment injury;

(2) administration costs and expenses the Régie recovers from the Commission.

Agreement

The Commission and the Régie shall enter into an agreement for the purposes of this section in accordance with sections 68 to 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

Exception

43. Sections 38, 208, 215, 219, 229 and 231, the third paragraph of section 280, the fourth paragraph of section 296 and section 415 apply notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information.

CHAPTER III

INDEMNITIES

DIVISION I

INCOME REPLACEMENT INDEMNITY

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

Income replacement **44.** 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.

Unemployed worker 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.

Amount **45.** The income replacement indemnity is equal to 90% of the weighted net income that the worker derives annually from his employment.

Presumption **46.** A worker is presumed to be unable to carry on his employment until the employment injury he has suffered has consolidated.

Rehabilitation period **47.** A worker whose employment injury has consolidated is entitled to the income replacement indemnity provided for in section 45 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.

Return to work **48.** 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 45 until he returns to his employment or an equivalent employment or until he refuses, without valid reason, to do so, but not for more than one year from the date on which he is again able to carry on his employment.

Reduction 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.

Reduction **49.** Where a worker unable to carry on his employment by reason of an employment injury becomes able to carry on a suitable full-time employment, his income replacement indemnity shall be reduced by the amount of the weighted net income that he could derive from the suitable employment.

Employment unavailable	<p>If the suitable employment is not available, the worker is entitled to the income replacement indemnity provided for in section 45 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.</p>
Reduction	<p>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 any other.</p>
Computation of income	<p>50. 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.</p>
Computation of income	<p>However, if the Commission believes that the gross annual income the worker could derive from the suitable employment he becomes able to carry on full time is greater than the Maximum Yearly Insurable Earnings established pursuant to section 66, it shall consider the gross annual income equal to the Maximum Yearly Insurable Earnings.</p>
Publication of table	<p>The Commission shall publish every year in the <i>Gazette officielle du Québec</i> the table of gross annual income for suitable employments, which takes effect on 1 January of the year for which it is made.</p>
Contents	<p>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 66 for that year.</p>
Rounding off	<p>The highest income in the first income bracket is rounded off to the next lower \$500.</p>
Recovery of right	<p>51. A worker holding a suitable full-time employment who, within two years of the date he began to carry on the employment, must give it up on the advice of the physician in charge of him, shall recover his right to the income replacement indemnity provided for in section 45 and to the other benefits provided for in this Act.</p>

Physician's
opinion

The first paragraph applies only if the physician in charge of the worker is of the opinion that he is not reasonably fit to hold the suitable employment or that the suitable employment endangers his health, safety or physical well-being.

Reduction

52. Notwithstanding sections 46 to 48 and the second paragraph of section 49, if a worker holds a new employment, his income replacement indemnity shall be reduced by the amount of the weighted net income he derives from his new employment.

Worker 55
years of age

53. 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 45 until he holds a new employment.

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 52.

Review of
indemnity

54. 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 50.

Reduction

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 the income replacement indemnity to which he would be entitled if he had not become able to carry on a suitable employment full-time and the weighted net income that he derives from the employment he holds.

Subsequent
reviews

55. Three years after the review under section 54 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.

Worker 65
years of age

56. 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.

Worker 64
years of age

Notwithstanding the first paragraph, the income replacement indemnity of a worker who suffered an employment injury when 64 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.

Extinction
of right

57. 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 48;

(2) the death of the worker; or

(3) the sixty-eighth birthday of the worker or, if he suffers an employment injury when 64 years of age or over, four years after the date he became unable to carry on his employment.

Unrelated
death

58. Notwithstanding paragraph 2 of section 57, 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.—*Payment by the employer*

Day of
injury

59. 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.

Time of
payment

The employer shall pay the salary or wages to the worker at the time he would normally have paid them to him.

First four-
teen days

60. 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 salary or 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.

Time of
payment

The employer shall pay the salary or wages referred to in the first paragraph to the worker at the time he would normally have paid them to him if the worker has furnished the medical certificate contemplated in section 199.

Reimbursement

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 commencement of his disability and the Commission shall reimburse the amount thereof to the employer within fourteen days of receipt of his claim, failing which it shall pay him interest determined in accordance with section 323 from the first day it is late.

Ineligible worker

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.

Absence

61. 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.

Reimbursement

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.

Computation of wages

62. For the purposes of sections 59 to 61, 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).

Computation of wages

For the purposes of section 60, the gross salary or wages of the worker is taken into consideration up to the Maximum Yearly Insurable Earnings established under section 66.

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

Weighted net income

63. The weighted net income that the worker derives annually from his employment is equal to his gross annual employment 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.

Publication
of table

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.

Contents

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

Income
between
brackets

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.

Use of table

64. Where the Commission is reviewing an income replacement indemnity, determining a new gross income pursuant to section 76 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.

Computa-
tion of
indemnity

65. 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.

Maximum
Yearly
Insurable
Earnings

66. For the year 1985, the amount of the Maximum Yearly Insurable Earnings is \$33 000.

Maximum
Yearly
Insurable
Earnings

For the year 1986 and each subsequent year, the amount of the Maximum Yearly Insurable Earnings is obtained by multiplying the Maximum for the year 1985 by the ratio between the sum of the average of weekly salaries and wages of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year preceding the year for which the amount of the Maximum Yearly Insurable Earnings is computed and the same sum for each of the 12 months preceding 1 July 1984.

Applica-
bility

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

Statistics
Canada data

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

Incomplete
data

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.

New
method

If Statistics Canada uses a new method to determine the average of weekly salaries and wages for a particular month by modifying the time basis or the content basis and if the sum of the average of weekly salaries and wages for a year in which Statistics Canada used a new method is more than 1% higher or lower than the sum of the average of weekly salaries and wages established according to the data of the former method, the averages of weekly salaries and wages to be used to establish the Yearly Average for each of the years affected by the change of method are adjusted by the Commission in such a way as to take into account the data gathered according to the method used by Statistics Canada on 19 August 1985.

Gross
income

67. 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.

Allowable
inclusions

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 personal 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.

Seasonal
worker

68. 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 commencement of his disability.

Applicable
provision

The second paragraph of section 67 applies for the purposes of establishing a higher gross income.

Unem-
ployed
worker

69. 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 67.

Revaloriza-
tion of
income

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

Recurrence
or aggrava-
tion

70. 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.

Revaloriza-
tion of
income

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.

Worker
with several
employ-
ments

71. The gross income of a worker who carries on more than one employment is the income he would derive from the most remunerative employment that he becomes unable to carry on, as if he carried on that employment full-time.

Gross
income

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 65 does not apply in respect of the minimum employment income.

Independent
operator

72. 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 commencement of his disability.

Beneficiary
of indem-
nity

73. The gross income of a worker who suffers an employment injury while he is the beneficiary of an income replacement indemnity is the revalorized gross income on the basis of which his initial indemnity was computed or the gross income he derives from his new employment, whichever is greater.

Computa-
tion of new
indemnity

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 Yearly Insurable Earnings in force when a subsequent employment injury appears.

Registered
person

74. The gross income of a person registered with the Commission is equal to the amount for which he is registered.

Computa-
tion of
gross
income

75. 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 67 to 74.

Computa-
tion of
indemnity

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.

Higher
gross
income

76. If a worker, by reason of an employment injury, is unable to carry on his employment for more than two years, 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.

Computa-
tion of
indemnity

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

§ 4.—*Special provisions regarding certain workers*

Application

77. This subdivision applies to a worker who suffers an employment injury while acting as a person contemplated in section 10, 11, 12 or 13 or while he is a full-time student.

Application

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.

Right to
indemnity

78. A worker who suffers an employment injury while acting as a person contemplated in section 11, 12 or 13 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.

Right to
indemnity

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.

Student

79. 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.

Computa-
tion of
indemnity

80. The income replacement indemnity of a student contemplated in section 10, of a child contemplated in paragraph 3 of section 11 or of a worker who is 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 probably have earned a higher gross employment income at the end of the studies being pursued had he not suffered an employment injury.

Higher
indemnity

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 65 does not apply in respect of the minimum employment income.

Review

The review made under subparagraph 3 of the first paragraph replaces any review under section 76.

Minimum
wage

81. The gross income of a person contemplated in paragraph 1, 2 or 4 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.

Voluntary
worker

82. The income replacement indemnity of a voluntary worker contemplated in section 13 is computed

(1) in accordance with section 80, 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

Permanent
impairment

83. 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 anatomicophysiological deficit and disfigurement resulting from the impairment and the suffering or loss of enjoyment of life resulting from the deficit or disfigurement.

Amount

84. 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.

Percentage
of impair-
ment

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 anatomicophysiological deficit, disfigurement and the suffering or loss of enjoyment of life resulting from the deficit or disfigurement.

Unlisted
injury

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

Symmetri-
cal organs

85. The table of bodily injuries adopted by regulation must allow for the determination of an additional percentage where a worker, by reason of an employment injury or an occupational disease, sustains anatomicophysiological deficits in symmetrical organs or an anatomicophysiological deficit in an organ that is symmetrical to an already impaired organ.

Factors

For the purposes of this section, the table shall take account of the nature of the impaired organs and the anatomical or functional character of the deficits.

Minimum
amount

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

Total per-
centage
over 100%

87. A worker who sustains one or several permanent physical or mental impairments as a result of the same work accident or the same occupational disease is entitled, where the total of the percentages of these impairments exceeds 100%, to receive, in addition to the compensation determined under section 84, an amount equal to 25% of the amount of the compensation determined on the basis of the excess percentage.

Determina-
tion of
sequelae

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

Undeter-
minable
sequelae

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.

Adjust-
ments

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

New
impairment

89. 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.

Total per-
centage
over 100%

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%.

Computa-
tion of
amount

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.

Interest

90. 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.

Compu-
tation of
interest

Interest is determined under section 323 and forms part of the compensation.

Death

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

Unrelated
death

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.

Compensa-
tion to
spouse or
children

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*

Interpreta-
tion

92. 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.

Invalid

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

Severe dis-
ability

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

Long-term
disability

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

Family
enterprise

94. 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.

Presumed
cause of
death

95. 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.

Autopsy

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

Presumed death

96. 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.

Right to compensation

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

§ 2.—*Indemnities to dependants*

Lump sum

98. 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 in accordance with sections 63 to 82 and revalorized where required, by the factor provided in Schedule III in relation to the age of the spouse at the date of death of the worker.

Invalid spouse

99. 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 98; 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.

Minimum amount

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

Additional indemnity

101. In addition to the lump sum indemnity provided for in sections 98 to 100, the spouse of the deceased worker is entitled to an indemnity equal to 55% of the income replacement indemnity to which the worker was entitled at the date of his death, where such is the case, or to which he would have been entitled at that date if he had then been unable to carry on his employment by reason of an employment injury.

Monthly pension

The indemnity is payable in the form of a monthly pension, from the date of the death of the worker, for the period provided for in Schedule IV, according to the age of the spouse at that date.

Minor child

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

Lump sum

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.

Invalid child

103. 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 102, to a lump sum indemnity of:

(1) \$50 000, unless the circumstances that caused his invalidity entitle 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 the circumstances that caused his invalidity entitle him to benefits under any of the Acts referred to in paragraph 1.

Full-time student

104. 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 \$9 000.

Invalid child of full age

105. 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 to

(1) instead of the indemnity provided for in section 104, a lump sum indemnity equal to the amount provided in Schedule II in relation to his age on that date, unless the circumstances that caused his invalidity entitle him to a benefit 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 under section 104, if the circumstances that caused his invalidity entitle him to a benefit under any of the Acts referred to in paragraph 1.

Other dependant

106. A person, other than a dependant contemplated in sections 98 to 105, 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 sections 63 to 82 and revalorized where required, if he is 35 years of age or over at that date.

Invalid

107. If the person contemplated in section 106 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 the circumstances that caused his invalidity entitle him to a benefit 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 106 in relation to his age at the date of death of the worker if the circumstances that caused his invalidity entitle him to a benefit under any of the Acts referred to in paragraph 1.

Other
dependant

108. A person other than a dependant contemplated in sections 98 to 107 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%.

§ 3.—*Other indemnities owing to death*

Spouse's
indemnity

109. The spouse is entitled on the death of the worker to an indemnity of \$1 000.

Other
dependants

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

Parents'
indemnity

110. 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.

Funeral
expenses

111. The Commission shall reimburse to the payer, on the production 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

Clothing

112. 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.

Prosthesis
or orthosis

113. 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 caused damage arising out of or in the course of his work to the extent that he is not entitled to such an indemnity under another plan.

Maximum
amounts

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

Deductible

114. The indemnities contemplated in paragraph 1 of section 112 and, in the case of a dental prosthesis or an ocular orthosis, in section 113 are subject to a deductible of \$25 each.

Travel
expenses

115. 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 and that it publishes in the *Gazette officielle du Québec*.

Retirement
plan

116. A worker who, by reason of an employment injury, suffers from a disability contemplated in section 93 is entitled to continue to come under the retirement plan offered in the establishment where he was working at the time of his injury.

Assessment In such a case, the worker shall pay his share of the exigible assessment, where such is the case, and the Commission shall assume the employer's share, except during the period in which the employer is bound to assume his share pursuant to subparagraph 2 of the first paragraph of section 235.

DIVISION V

REVALORIZATION

Revalorized amounts **117.** The amount of the gross annual income used as the basis for computing the income replacement indemnity, as well as for the purposes of section 101, and the amount of the gross annual income evaluated by the Commission under the first paragraph of section 50 are revalorized each year, on the anniversary of the day the worker became unable to carry on his employment.

Revalorization on 1 January **118.** All the amounts of money fixed in this chapter, except sections 50, 63 and 66, in Chapter IV and in Schedules II and V are revalorized each year on 1 January.

Indemnity owing to death An indemnity owing to death received by a beneficiary pursuant to the first paragraph of section 102 also is revalorized on the date determined in the first paragraph.

Method **119.** 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.

Consumer Price Index **120.** 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.

Incomplete data 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.

New method If Statistics Canada uses a new method to compute the monthly Consumer Price Index by modifying the time basis or the content basis and if the modification entails a variation of more than 1% in the Yearly Average, the monthly indices to be used to establish the Yearly Average for each of the years affected by the change of method are adjusted by the Commission in such a way as to take into account the data

gathered according to the method used by Statistics Canada on 19 August 1985.

Rounding
off of
average

121. 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.

Rounding
off of ratio

122. 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.

Rounding
off of
amount

123. The amount obtained through a revalorization is rounded off to the nearest dollar, except for the purposes of Schedule V.

DIVISION VI

PAYMENT OF INDEMNITIES

Beginning
of payment

124. 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.

First four-
teen days

Notwithstanding the foregoing, the Commission shall pay the worker to whom no employer is bound to pay a salary or wages under section 60 an income replacement indemnity for each day or part of a day during which the worker would normally have earned an employment income, 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 199 to the Commission.

Pension

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

Reimburse-
ment of
employer

126. 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.

Reimbursement of social aid agency **127.** The Commission may withhold from an income replacement indemnity the equivalent of any amount advanced by a social assistance or social aid agency to the worker while he is unable to carry on his employment.

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

Uninterrupted payment **128.** 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 with respect to his injury.

Advance payment **129.** The Commission, if it considers it appropriate in the interest of the beneficiary or if the beneficiary is urgently in need of it, 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.

Dismissal of application 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 public compensation scheme by reason of the injury or disease for which he received the amounts.

Maximum recoverable 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 public compensation scheme.

Direct deposit **130.** 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.

Instalments **131.** The Commission may pay an income replacement indemnity in one or several instalments equivalent to the representative capital of the indemnity, for a maximum period of one year, or at intervals other than those provided in section 125 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.

Pension 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.

Cessation of payment **132.** 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 from the physician in charge of the worker a report indicating the date on which the employment injury suffered by the worker has consolidated 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.

Expiry of time limit 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 consolidated, the Commission shall cease to pay the income replacement indemnity in accordance with section 48.

Recovery of indemnity **133.** The Commission shall recover the amount of the income replacement indemnity that a worker has received without being entitled thereto since the date of the consolidation of his employment injury, where the worker

(1) has been informed by the physician in charge of him of the date of consolidation of his injury and of the fact that he retains no resultant functional disability; and

(2) has failed to immediately inform his employer in accordance with the first paragraph of section 274.

Time of payment **134.** The Commission shall pay the compensation in the case of death provided for in sections 98 to 100 to the spouse either when the decision granting the compensation becomes final or at the end of the period in which the Commission pays the compensation in the case of death provided for in section 101 to the spouse, whichever is later.

Earlier payment Before the end of the period referred to in the first paragraph, the Commission may, however, pay all or part of the indemnity provided

for in sections 98 to 100 where it considers it useful for the rehabilitation of the spouse and if the decision granting the indemnity is final.

Interest

135. The Commission shall pay interest on the amount of the compensation in the case of death provided for in sections 98 to 100 from the date of the death.

Computa-
tion of
interest

The interest is determined in accordance with section 323 and forms part of the indemnity.

Death of
spouse

136. The indemnity provided for in section 101 ceases to be paid in the month following the month in which the spouse entitled to it dies.

Payments
to person
having cus-
tody

137. The Commission shall pay the death benefit provided for in the first paragraph of section 102 to the person having custody of the child who is entitled to compensation.

Cessation of
payment

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.

Time of
payment

138. The Commission shall pay the death benefit provided for in the second paragraph of section 102 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.

Time of
payment

139. The Commission shall pay the death benefit provided for in section 104 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.

Certificate
of registra-
tion

140. The Commission shall pay the benefit contemplated in section 138 or 139 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 138 or 139, as the case may be, and that he regularly attended the institution during the three-month period.

Legal inca-
pacity

141. The Commission shall 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.

Notice to
Public
Curator

The Commission shall notify the Public Curator of any payment it makes in accordance with the first paragraph.

Reduction
or suspen-
sion

142. 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, unless, in the opinion of the physician in charge of him, the examination usually entails serious danger;

(b) does anything that, according to the physician in charge of him 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 physician in charge of him or, if the matter is contested, the referee considers necessary in the interest of the worker;

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

(e) neglects or refuses to perform the work temporarily assigned to him by his employer that he is required to perform in accordance with section 179 while his employer pays or offers to pay him the salary or wages and the benefits contemplated in section 180;

(f) neglects or refuses to inform his employer in accordance with section 274.

Retroactive
payment

143. 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.

Unseizabil-
ity

144. Indemnities paid under this Act are unassignable, unseizable and nontaxable except the income replacement indemnity, up to 50% of which is seizable for alimentary debts.

CHAPTER IV

REHABILITATION

DIVISION I

RIGHT TO REHABILITATION

Right to
rehabilita-
tion

145. A worker who, as a result of the employment injury he has suffered, 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.

Personal
program

146. 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.

Modifica-
tion of pro-
gram

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

Decision of
Commission

147. In respect of rehabilitation, the personal rehabilitation program constitutes the decision of the Commission regarding the rehabilitation benefits to which the worker is entitled, and each modification made to the program by virtue of the second paragraph of section 146 constitutes a new decision of the Commission.

§ 1.—*Physical rehabilitation*

Purpose

148. 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.

Contents of
program

149. 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 physician in charge of the worker.

Home care

150. 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 the physician in charge of him.

Reimbursement of expenses

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.

Private care

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*

Purpose

151. 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.

Contents of program

152. 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.

Adaptation of residence

153. 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.

Lease

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

Moving
expenses

154. Where the residence of a worker referred to in section 153 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.

Estimates

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.

Adaptation
of vehicle

155. 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 or to get into it.

Estimates

156. 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 153 or 155 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.

Insurance
and main-
tenance

157. 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.

Home
assistance

158. 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.

Household
tasks

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

Spouse

The person may be the worker's spouse.

Amount

160. 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.

Periodical
reevaluation

161. The amount payable for personal home assistance shall be reevaluated periodically to take account of changes in the worker's health and the needs arising therefrom.

Cessation of
payment

162. 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.

Time of
payment

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

Adjustment
or cancella-
tion

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.

Child care
expenses

164. 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 V 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.

Main-
tenance
work

165. A worker who has sustained a serious physical impairment as a result of an employment injury and who is unable 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 costs he incurs to have the work done, up to \$1 500 a year.

§ 3.—*Vocational rehabilitation*

Purpose

166. 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.

Contents of
program

167. 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.

Refresher
program

168. 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, in Québec as far as possible.

Rehabilita-
tion
measure

169. 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.

Implemen-
tation of
program

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.

Suitable
employment

170. 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.

Implement-
ation of
program

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 to carry on the available suitable employment.

Evaluation
of potential

171. 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.

Factors

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

Vocational
training

172. 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.

Purpose

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, in Québec as far as possible.

Assistance
in finding
employment

173. 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.

Assistance
in finding
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.

Nature of
assistance

174. 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.

Subsidy	175. The Commission may, on such conditions as it may determine and that it shall publish in the <i>Gazette officielle du Québec</i> thirty days before they become applicable, grant 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.
Purpose	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.
Adaptation of position	176. 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.
Cost	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.
Reimbursement for costs	177. 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.
Estimates	The worker shall furnish to the Commission at least two detailed estimates containing the information it may require.
Subsidies	178. The Commission may grant subsidies, not exceeding the Maximum Yearly Insurable Earnings established under section 66, 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 remains unable to carry on his employment as a result of his injury.

Study

The plan must be accompanied with a study which complies in form and content with the requirements of the Commission, 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.

Reimbursement for expenses

If the plan is accepted, the Commission shall reimburse the worker for any expenses he incurred to obtain the feasibility study.

DIVISION II

TEMPORARY ASSIGNMENT OF WORK

Temporary assignment

179. The employer of a worker who has suffered an employment injury may temporarily 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, even if his injury has not consolidated, if the physician in charge of the worker 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.

Disagreement with physician

If the worker disagrees with the physician, he may avail himself of the procedure provided in sections 37 to 37.3 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 the physician has been confirmed by a final decision.

Salary or wages

180. The employer shall pay the worker who performs the work he temporarily assigns to him 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.

DIVISION III

FUNCTIONS OF THE COMMISSION

Cost of rehabilitation
Appropriateness and economy

181. The cost of rehabilitation is assumed by the Commission.

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

Provision of services **182.** 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.

Suspension of program **183.** 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.

Notice For the purposes of this section, the Commission shall give the worker five clear days notice informing him that if he fails to avail himself of a rehabilitation measure, it will apply a sanction authorized in the first paragraph.

Powers **184.** 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.

Multidisciplinary committee For the purposes of subparagraphs 1, 2 and 3 of the first paragraph, the Commission shall form a multidisciplinary committee.

Protective reassignment **185.** 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.

Employment creation **186.** 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.

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

Consulta-
tion serv-
ices

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.

Recovery of
subsidy

187. The Commission shall recover all or part of a subsidy it has paid pursuant to this chapter to such extent as the subsidy has not been used for the purposes for which it was granted.

Applicable
provisions

Sections 431 to 436 apply to the recovery contemplated in the first paragraph.

CHAPTER V

MEDICAL AID

Right to
medical aid

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

Medical aid

189. Medical aid includes

- (1) the services of health professionals;
- (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 or, in the case of a supplier who is not established in Québec, recognized by the Commission;
- (5) any other care or costs determined by the Commission.

First-aid

190. The employer shall immediately give first-aid to a worker who suffers an employment injury in his establishment and, where required, transportation, to a health establishment, to a health professional or to the worker's residence, as required by his condition.

Transporta-
tion

The cost of transportation of the worker shall be assumed by his employer, who shall reimburse it, where such is the case, to the person who incurred it.

Principal
contractor

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.

Emergency
service

191. An employer or the principal contractor referred to in the third paragraph of section 190 shall, in the cases determined by regulation, maintain at his own expense a first-aid service and an emergency medical service including the staff and equipment determined by regulation, provide premises for that purpose and keep a first-aid and emergency medical register in accordance with the regulations.

Health pro-
fessional

192. Every worker is entitled to receive care from the health professional of his choice.

Health
establish-
ment

193. Every worker is entitled to receive care from the health establishment of his choice.

Reference
to other
establish-
ment

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, if the physician in charge of him agrees, refer him to another establishment to receive the required care more promptly.

Cost

194. The Commission shall be charged the cost of medical aid.

Claim

No amount may be claimed from a worker for any medical aid benefit to which he is entitled under this Act and no action in respect thereof lies in any court of justice.

Cost of
hospital
care

195. 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.

Payment by
Régie

196. Services rendered by health professionals under this Act and contemplated in the tenth paragraph of section 3 of the Health Insurance Act, enacted by section 488, including those of a referee or a member of a committee on occupational lung diseases or of a special committee acting under Chapter VI, except services rendered 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 agreements made under section 19 of the Health Insurance Act.

Reimburse-
ment by
Commission

197. The Commission shall reimburse the Régie de l'assurance-maladie du Québec for the cost of the services contemplated in section 196 and any administrative expenses attaching thereto.

Amount

In the case of employment injuries which do not render workers unable to carry on their employment after the day on which their injuries

appeared and which give rise to no benefits other than those for services rendered by a physician, the amount of the reimbursement for one year is equal to 5.4% of the total amount, for that year, of the cost assumed by the Régie for the other services rendered by the physicians under this Act and for the administrative expenses attaching thereto.

Agreement

198. 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 and on the determination of its administrative expenses for the services contemplated in section 196.

CHAPTER VI

MEDICAL EVALUATION PROCEDURE

DIVISION I

GENERAL PROVISIONS

Physician's
certificate

199. The first physician who takes charge of 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 consolidate within fourteen full days from the date he became unable to carry on his employment by reason of his injury, the foreseeable date when the injury will consolidate; or

(2) where he expects the worker's employment injury to take more than fourteen full days after the date he became unable to carry on his employment by reason of his injury to consolidate, the foreseeable time the injury will take to consolidate.

Choice of
physician

If the worker is not in a position to choose the first physician to take charge of him, he may, as soon as he is in a position to do so, choose another physician who will have charge of him and who shall then, at the worker's request, give him the certificate prescribed in the first paragraph.

Report to
Commission

200. In the case described in paragraph 2 of the first paragraph of section 199, the physician in charge of the worker 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 date of the industrial accident;
- (2) the main diagnosis and any relevant additional information;
- (3) the foreseeable time the employment injury will take to consolidate;
- (4) the fact that the worker is awaiting physiotherapeutic or ergotherapeutic treatment or awaiting hospitalization or that he is receiving such treatment or is hospitalized;
- (5) so far as he can determine, the possibility that there may be permanent sequelae.

Subsequent
physician

The same applies to any physician who has charge of the worker subsequently.

Change in
condition

201. If changes in the worker's pathological condition significantly change the nature or duration of the care or treatment prescribed or administered, the physician in charge of the worker shall immediately so inform the Commission on the form prescribed by the Commission for that purpose.

Report to
Commission

202. The physician in charge of the worker, within ten days of receiving a request from the Commission to that effect, shall furnish to the Commission, on the form prescribed by the Commission, a report containing the information required by the Commission on the development of the worker's pathological condition and on the nature or the duration of the care or treatment prescribed or administered.

Final report

203. In the case of subparagraph 1 of the first paragraph of section 199, if the worker has suffered a permanent physical or mental impairment, and, in the case of subparagraph 2 of the first paragraph of the said section, the physician in charge of the worker shall, when the employment injury of the worker has consolidated, send to the Commission, a final report on the form prescribed by the Commission for that purpose.

Contents

The report shall include the date of the consolidation of the injury and, as the case may be,

- (1) the percentage of the worker's permanent physical or mental impairment according to the table of bodily injuries adopted by regulation;
- (2) a description of the worker's functional disability resulting from his injury;

(3) the aggravation of functional disabilities previous to those resulting from the injury.

Information
of worker

The physician in charge of the worker shall inform him of the content of his report without delay.

Physician in
default

204. Where the physician in charge of a worker refuses or neglects to provide the Commission, within the prescribed time, with a report he is required to provide, the Commission shall so inform the worker without delay and notify him that it will refer him to the physician it may designate if, within ten days from the notice, it has not received the report from the physician in default or the name and address of another physician chosen by the worker and who takes charge of him.

Report from
new physi-
cian

205. The report received by the Commission from the physician it designates under section 204, where such is the case, is considered to be the report of the physician in charge of the worker.

Contesta-
tion

206. The worker may contest the report of the physician designated by the Commission in accordance with section 204 within ten days of the sending of the report by the Commission as regards one or several matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212.

Time limit

Within twenty days of his contestation, the worker shall send the Commission a report of a physician whose conclusions call in question those of the physician designated by the Commission regarding each matter the worker wishes to contest, so that the Commission may submit it to arbitration as provided for in section 217.

Loss of
right to
remunera-
tion

207. Notwithstanding section 22 of the Health Insurance Act, a physician who fails to furnish a certificate or report within the prescribed time loses his right to remuneration for the medical examination which ought to have been followed by the certificate or report.

Notice to
Régie

The Régie de l'assurance-maladie du Québec, on receiving notice of the failure from the Commission, shall refuse to pay for the medical examination or shall reimburse itself by way of compensation or otherwise, as the case may be.

Medical
record

208. 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.

Loss of
right to
payment

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.

Required
examination

209. 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.

Frequency

Notwithstanding the foregoing, where according to the physician in charge of the worker the worker's employment injury would not be consolidated within fourteen full days after the date on which he became unable to carry on his employment because of his injury, no employer may require more than one medical examination per month for an assessment of when the injury will consolidate.

Reasons for
examination

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

Cost

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

Obligation

211. A worker who suffers an employment injury shall undergo the examination required by his employer in accordance with sections 209 and 210.

Contesta-
tion

212. An employer may contest the certificate or report of the physician in charge of a worker in his employ who has suffered an employment injury if he obtains a report from a physician who, after examining the worker, calls in question the findings of the physician in charge of the worker regarding one or several of the following matters:

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

Time limit

The employer shall transmit a copy of the report to the Commission within thirty days after the date of the certificate or report he wishes to contest, in order that the Commission submit it to arbitration under section 217.

Required
examination

213. For the purposes of section 214, the Commission may require a worker who has suffered an employment injury to be examined by the health professional it designates.

Cost

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 115.

Obligation

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

Contesta-
tion

214. The Commission may contest the certificate or report of the physician in charge of a worker who has suffered an employment injury if it obtains a report from a physician who, after examining the worker calls in question the findings of the physician in charge of the worker regarding one or several of the matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212, and if the employer has not already contested the certificate or report of the physician in charge of the worker in respect of that matter.

Time limit

The Commission shall obtain the report within thirty days of the certificate or report it wishes to contest.

Transmis-
sion to
worker and
physician

215. 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 to the physician in charge of him.

Transmis-
sion to
health pro-
fessional

The Commission shall without delay transmit to the health professional designated by the employer a copy of every medical report it obtains by virtue of this section concerning the worker employed by that employer.

List of
referees

216. On the recommendation of the professional orders concerned, 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.

Arbitration

217. The Commission shall without delay submit the contestations contemplated in sections 206, 212 and 214 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.

Referee

218. The Minister shall designate a referee from among the health professionals whose names appear on the list contemplated in section 216.

Notice to parties

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.

Medical record

219. The Commission shall without delay transmit to the designated referee the complete medical record it holds on the worker in regard to the employment injury being the subject of arbitration; the record shall include the report of a physician obtained by the employer or by the worker, as the case may be.

Duties

220. 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.

Examination

The referee may also examine the worker if the latter requests it.

Opinion

221. The referee shall, in a substantiated opinion in writing, quash or confirm the diagnosis and the other findings of the physician in charge of the worker relating to matters set out in subparagraphs 1 to 5 of the first paragraph of section 212 and substitute therefor his own diagnosis and findings, where required.

Time limit

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

Immunity

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

Binding diagnosis

224. For the purposes of rendering a decision under this Act, the Commission is bound by the diagnosis and the other findings established by the physician in charge of the worker respecting the matters set out in subparagraphs 1 to 5 of the first paragraph of section 212.

Binding opinion

Where a referee gives his opinion pursuant to section 221, quashing the diagnosis or any other finding of the physician, the Commission becomes bound by the opinion and shall amend its decision accordingly, if necessary.

Loss of remuneration

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

Substitute
referee

In the case of the first paragraph, 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

Lung dis-
ease

226. 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 committee on occupational lung diseases.

Committees

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

Composition

A committee on occupational lung diseases shall be composed of three pneumologists, including the chairman, who shall be an associate professor or full professor at a university in Québec.

Term of
office

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

Expiry

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

X-rays

229. Within ten days after a request by the Commission, the head of the community health department of a hospital centre shall transmit to the chairman of the committee on occupational lung diseases indicated to him by the Commission the lung x-rays of the worker referred to the committee by the Commission.

Examina-
tion

230. The committee on occupational lung diseases to which the Commission refers a worker shall examine him within twenty days of the Commission's request.

Report to
Commission

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.

Special
committee

231. Upon receiving the report, the Commission shall submit the worker's record to a special committee composed of three persons whom it shall designate from among the chairmen of the committees on occupational lung diseases, except the chairman who made the report to be examined by the special committee.

Contents of
record

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

Opinion

The special committee shall confirm or quash the diagnosis and other findings arrived at by the committee on occupational lung diseases under the second paragraph of section 230 and substitute therefor its own diagnosis and findings, where necessary; it shall substantiate its opinion and give it to the Commission within twenty days of the date on which the Commission submitted the record to it.

Immunity

232. No member of a committee on occupational lung diseases or special committee may be prosecuted by reason of an act performed in good faith in carrying out his duties.

Binding
diagnosis

233. 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 231.

CHAPTER VII

RIGHT TO RETURN TO WORK

DIVISION I

WORKER'S RIGHTS

Application

234. 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 or, in the case provided for in section 237, for a fixed term.

Application

Notwithstanding the foregoing, this division does not apply to a worker contemplated in Division II of this chapter, except with respect to section 243.

Seniority
and retire-
ment plan

235. 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.

Application

This section applies to the worker until the expiry of the time limit prescribed in subparagraph 1 or 2 of the first paragraph, as the case may be, of section 240.

Reinstatement

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

Fixed-term
contract

237. Every worker who on the date he suffers an employment injury is bound by a contract of employment for a fixed term and again becomes able to carry on his employment before the date of expiry of his contract is entitled to be reinstated in his employment and to remain in that employment until the date of expiry of his contract.

Collective
agreement

238. 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.

Priority

239. 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.

Seniority

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

Time limits	<p>240. The rights conferred by sections 236 to 239 may be exercised</p> <p>(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</p> <p>(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.</p>
Uninterrupted absence	<p>The fact that a worker returns to work following medical advice does not interrupt his period of continuous absence if, as a consequence of his injury, the state of his health related to his injury forces him to leave his work the day he returns.</p>
Suspension of continuous absence	<p>241. Every application for review and every appeal bearing on the inability of a worker to carry on his employment by reason of an employment injury suspends the period of continuous absence contemplated in section 240 if the final decision is to the effect that the worker was able to carry on his employment during that period.</p>
Wages and benefits	<p>242. 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.</p>
Seniority	<p>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.</p>
Prohibition	<p>243. No person may refuse to hire a worker because the worker has suffered an employment injury if the worker is able to carry on the employment contemplated.</p>
Collective agreement	<p>244. A collective agreement may contain clauses respecting the implementation of the right to return to work provided for in this division.</p>
Implementation of right	<p>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.</p>
Grievance	<p>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.</p>

Health and
safety com-
mittee

245. In the absence of a collective agreement contemplated in the second paragraph of section 244, 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.

Intervention
of Commis-
sion

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.

Agreement

246. In the absence of a collective agreement contemplated in the second paragraph of section 244 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.

Intervention
of Commis-
sion

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

DIVISION II

RIGHTS OF CONSTRUCTION WORKERS

Application

247. This division 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.

Reinstatement

248. 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 with the employer for whom he was working at the time his injury appeared, subject to the rules respecting hiring and placement prescribed by a regulation respecting the placement of employees made under the Act respecting labour relations in the construction industry.

Time limit

Rights under the first paragraph may be exercised within the period prescribed in section 240, and section 241 is applicable.

Classifica-
tion certi-
ficate

249. 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.

- Issue** The Office de la construction du Québec shall issue the certificate to the worker.
- Job-site committee** **250.** The modalities of application of the right to return to work of a worker contemplated in section 248 are determined by the job-site committee established under the Act respecting occupational health and safety.
- Agreement** Where no job-site committee exists, the worker and his employer shall agree on the modalities of application of the right.
- Intervention of Commission** **251.** 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

- Jurisdiction** **252.** The Commission has exclusive jurisdiction to decide any complaint filed under section 32 and any request for intervention made under sections 245, 246 and 251.
- Time limit** **253.** Any complaint brought under section 32 must be filed in writing within thirty days of knowledge of the action, sanction or measure of which the worker complains.
- Transmission to employer Reconciliation** The worker shall transmit a copy of the complaint to his employer.
- 254.** The Commission may attempt to reconcile a worker who files a complaint under section 32 and his employer, if the worker consents to it.
- Presumption** **255.** 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.

Burden of
proof

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.

Reinstatement
order

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

Powers

257. 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 salary or wages and benefits of which he was deprived.

Reconciliation

258. Where a request for intervention under section 245, 246 or 251 has been referred to the Commission, the Commission shall inquire of the parties the reasons for their disagreement and attempt to reconcile them and, where no agreement is possible, it shall render its decision.

Powers

259. Where the Commission decides a request for intervention under section 245, 246 or 251, 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 239 and to pay him an amount equivalent to the salary or wages and benefits of which he was deprived.

Period of
payment

260. The amount ordered to be paid by the Commission under section 257 or 259 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.

Deduction

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

Deduction

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.

Interest	261. Where the Commission orders the employer to pay to the worker an amount equivalent to the salary or 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.
Computation	The interest is computed in accordance with section 323.
Time limit	262. The Commission shall render its decision within thirty days of a complaint filed with it or of a request for intervention referred to it.
Time limit	263. An employer shall comply with an order of the Commission under this division within eight days of notification thereof.
Filing	264. 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 256, within fifteen days of notification thereof; (2) any final decision rendered under section 257, 259 or 261.
Effect	The decision of the Commission becomes executory upon its filing as in the case of a final decision without appeal of the Superior Court, and it has every effect thereof.

CHAPTER VIII

CLAIMS AND NOTIFICATION PROCEDURE

Notification of employer	265. 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.
Sufficient notification	266. Notification as in section 265 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.
Assistance	The employer shall help the worker and his representative to give the notification.
Forms	The Commission may put forms at the disposal of employers and workers for the purpose of giving notification.

Medical
certificate

267. 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 199.

Transmis-
sion to
Commis-
sion

If no employer is bound to pay wages or a salary to the worker under section 60, the worker shall send the certificate to the Commission.

Notification
of Commis-
sion

268. An employer bound to pay a salary or wages under section 60 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.

Form

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

Particulars

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 60;

(7) the name and address of the health professional designated by the employer to receive communication of the medical record kept by the Commission on the worker; and

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

Transmis-
sion to
Commission

269. The employer shall transmit to the Commission the form provided for in section 268, along with a copy of the medical certificate referred to in section 199, 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.

Copy to
worker

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

Filing of
claim

270. A worker who, as a result of an employment injury, is unable to carry on his employment for more than 14 full days or has suffered permanent physical or mental impairment, or, if he dies of the injury, the beneficiary, shall file his claim with the Commission, on the form prescribed by it, within six months after the injury or his death, as the case may be.

Assistance

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.

Copy to
employer

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

Filing of
claim

271. 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 60 regardless of how long he remains unable shall file his claim with the Commission, where applicable on the form it prescribes, within six months after his injury.

Filing of
claim

272. A worker having contracted an occupational disease or, if he has died of it, the beneficiary shall file his claim with the Commission, on the form it prescribes, within six months after the worker or the beneficiary is made aware that the worker has an occupational disease or that he has died of it, as the case may be.

Names of
employers

The form shall indicate, in particular, the name and address of each employer for whom the worker has carried on work conducive to his occupational disease.

Copy to
employers

The Commission shall send a copy of the form to each employer whose name appears on it.

Association

273. Where an employer whose name appears on the form contemplated in section 272 has disappeared, the association of employers grouping the employers who carry on economic activities similar to that of the employer who has disappeared may exercise the rights granted by this Act to the employer of the worker in respect of the claim for which the form was completed.

Notice to
employer

274. A worker who is informed by the physician in charge of him of the date of consolidation 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.

Notice to
OCQ

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.

Notice to
Commission

275. An employer who is informed by a worker pursuant to section 274 and who reinstates the worker in his employment or an equivalent employment shall so inform the Commission without delay.

Notice to
Commission

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

Notice to
OCQ

277. In the cases referred to in sections 275 and 276, 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.

Notice to
Commission

278. A beneficiary shall inform 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.

Representa-
tive

279. A worker may require the assistance of his representative or give him a mandate to give notification or make a claim in accordance with this chapter.

Register of
accidents

280. The employer shall enter in a register the work accidents that happen in his establishment that do not make the employee unable to carry on his employment beyond the day his employment injury became apparent; he shall present the register to the worker for his signature confirming that he suffered the accident and the date of its occurrence.

Prescribed
register

The register of first aid and emergency medical service prescribed by regulation may be used for the purposes of the first paragraph.

Access to
register

The employer shall put the register at the disposal of the Commission and of a labour union representing the workers in his establishment, or transmit copy of it to them according as they require, and shall transmit copy of the extract concerning the worker to him or his representative on request.

CHAPTER IX

FINANCING

DIVISION I

GENERAL PROVISIONS

Collection

281. The Commission shall collect from employers the sums required for the administration of this Act, except Chapter XII.

Assets

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

Separate
accounts

283. 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.

Financing
method

284. 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.

Sum col-
lected

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.

Rate of
assessment

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 1986, nor by reason of a loss resulting from the application of the second paragraph.

Actuarial
reserve

285. 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.

Valuation
by actuary

286. The valuation of the actuarial reserve and the actuarial valuation contemplated in section 304 shall be made by an actuary being a Fellow of the Canadian Institute of Actuaries or having equivalent status recognized by the Institute.

Deposit

287. 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.

Deposit

288. 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.

Use of
sums

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.

Gross
wages

289. 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 Yearly Insurable Earnings prescribed in section 66 and divided weekly.

Work week

Any fraction of a week is considered a whole week.

DIVISION II

STATEMENTS TO BE FURNISHED BY EMPLOYERS, AND REGISTER

Beginning
of activities

290. 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.

Required
information

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.

Change in
activities

291. 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.

Yearly
statement

292. 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.

Signed
declaration

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.

Educational
institution

293. 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 the training periods without remuneration and of the activities prescribed by regulation that are done by students contemplated in section 10; and

(2) the number of students contemplated in section 10 who were under the responsibility of the institution during the preceding year and an estimate of the number likely to be so during the current year.

Government

294. 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.

Form

295. An employer shall use the form prescribed by the Commission, where applicable, for the purposes of sections 290 to 294.

Register of
wages

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

Government
register

The Government shall keep a detailed register of the names and addresses of the persons contemplated in subparagraphs 1, 2 and 4 of the first paragraph of section 11 and in section 12.

Educational
institution
register

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.

Access of
Commission

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

Economic
activities

297. The Commission shall determine divisions of economic activity, divide these into major groups and, where applicable, industrial groups, and subdivide the major groups or industrial groups into units of activities according to the nature of the activities and the peculiar risks attached to them.

Publication

The Commission shall publish the table of divisions of economic activities, including the major groups, industrial groups and units of activities comprising them, in the *Gazette officielle du Québec*.

Employers

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

Establish-
ments

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.

Other
activities

299. 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.

Failure to
transmit
information

300. 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 division, major group or industrial group 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.

Reclassifica-
tion

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.

Classifica-
tion under
several
units

301. Where various kinds of economic 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.

Statements
for each
activity

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 economic activities that he carries on or that are carried on in one of his establishments.

Failure to
transmit
statements

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.

Related
group

302. 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.

Notice

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

Decision

The notice constitutes a decision of the Commission.

DIVISION IV

FIXING OF ASSESSMENT

Rate of
assessment

304. 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.

Publication

Every year, before 1 January, the Commission shall publish the list of the rates of assessment for the following year.

Annual
assessment

305. 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.

Greater frequency

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.

Computation

306. 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.

Failure to transmit statement

307. Where an employer fails to transmit the statement contemplated in section 292 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.

Failure to transmit 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 Yearly Insurable Earnings established under section 66.

New assessment

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.

Unassessed employer

308. 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.

Insufficient estimate

309. Where the difference between the salaries or wages actually paid for a year by an employer in an establishment and the estimate he furnished for the same year in accordance with section 292 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 290.

Correction of estimate

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 shall 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 or wages he estimated he would pay for the year.

Assessment
of certain
employers

310. The Commission may establish the amount of the assessment of

(1) the employer of an independent operator 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.

Disaster

311. 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.

Supplemen-
tary assess-
ment

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

Rate
increase

312. 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;

(3) protective re-assignments provided by section 32 of the Act respecting occupational health and safety;

(4) the failure of certain employers to pay their assessments.

Minimum

313. The Commission may fix a minimum assessment.

Rating
system

314. 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

Time limit

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

Monthly
payments

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 292 to be paid in a maximum of six monthly payments, including the amount of interest due for the staggering of payments.

Overdue
payment

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.

Contractor

316. The Commission may demand payment of the assessment due by a contractor from the employer who retains his services.

Computa-
tion

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 292.

Reimburse-
ment

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.

New assess-
ment

317. The Commission, within four 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.

False
representa-
tion

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.

Exception

This section applies notwithstanding any inconsistent general or special provision of law.

Period of
under 12
months

318. When at the commencement of the activities of an establishment it appears that they will be exercised for a period of less than twelve 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.

Recovery

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

Interest

319. If an employer fails to furnish the documents required by sections 290 to 294 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.

Interest

320. 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.

Penalty

321. 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.

Minimum

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

Notice of
assessment

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.

Debt certifi-
cate

322. Where an employer fails to pay an assessment, interest or the cost of benefits he is liable to pay under section 321, 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.

Deposit 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.

Rate of interest **323.** 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.

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

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

Capitalization The interest is not capitalized.

Privileged claim **324.** 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.

Registration 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.

Decision **325.** The notice of assessment, including the amount of interest imposed on the employer, constitutes a decision of the Commission.

DIVISION VI

ASSIGNMENT OF COSTS

Imputation to establishment **326.** 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.

Imputation to unit 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.

Imputation
to all units

327. The Commission shall impute to the employers of all the units the cost of

(1) benefits due by reason of an employment injury described in section 31;

(2) medical aid benefits due by reason of an employment injury that does not make the worker unable to carry on his employment beyond the day on which his injury appears.

Occupational
disease

328. 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.

Several
employers

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 and to the importance of the danger of the work carried on for each of those employers in relation to the worker's occupational disease.

Imputation
to unit

Where the cost is not imputable to an employer for whom the worker carried on employment of a kind that would induce his occupational disease because the employer has disappeared or where the imputation would have the effect of unduly burdening the employer, the Commission shall impute the cost of benefits imputable to the employer to the employers of one, several or all of the units or to the reserve provided for in paragraph 2 of section 312.

Handi-
capped
worker

329. 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 employers of all of the units.

Disaster

330. 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 312.

Notice of
imputation

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

Decision

The notice constitutes a decision of the Commission.

CHAPTER X

SPECIAL PROVISIONS FOR EMPLOYERS HELD
PERSONALLY RESPONSIBLE FOR THE PAYMENT OF BENEFITSRailway or
shipping
firm

332. 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

(1) any industrial accident suffered by a worker employed by the employer;

(2) any occupational disease contracted by a worker who carried on, in that firm, a kind of work that would induce that disease.

Paper car-
rier

The employer of a paper carrier also is personally liable for the payment of benefits awarded to the paper carrier by the Commission pursuant to this Act.

Application

Chapter IX does not apply to the employer who is personally liable for the payment of benefits, except to the extent indicated in section 345, and any other provisions of the said Act which are consistent with this chapter apply to that employer and his workers, adapted as required.

Notice to
Commission

333. 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.

Insurance

334. An employer who is personally liable for the payment of benefits shall make and keep in force a contract of insurance, of suretyship or of warranty with a legal person, by which the person undertakes to assume payment of benefits to beneficiaries should the employer fail to do so.

Filing of
contract

The employer shall file with the Commission, within the time determined by the Commission, which shall not be less than 30 days, proof of a contract made by him in accordance with the first paragraph. In the case of a legal person that is not governed by the Act respecting Banks and Banking Law Revision Act (S.C., 1980-81-82, chapter 40), the Quebec Savings Banks Act (R.S.C., 1970, chapter B-4), the Savings and Credit Unions Act, the Trust Companies Act (R.S.Q., chapter C-41), the Act respecting Insurance (R.S.Q., chapter A-32) or the Guarantee Companies Act (R.S.Q., chapter C-43), the Commission may also require

proof that the solvency of that person is in accordance with generally applicable principles in that regard.

Termination
of contract

335. Notwithstanding any inconsistent provision of a general law or special Act, no contract made pursuant to the first paragraph of section 334 may be terminated before the expiry of thirty days after the Commission receives written notice to that effect from the party that intends to terminate it.

Failure to
comply

336. An employer who fails to comply with his obligations under section 334 ceases to be governed by this chapter and becomes subject to Chapter IX unless he remedies the failure within fifteen days of being served notice of failure addressed to him by the Commission.

Occupational
disease

337. If a worker suffering from an occupational disease has carried on work that would induce his disease for more than one employer, of which employers at least one 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 in proportion to the duration of the work for each employer.

Payment of
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 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.

Failure to
pay

338. If the employer contemplated in the second paragraph of section 337 fails to make the required payment to the Commission, the Commission may claim reimbursement thereof as if it were an assessment.

Failure to
pay

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.

Agreement

339. 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 section 101 or the first paragraph of section 102; the agreement takes effect only with the Commission's approval.

Mode of
payment

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.

Filing of
decision

340. 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.

Effect

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.

Notice of
claim

341. 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 review of the decision.

Notice of
assessment

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.

Required
deposit

342. The Commission where it believes it necessary in order to ensure prompt payment of benefits, may require an employer who is personally liable for the payment of benefits, his insurer, or his surety or warrantor, as the case may be, to deposit, from time to time, sums out of which it may pay the benefits he is liable to pay as and when employment injuries occur.

Maximum
amount

The deposit may be required for as long as the benefits are payable but the sum required shall not exceed the amount of benefits the employer is personally liable to pay for a period of three months.

Administra-
tive costs

343. The Commission shall levy, each year, from employers who are personally liable for the payment of benefits, an assessment to defray the costs it incurs for the administration of this chapter.

Percentage

The assessment shall correspond to a percentage of the cost of the benefits due by each employer; the percentage shall vary according as the benefits are paid by the employer or the Commission.

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

Disappearance or insolvency **344.** The Commission shall 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 the surety for or warrantor of payment of the benefits have disappeared or are insolvent.

Additional assessment The Commission may also levy, each year, from the employers who are personally liable for the payment of benefits an additional assessment the proceeds of which shall not exceed 25% of the amount of the costs required for the administration of this chapter in order to cover the sums it has paid under the first paragraph and the interest on those sums.

Interest The interest is determined in accordance with section 323.

Subrogation Payment of the assessment described in the second paragraph by an employer subrogates him, up to the amount he has paid, to the rights of the Commission against the employer and his insurer or the surety for or warrantor of payment of the benefits.

Applicable provisions **345.** 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 315 and sections 319 and 321.

Reimbursement **346.** Subject to sections 129 and 363, 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.

Recourse in subrogation **347.** An employer who is personally liable for the payment of benefits may exercise the recourse in subrogation conferred on the Commission in section 446; section 447 applies to him in this case.

Change of status **348.** 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.

Remittance of reserve The Commission, if it accepts an employer's application pursuant to the first paragraph, or where an employer becomes governed by Chapter IX pursuant to section 336, may charge to its assets the

obligations of the employer relating to employment injuries that occurred before his change of status, on the remittance, by the employer, his insurer or the surety or warrantor, as the case may be, of a reserve established to pay for the benefits owing for each of those injuries.

CHAPTER XI

JURISDICTION OF THE COMMISSION, REVIEW AND RIGHT OF APPEAL

Jurisdiction **349.** 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.

Immunity **350.** 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.

Basis for decisions **351.** The Commission shall render its decisions according to equity and upon the real merits and justice of the case.

Rules of evidence 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.

Extension **352.** The Commission shall extend any time limit granted in this Act for the exercise of a right or relieve a person from the consequences of his failure to comply with it, where the person proves that there are reasonable grounds for his tardiness.

Defect of form **353.** No proceedings brought pursuant to this Act may be deemed null or dismissed for defect of form or irregularity.

Decisions **354.** Decisions of the Commission must be in writing, substantiated and notified to the interested parties as soon as possible.

Unsigned decisions **355.** Decisions of the Commission need not be signed but the name of the person who rendered a decision must appear thereon.

Electronic transmission **356.** The Commission may, on the conditions it determines, 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.

Transcription

357. An intelligible transcription in writing of the data stored in a computer by the Commission is a document of the Commission.

Faithful reproduction

Where the data have been sent to the Commission pursuant to section 356, the transcription must reproduce them faithfully.

Application for review

358. 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 for review thereof by a review office established under the Act respecting occupational health and safety.

Exceptions

Notwithstanding the first paragraph, a person shall not apply for review of a question of a medical nature to which the Commission is bound under section 224 or 233 or a decision of the Commission rendered under section 256.

Appeal

359. A person who believes he has been wronged by a decision of a review office following an application made pursuant to section 358 may, within 60 days of notification, bring an appeal before the board of appeal.

Appeal

360. A person wishing to contest a decision of the Commission with respect to a question of a medical nature determined by the referee pursuant to section 221 or by the special committee pursuant to the third paragraph of section 231 may, within 60 days of notification, bring an appeal before the board of appeal.

Effect of decision

361. A decision of the Commission awarding an income replacement indemnity has effect immediately and until it is amended pursuant to the second paragraph of section 224, where such is the case, notwithstanding any application for review or any appeal.

Effect of decision

A decision of the Commission awarding the death benefit provided for in section 101, in the first paragraph of section 102 or in section 109 or an indemnity for funeral expenses or for the cost of transporting the body of a worker, a notice of classification and a notice of assessment issued by the Commission have effect immediately, notwithstanding any application for review or any appeal.

Effect of decision

A decision of the Commission rendered pursuant to section 142 has effect immediately and until it is confirmed, quashed or amended, where such is the case.

Effect of decision

A decision of the Commission respecting rehabilitation has effect immediately, notwithstanding any application for review or any appeal, as regards all benefits for rehabilitation awarded by the Commission.

Where the beneficiary contests the decision, it ceases to have effect as to the contested benefit.

Effect of
decision

Subject to section 263, any other decision of the Commission has effect when it becomes final.

Effect of
decision

362. A decision of a review office awarding an income replacement indemnity, a death benefit provided for in section 101, in the first paragraph of section 102 or in section 109 or an indemnity for funeral expenses or the cost of transportation of the body of the worker, or a decision of a review office dealing with a decision rendered by the Commission pursuant to section 142 has effect immediately, notwithstanding appeal.

Effect of
decision

Any other decision of a review office following an application made pursuant to section 358 has effect on the expiry of the time for appeal, if no appeal has been brought at that date.

Cancellation
of
indemnity

363. Where a review office or the board of appeal cancels or reduces the amount of an income replacement indemnity or of a death benefit contemplated in section 101 or in the first paragraph of section 102 or a benefit provided for in the personal rehabilitation program of a worker, the sums already paid to a beneficiary are not recoverable unless they were obtained through bad faith or unless they were wages paid as an indemnity pursuant to section 60.

Accrued
interest

364. If a decision of a review office or of 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 claim 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.

Computation

The interest is determined in accordance with section 323 and, in the case contemplated in paragraph 1 of the first paragraph, is part of the indemnity.

Review by
Commission

365. The Commission may, of its own initiative or at the request of an interested person review a decision it rendered which was not the subject of a decision of a review office, if its decision was rendered before an essential fact became known or was based on an error pertaining to an essential fact.

Consent of parties

If the decision to be reviewed is the subject of an application for review, the Commission shall not review it unless it obtains the consent of the parties.

Initial decision

366. A decision rendered pursuant to section 365 replaces the initial decision and the latter ceases to have effect.

Applicable provisions

Sections 363 and 364, adapted as required, apply to a decision rendered pursuant to section 365.

CHAPTER XII

COMMISSION D'APPEL EN MATIÈRE DE LÉSIONS PROFESSIONNELLES

DIVISION I

ESTABLISHMENT OF THE BOARD OF APPEAL

Establishment

367. A board of appeal, called the "Commission d'appel en matière de lésions professionnelles", is hereby established.

Composition

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

Corporate seat

369. 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*.

Regional offices

The board of appeal shall have at least one office in each administrative region in which the Commission has a regional office unless the chairman, after investigation, is of the opinion that the probable number of appeals in a region does not justify establishing an office there. No office of the board of appeal may be located in a building where an office of the Commission is already located.

Assignment of commissioners

370. Upon the appointment of a commissioner, the president shall assign him to one or several administrative regions in which the Commission has a regional office.

Change of assignment

The president, in order to expedite the business of the board of appeal, may change the assignment.

Selection
procedure

371. 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.

Ex officio
member

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

Coming into
force

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.

Oath of
office

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

Oath of
office

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

Expiry of
term

374. The commissioners appointed pursuant to section 368 remain in office, notwithstanding the expiry of their term, until they are reappointed or replaced.

Renewal of
term

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

Exclusive
occupation

375. The commissioners appointed pursuant to section 368 shall devote themselves exclusively to the duties of their office.

Salary

376. 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.

Administra-
tion of
board

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

Administra-
tion of
office

He shall designate the commissioner responsible for the administration of an office of the board of appeal.

Consulta-
tion

For the purposes of the first paragraph, the president shall periodically consult the vice-presidents and the commissioners who are responsible for the administration of an office of the board of appeal.

Assessors	378. The president may appoint full-time assessors to advise and sit with the commissioners.
Part-time commissioners	379. The president, to expedite the business of the board of appeal, may appoint part-time commissioners from the list approved by the Government for this purpose and fix their fees.
Submission of list	The president shall present a list of persons who agree to act as part-time commissioners to the Minister, who shall submit it, with or without amendments, to the Government for approval.
Selection procedure	The selection procedure determined by regulation does not apply to part-time commissioners.
Part-time assessors	380. The president, to expedite the business of the board of appeal, may appoint part-time or temporary assessors and fix their fees.
Status	Part-time or temporary assessors are not members of the personnel of the board of appeal.
Duties of president	381. 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.
Allowances of witnesses	382. The president may, after consultation with the commissioners, establish norms and amounts concerning the costs and allowances of witnesses.
Delegation	383. The president may delegate all or part of his powers to a vice-president or to a commissioner responsible for the administration of an office of the board of appeal.
Replacement	If the president is absent or unable to act, he is replaced by a vice-president designated by the Minister.
Conflict of interest	384. 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.
Code of ethics	385. Two thirds of the commissioners appointed pursuant to section 368 shall at a meeting called for that purpose by the president adopt a code of ethics for commissioners and assessors.

Publication 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 expiry 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.

Coming into force 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.

Public Service Act **386.** Full-time assessors, the secretary and the other employees of the board of appeal are appointed and remunerated in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Immunity **387.** 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.

Minutes **388.** 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.

Documents and copies Documents and copies of documents of the board of appeal 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.

Agreements **389.** The board of appeal may enter into agreements according to law with a department or body of the Government, with another government or one of its departments or bodies or with any person with a view to the administration of this chapter.

Jurisprudence bank **390.** 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 to the commissioners, to the assessors and to the other employees it designates in each of its offices.

Access to bank The bank of jurisprudence also is public for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information.

Publication of decisions **391.** The board of appeal shall periodically publish a collection of decisions it has rendered.

Omission
of names

It shall 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.

Access to
decisions

The decisions published by the board of appeal are public for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information.

Fiscal year

392. The fiscal year of the board of appeal ends on 31 March of each year.

Budget

393. Each year, the president shall prepare the budget of the board of appeal for the following fiscal year and submit it to the Government for approval.

Board of
appeal fund

394. The sums required for the administration of this Chapter are taken out of the fund of the board of appeal.

Make-up

The fund consists of the sums paid into it annually by the Government for the administration of this Chapter.

Consoli-
dated reve-
nue fund

The fund may also be maintained by sums advanced by the Minister of Finance out of the consolidated revenue fund.

Audit

395. 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.

Activities
report

396. 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.

Recommen-
dations

In the report, the board of appeal may make recommendations on the Acts, regulations, policies, programs and administrative practices on which it hears appeals.

Tabling

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.

DIVISION II

JURISDICTION

Jurisdic-
tion

397. The board of appeal shall hear and dispose exclusively of

(1) appeals brought under this Act;

(2) appeals brought under sections 37.3 and 193 of the Act respecting occupational health and safety.

Hearing by
preference

An appeal the object of which is the reduction or suspension of an indemnity under subparagraph *e* of paragraph 2 of section 142, an appeal brought under section 37.3 of the Act respecting occupational health and safety or an appeal brought under section 193 of the said Act, the object of which is the closing, in whole or in part, of a workplace or the exercise of the right of refusal, shall be heard and decided by preference.

Stay of
review

398. Where an appeal is brought before the board of appeal under section 360 and the decision appealed from is also the subject of an application for review on grounds other than a question of a medical nature in respect of which the Commission is bound, the board of appeal may order the review office to stay the review until a ruling is made on the appeal or it may stay the appeal until the review office has rendered its decision.

Dilatory
appeal

399. The board of appeal, upon a motion, may dismiss an appeal it deems improper or dilatory or subject it to the conditions it determines.

Powers

400. 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.

Return of
case to
authority

401. 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.

Appeal
from new
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.

Appeal
from
changed
decision

402. Where an appeal from a decision of the Commission changing its initial decision pursuant to the second paragraph of section 224 is brought before the board of appeal, the latter may order that the execution of the decision appealed from be suspended and that the initial decision continue to have effect for the period it determines, if the beneficiary proves that there is urgency or that he would suffer serious prejudice as a result of the initial decision's ceasing to have effect.

Competence
of commis-
sioner

403. A commissioner has competence to hear and decide alone an appeal within the jurisdiction of the board of appeal.

Decision of
board

The decision of the commissioner constitutes the decision of the board of appeal.

Assessors

404. The president, if he considers it advisable, may assign one or several assessors to a commissioner.

Designation
of three
commis-
sioners

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.

Majority
decision

In the case of the second paragraph, the decision of the board of appeal is taken by a majority of the designated commissioners and if there is a dissenting commissioner, the grounds for his disagreement shall be recorded in the decision.

Substan-
tiated deci-
sion

405. Every decision of the board of appeal must be in writing and substantiated, signed and notified to the parties and to the Commission.

Binding
decision

Decisions are final and without appeal and every person contemplated in the decision shall comply therewith without delay.

Review of
decision

406. The board of appeal may, for cause, review or revoke a decision or an order it has rendered.

DIVISION III

POWERS

Powers

407. A commissioner has all the powers necessary for the exercise of his jurisdiction.

Ruling

He may rule on any question of law or of fact.

Powers and
immunity

408. 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.

Immunity

409. 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.

Nullity of
action

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.

Sittings

410. A commissioner may sit at any place in Québec and even on a holiday.

Use of
court
premises

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.

Witnesses

411. A commissioner may award the expenses and allowances of witnesses according to the norms and amounts established by the president.

Cost

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.

Rules of
practice

412. Two thirds of the commissioners appointed pursuant to section 368 shall, 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.

Publication

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.

Coming into
force

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

Institution
of appeal

413. 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 domicile of the worker is located or if the worker is domiciled outside Québec, of a region in which the employer has an establishment.

Institution
of appeal

Where no worker is party to the appeal, it is brought at the office of the board of appeal of a region in which the employer has an establishment.

Contents of
declaration

414. The declaration must

- (1) identify the decision or the order appealed from;
- (2) contain an account of the grounds invoked in support of the appeal;
- (3) indicate the surname and given name of the representative of the appellant, where such is the case;
- (4) contain any other information required by the rules of evidence, procedure and practice of the board of appeal.

Transmis-
sion of
declaration

415. 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.

Transmis-
sion of
record

Within thirty days following receipt of the declaration, the Commission 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.

Computer-
ized docu-
ments

If the record contains computerized documents, the Commission shall transmit a written and intelligible transcript thereof.

Intervention
of Commis-
sion

416. The Commission may intervene before the board of appeal at any time until the end of the proof and hearing.

Notice to
parties

Where the Commission wishes to intervene, it shall send a notice to that effect to each of the parties and to the board of appeal; it shall then be deemed to be a party to the appeal.

Filing

417. A party to an appeal other than an appeal that must be heard and tried by preference shall, within three months of the declaration of appeal, file in the office of the board of appeal where the appeal is brought

- (1) a list of the witnesses he intends to have heard; and
- (2) a copy of the medical documents and reports he intends to invoke that are not already in the record transmitted by the Commission.

- Filing** Where a party contemplated in the first paragraph does not intend to have witnesses heard or to produce documents, he shall within the same time limit file a notice to that effect in the office of the board of appeal where the appeal is brought.
- Failure to comply** **418.** If the appellant fails to comply with section 417 within the prescribed time, he is presumed to have abandoned the appeal and the decision or order appealed from becomes executory and final.
- Failure to comply** If another party fails to comply with section 417 within the prescribed time, he shall not be allowed to have witnesses heard or file documents at the proof before the board of appeal.
- Extension** **419.** 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.
- Prior notice** However, the board of appeal shall not extend the time limit contemplated in section 417 nor relieve one party from the consequences of his failure to comply with it if, fifteen days before the time limit, it gave notice to the party to comply with it.
- Defect of form** **420.** The board of appeal may accept a proceeding taken under this chapter despite a defect of form or an irregularity.
- Mediation by assessor** **421.** 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.
- Joining of appeals** **422.** 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.
- Right to be heard** **423.** 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.
- Convenient time** 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.
- Absence of provision** **424.** 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.

Compliance
with rules

425. 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.

Representa-
tion

426. A party is entitled to be represented at the proof or hearing by the person of his choice.

Absence of
party

427. If a duly notified party does not appear at the time fixed for the hearing without having given a valid reason for his absence or refuses to be heard, the board of appeal may nevertheless proceed to hear the case and render a decision.

Expert
appraisal

428. 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.

Access to
premises

The owner, the lessee and the occupant of premises that a commissioner wishes to visit shall facilitate his access thereto.

Filing of
decision

429. 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.

Effect

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

Reimburse-
ment

430. Subject to sections 129 and 363, 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.

Recovery of
debt

431. 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 bad faith.

Notice to
debtor

432. 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 a review of the decision.

Prescription

The formal notice interrupts the prescription provided for in section 431.

Exigibility

433. The debt is exigible on the expiry of the time for applying for a 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.

Deduction
from indem-
nity

434. If the debtor is also the creditor of an income replacement indemnity and his debt is exigible, 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.

Debt certifi-
cate

435. 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.

Effect

436. 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.

Release

437. 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.

Restriction

However, the Commission shall not remit a debt it is required to recover under the fourth paragraph of section 60 or under section 133.

DIVISION II

CIVIL LIABILITY

Immunity **438.** No worker who has suffered an employment injury may institute a civil liability action against his employer by reason of his employment injury.

Immunity **439.** 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.

Immunity **440.** A person with whom a student is undergoing an unremunerated training period and a person for whom a person described in section 11 who executes tasks, renders a service to the community or acts as a trainee, benefits from the immunity granted by sections 438 and 439.

Civil liability action **441.** 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) if the employer has committed a fault that 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) if the employer is a person responsible for an employment injury contemplated in section 31; or

(4) if the employer is personally liable for the payment of benefits.

Time limit Notwithstanding articles 1056 and 2262 of the Civil Code, a civil liability action for a fault contemplated in subparagraph 1 of the first paragraph may be instituted only within six months of the admission of guilt or the final conviction.

Immunity **442.** 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, except in the case of a health professional responsible for an employment injury contemplated in section 31.

Deemed mandatory Where the employer is a legal person, the administrator of the corporation is deemed to be a mandatory of the employer.

Notice to Commission **443.** 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.

Notice to Commission 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 441 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.

Presumed renunciation If the beneficiary fails to make the election provided for in the first or second paragraph, he is presumed to have renounced the benefits provided in this Act.

Right to benefit **444.** If the beneficiary contemplated in section 443 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.

Time limit The beneficiary shall claim the benefit from the Commission within six months of the final judgment rendered on the civil liability action.

Recovery of difference **445.** If the beneficiary contemplated in section 443 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.

Subrogation **446.** 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.

Ratification 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.

Prescription **447.** 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

Benefit
under other
Act

448. 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.

Continua-
tion of pay-
ment

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.

Agreement
with RAAQ

449. 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 448.

Purpose

The agreement must make it 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.

Determina-
tion of
benefits

450. Where a person contemplated in section 448 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 449, 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.

Appeal

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.

Only appeal 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.

Determina-
tion of
benefits **451.** Where a person to whom the Commission pays an income replacement indemnity or a total disability benefit under an Act administered by it claims, 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.

Appeal 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.

Only appeal An appeal brought under any of the Acts referred to in the first paragraph prevents an appeal under the others and the decision rendered in appeal binds the Commission for the purposes of each of the applicable Acts.

Election
and notice **452.** 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.

Presumed
waiver If the person fails to make the election, he is presumed to waive any benefit under this Act.

Preserva-
tion of right **453.** An application to the Commission for benefits preserves the beneficiary's right to claim benefits under the Act respecting the Québec Pension Plan or under any other public or private insurance plan, notwithstanding the expiry of the time limit for claims under the plan.

Time limit The time limit begins to run anew from the date of the final decision on the application for benefits.

CHAPTER XIV

REGULATIONS

Regulations **454.** 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 cases in which a student is considered a worker;

(3) prescribing an impairment table including a table for anatomicophysiological 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 an emergency medical service at his expense, the cases in which he shall furnish premises for such purpose, the staff and equipment such service must include and the content of the first aid or emergency medical register;

(5) establishing a system of merit or demerit rating for assessing employers based on the classes of employers it designates.

Publication

455. 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.

Coming into force

456. 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.

Adoption by Government

457. If the Commission fails to adopt a regulation within what the Government considers a reasonable time, the Government may adopt the regulation.

Publication

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

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.

Coming into
force

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 by which it was adopted or on any later date fixed in the order.

CHAPTER XV

OFFENCES

Offence and
penalty

458. Every employer who contravenes the first paragraph of section 32 or 33, section 59, the first or second paragraph of section 60, the first paragraph of section 61, the first paragraph of section 190, section 191, the first paragraph of section 215, paragraph 2 of the first paragraph of section 235, the second paragraph of section 266, section 268 or 269, the second paragraph of section 270 or the first paragraph of section 334 is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500 nor more than \$1 000 in the case of a natural person and to a fine of not less than \$1 000 nor more than \$2 000 in the case of a legal person.

Offence and
penalty

459. Every principal contractor within the meaning of the Act respecting occupational health and safety who contravenes the first paragraph of section 190 or section 191 is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500 nor more than \$1 000 in the case of a natural person and to a fine of not less than \$1 000 nor more than \$2 000 in the case of a legal person.

Offence and
penalty

460. 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 nor more than \$1 000 in the case of a natural person and to a fine of not less than \$1 000 nor more than \$2 000 in the case of a legal person.

Offence and
penalty

461. Every person who contravenes section 14, every association of independent operators or domestics who or which contravenes the first or second paragraph of section 22 or the first or second paragraph of section 24 or the employer who contravenes section 275, the first or third paragraph of section 280, sections 290 to 296 or 333 or the second paragraph of section 334 or section 335 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 nor more than \$500 in the case of a natural person and to a fine of not less than \$500 nor more than \$1 000 in the case of a legal person.

Offence and
penalty

462. Every health professional or health establishment who or which refuses or neglects to make a certificate, notice or report prescribed in sections 199 to 203 or 208, the second paragraph of section 230 or the third paragraph of section 231, or a person who contravenes section 211, the third paragraph of section 213, section 265, the third paragraph of section 270 or section 274, 276, 277 or 278 is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$300 nor more than \$500 in the case of a natural person and to a fine of not less than \$500 nor more than \$1 000 in the case of a legal person.

Offence and
penalty

463. 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 nor more than \$2 000 in the case of a natural person and to a fine of not less than \$2 000 nor more than \$8 000 in the case of a legal person.

Offence and
penalty

464. 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 nor more than \$500 in the case of a natural person and to a fine of not less than \$500 nor more than \$1 000 in the case of a legal person.

Offence and
penalty

465. 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 in the case of a natural person and to a fine not exceeding \$500 in the case of a legal person.

Offence and
penalty

466. 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.

First subse-
quent
offence

467. 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 minimum fine provided for that offence.

Other sub-
sequent
offence

For any other subsequent offence within two years, the amount of the fine must not be less than treble the minimum fine provided for that offence.

Release
from
responsi-
bility

468. 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.

Deemed
participa-
tion

469. 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.

Procedure

470. Subject to section 473, penal proceedings brought pursuant to this Act are instituted in accordance with the Summary Convictions Act.

Accusation

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.

Content of
notice

471. 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.

Costs

The costs are \$5.

Presump-
tion

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.

Summons

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.

Service

472. 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.

Failure to
serve notice

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.

Labour
Court

473. Proceedings pursuant to this chapter are instituted before the Labour Court created by the Labour Code and sections 118, 121, 123 to 128 and 133 to 136 of that Code apply.

Time limit

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.

Fines

474. The fines imposed belong to the Commission.

CHAPTER XVI

FINAL AND TRANSITIONAL PROVISIONS

DIVISION I

FINAL PROVISIONS

CIVIL CODE

C.C., a.
1056a,
replaced

475. Article 1056a 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:

“1056a. 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 (1985, chapter 6), except to the extent permitted by such Act.”

WORKMEN'S COMPENSATION ACT

c. A-3,
replaced

476. Subject to section 478, this Act replaces the Workmen's Compensation Act (R.S.Q., chapter A-3).

Deemed
reference

477. Subject to sections 478 and 506, 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.

Former Act
and regula-
tions still in
force

478. The Workmen's Compensation Act, amended by sections 479 to 483, and the regulations made thereunder, remain 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,

except in the case of a recurrence, relapse or aggravation contemplated in the first paragraph of section 555.

Former Act
and regula-
tions still in
force

Subject to sections 580 and 581, the Workmen's Compensation Act so amended and the regulations thereunder also remain in force for the purposes of every classification of industries and employers' assessment carried out for a year prior to 1986.

Former Act
and regula-
tions still in
force

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).

c. A-3, s.
34.1, added

479. The Workmen's Compensation Act (R.S.Q., chapter A-3) is amended by inserting, at the end of Division II, the following section:

Information
from
R.A.M.Q.

"34.1 For the administration of this 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 in respect of

(1) the identification of a worker who has suffered an accident or occupational disease;

(2) the costs and administration expenses recovered from the Commission by the Régie.

Agreement

The Commission and the Régie shall make an agreement for that purpose in accordance with sections 68 to 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)."

c. A-3, s.
53, am.

480. Section 53 of the said Act is amended

(1) by replacing subsection 6 by the following subsection:

Payment of
services

"(6) Services provided by a professional in the field of health under this Act and contemplated in the tenth paragraph of section 3 of the Health Insurance Act enacted by section 488 of the Act respecting industrial accidents and occupational diseases (1985, chapter 6), other than services provided by a professional in the field of health at the request of the employer, shall be paid to the professional by the Régie de l'assurance-maladie du Québec in accordance with agreements made under section 19 of the Health Insurance Act.

Fixing of
amount

Other fees or charges for such medical aid shall not be more than would be properly and reasonably charged to the worker if he himself were paying the bill; and, except where otherwise agreed upon, the amount thereof shall be fixed and determined by the Commission, and

no action for any amount larger than that so fixed shall lie before any court.”;

(2) by striking out subsection 10;

(3) by replacing the first paragraph of subsection 13 by the following:

Payment of
medical aid

“(13) The cost of medical aid shall be charged to the Commission, which shall reimburse the Régie de l’assurance-maladie du Québec for the cost of services contemplated in the first paragraph of subsection 6 and any corresponding administrative costs.

Amount of
reimburse-
ment

In the case of an accident that does not disable the worker, beyond the day during which the accident occurred, from earning full wages in the employment he holds at the time of the accident and that does not give rise to any benefit other than services provided by a physician, the amount of reimbursement for a year is equal to 5.4% of the total for that year of the cost assumed by the Régie for other services provided by physicians under this Act and for the corresponding administrative costs.”

c. A-3, s.
53.1, added

481. The said Act is amended by inserting, after section 53, the following section:

Agreement

“**53.1** The Commission and the Régie de l’assurance-maladie du Québec shall enter into an agreement regarding the mode of reimbursement of the sums paid by the Régie for the administration of this Act and regarding the fixing of administrative costs incurred by the Régie to pay for services contemplated in the first paragraph of subsection 6 of section 53.”

c. A-3, s.
54, am.

482. Section 54 of the said Act is amended by striking out the words “, without charge,” in the sixth line.

→ c. A-3,
s. 63, am.

483. Section 63 of the said Act is amended

(1) by replacing subsection 5 by the following subsection:

Review
boards

“(5) The Commission may establish review boards composed of such of its functionaries as it may designate, in such number as it may determine and delegate generally to these boards its powers to examine into, hear and determine, in second instance, all matters relating to any of the subjects enumerated in subsection 4.”;

(2) by adding, after subsection 6, the following subsection:

Powers and
immunity

“(7) Persons designated under subsection 4 and members of review boards are vested with the powers and the immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.”;

(3) by adding, after subsection 8, the following subsections:

Payment of
costs

“(9) A review board may order a party to pay certain costs or to charge them to the Commission; the nature and amount of the costs and the cases or circumstances in or under which they may be awarded are those applicable to review boards established under the Act respecting occupational health and safety and determined by regulation under that Act.

Applicable
rules

“(10) The rules of proof, procedure and practice adopted by regulation under the Act respecting occupational health and safety and applicable to review boards established under the said Act apply to review boards established according to subsection 5.”

SOCIAL AID ACT

c. A-16, s.
11.4,
repealed

484. Section 11.4 of the Social Aid Act (R.S.Q., chapter A-16), enacted by section 2 of the Act to amend the Social Aid Act (1984, chapter 5), is repealed.

AUTOMOBILE INSURANCE ACT

c. A-25, s.
4, am.

485. Section 4 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the second paragraph by the following paragraph:

Benefits in
place of
right of
action

“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 (1985, chapter 6), 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.”

c. A-25, s.
10, replaced

486. Section 10 of the said Act is replaced by the following section:

Claim
against non-
resident

“**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)."

c. A-25, s.
18, replaced

487. Section 18 of the said Act is replaced by the following sections:

Compensa-
tion under
other Act

"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.

Indemnity
for excess

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.

Election

"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.

Loss of
right

Compensation under the Act to promote good citizenship or the Crime Victims Compensation Act sets aside any right to compensation under this title.

Right to
one indem-
nity only

"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.

Continuation of payment

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 Acts applicable is determined.

Agreement

“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.

Purpose

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.

Joint decision

“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.

Appeal

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.

Only appeal

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

c. A-29, s. 3, am. **488.** Section 3 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by inserting, after the ninth paragraph, the following paragraph:

Cost of services “The Board also assumes the cost of the services rendered by a professional in the field of health pursuant to the Workmen’s Compensation Act (R.S.Q., chapter A-3) or to the Act respecting industrial accidents and occupational diseases (1985, chapter 6), including those rendered by a referee or a member of an occupational lung diseases committee or a special committee acting under Chapter VI of the latter Act, except the services rendered by a professional in the field of health at the employer’s request.”

c. A-29, s. 19, am. **489.** Section 19 of the said Act, amended by section 15 of the Act to amend various legislation (1984, chapter 47), is again amended by adding, after the first paragraph, the following paragraph:

Participation in agreement “The Commission de la santé et de la sécurité du travail shall participate in the elaboration of the part of such an agreement dealing with the services contemplated in the tenth paragraph of section 3, enacted by section 488 of the Act respecting industrial accidents and occupational diseases.”

ACT RESPECTING THE BARREAU DU QUÉBEC

c. B-1, s. 128, am. **490.** Section 128 of the Act respecting the Barreau du Québec (R.S.Q., chapter B-1) is amended 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), a review board established under the said Act or the Workmen’s Compensation Act (R.S.Q., chapter A-3), 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) or the Commission d’appel en matière de lésions professionnelles established pursuant to the Act respecting industrial accidents and occupational diseases (1985, chapter 6);”.

ACT TO PROMOTE GOOD CITIZENSHIP

c. C-20, s. 18, replaced **491.** Section 18 of the Act to promote good citizenship (R.S.Q., chapter C-20) is replaced by the following section:

Deemed
validity

"18. An application validly made under the Act respecting industrial accidents and occupational diseases (1985, chapter 6) 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."

c. C-20, s.
21, replaced

492. Section 21 of the said Act is replaced by the following sections:

Benefit
under other
Act

"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.

Claim for
difference

If, in the case described in the first paragraph, benefits provided by an Act other than an Act of the Parliament of Québec are smaller than those provided by this Act, the rescuer or a dependent, as the case may be, may claim the difference by virtue of this Act.

Election

"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.

Loss of
right

Compensation under the Automobile Insurance Act sets aside any right to benefit under this Act."

LABOUR CODE

c. C-27,
s. 118, am.

493. Section 118 of the Labour Code (R.S.Q., chapter C-27) is amended by adding, at the end, the following paragraph:

Justice of
the peace

"Notwithstanding the first paragraph, in any penal prosecution brought before the court, every justice of the peace or every person vested with the powers of a justice of the peace may exercise the powers conferred on him under the Summary Convictions Act (R.S.Q., chapter P-15) except the power to hear the proof and to render judgment on the prosecution."

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

c. C-34, s.
6, am.

494. 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;”.

c. C-34, s.
21, am.

495. 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;”.

c. C-34,
subdivision,
replaced

496. The said Act is amended by replacing subdivision 6 of Division II by the following subdivision:

“§ 6.—*Rescuers and crime victims compensation*

Hearing of
appeals

“**31.** The appeals contemplated in paragraphs *m* and *n* of section 21 shall be heard by the rescuers and crime victims compensation division.

Quorum

The quorum is three, including an assessor who is a physician.”

c. C-34, s.
38, am.

497. Section 38 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

Assistance

“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

c. I-6, s. 5,
am.

498. Section 5 of the Crime Victims Compensation Act (R.S.Q., chapter I-6) is amended by replacing the word “rape” in the second line of the second paragraph by the words “sexual assault, as described in section 246.1, 246.2 or 246.3 of the Criminal Code, or of sexual intercourse as described in section 146 of the said Code”.

c. I-6, s. 15,
replaced

499. Section 15 of the said Act is replaced by the following section:

Applicable
provisions

“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.”

c. I-6, s. 20,
am.

500. Section 20 of the said Act is amended

(1) 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 (1985, chapter 6) or an Act other than an Act of the Parliament of Québec, either in his favour or in that of his dependents;”;

(2) by adding, at the end, the following paragraph:

Smaller
benefit

“If, in the case described in paragraph *a*, benefits provided by an Act other than an Act of the Parliament of Québec are smaller than those provided by this Act, the victim or a dependent, as the case may be, may claim the difference by virtue of this Act.”

c. I-6, s.
20.1, added

501. The said Act is amended by adding, after section 20, the following section:

Election

“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.

Loss of
right

Compensation under the Automobile Insurance Act sets aside any right to compensation under this Act.”

c. I-6, ss.
22, 23,
replaced

502. Sections 22 and 23 of the said Act are replaced by the following sections:

Deemed
validity

“22. An application validly made under the Act respecting industrial accidents and occupational diseases 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.

Activities
report

“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.

Tabling

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.”

c. 1-6,
Schedule,
replaced

503. The schedule to the said Act is replaced by the following schedule:

“SCHEDULE

(Section 3)

*Section of
Criminal
Code*

Description of offence

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
150	incest
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	assault with a weapon or causing bodily harm
245.2	aggravated assault
245.3	unlawfully causing bodily harm
246	assault interfering with lawful process
246.1	sexual assault
246.2	sexual assault with a weapon
246.3	aggravated sexual assault
247(1)	kidnapping
247(2)	unlawful 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

c. I-7,
replaced

504. Subject to section 506, this Act replaces the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7).

Deemed
reference

505. Subject to section 506, 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.

Act still in
force

506. The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries 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 576.

Applicable
Act and
regulations

The Workmen's Compensation Act, as amended by sections 479 to 483, and the regulations made under the said Act continue to apply for that purpose.

SUMMARY CONVICTIONS ACT

c. P-15, s.
63.6,
repealed

507. Section 63.6 of the Summary Convictions Act (R.S.Q., chapter P-15) is repealed.

ACT RESPECTING PROBATION AND HOUSES OF DETENTION

c. P-26, s.
19.6,
repealed

508. 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

c. P-38.1,
ss. 39 and
44, repealed

509. 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

c. R-4, s.
24, am.

510. 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:

Applicable
provision

“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

c. R-5, s. 2,
am.

511. Section 2 of the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) is amended by adding, at the end, the following paragraph:

Recovery of
costs

“The Board shall recover from the Commission de la santé et de la sécurité du travail, in accordance with the Workmen's Compensation Act (R.S.Q., chapter A-3) and the Act respecting industrial accidents and occupational diseases (1985, chapter 6), the cost of the services it has assumed under the tenth paragraph of section 3 of the Health Insurance Act, enacted by section 488 of the Act respecting industrial accidents and occupational diseases, as well as the corresponding administrative costs.”

c. R-5, s.
22.1, added

512. The said Act is amended by inserting, after section 22, the following section:

Information
from Com-
mission

“**22.1** 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 industrial

accident or occupational disease and that the Board needs to assess the remuneration of a professional in the field of health for a service rendered pursuant to the Workmen's Compensation Act or to the Act respecting industrial accidents and occupational diseases.

Agreement The Régie and the Commission shall make an agreement for that purpose in accordance with sections 68 to 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)."

ACT RESPECTING THE QUÉBEC PENSION PLAN

c. R-9, subtitle and ss. 96.1-96.4, added **513.** 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

"replacement indemnity" **"96.1** The expression "replacement indemnity" means the income replacement indemnity unreduced and payable under the Act respecting industrial accidents and occupational diseases (1985, chapter 6).

"month of indemnity" **"96.2** The expression "month of indemnity" means any calendar month for all of which a replacement indemnity is paid to a contributor.

"period of indemnity" **"96.3** The expression "period of indemnity" means a term of at least 24 consecutive months of indemnity.

"total period 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."

c. R-9, s. 99.1, added **514.** The said Act is amended by adding, after section 99, the following section:

Presumption **"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."

c. R-9, s. 101, am. **515.** Section 101 of the said Act is amended

(1) by inserting, after the third paragraph, the following paragraph:

Period of indemnity "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”.

c. R-9, s.
102.4, am.

516. Section 102.4 of the said Act is amended by replacing the first paragraph by the following paragraph:

Partition

“**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.”

c. R-9, s.
165.1,
added

517. The said Act is amended by adding, after section 165, the following section:

Non-
payment of
pension

“**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.

Exception

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.”

Non-applica-
tion of
provision

518. 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 1986.

Non-applica-
tion of
provision

519. Section 165.1 of the said Act does not apply for any month prior to 1 January 1986 or any month comprised in a term of consecutive months of indemnity the first of which is prior to 1 January 1986.

ACT RESPECTING THE GOVERNMENT AND PUBLIC
EMPLOYEES RETIREMENT PLAN

c. R-10,
Schedule I,
am.

520. 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 lésions professionnelles if they are employed full-time”.

ACT RESPECTING OCCUPATIONAL HEALTH
AND SAFETY

c. S-2.1, s. 1, am. **521.** 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 "regulation", the following definition:

"review office" **"review office"** means a review office established under Chapter IX.1;"

(2) by adding, after the definition of the word "agreement", the following definition:

"board of appeal" **"board of appeal"** means the Commission d'appel en matière de lésions professionnelles established by the Act respecting industrial accidents and occupational diseases (1985, chapter 6);

(3) by replacing the definitions "inspector" and "regional chief inspector" by the following definition:

"inspector" **"inspector"** means a person appointed under section 177;"

c. S-2.1, ss. 20-23, replaced **522.** Sections 20 to 23 of the said Act are replaced by the following section:

Inspector's decision **"20.** The inspector's decision may be the object of an application for review and an appeal in accordance with sections 191.1 to 193.

Effect The inspector's decision has effect immediately, notwithstanding any application for review."

c. S-2.1, ss. 30, 31, replaced **523.** Sections 30 and 31 of the said Act are replaced by the following sections:

Prohibition **"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.

Exception 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.

Prohibition **"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.

Exception 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."

c. S-2.1, s. 36, replaced **524.** Section 36 of the said Act is replaced by the following section:

Remuneration "36. A worker is entitled, for the first five working days of his work stoppage, to be remunerated at his regular wage rate.

Income replacement indemnity 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.

Applicable 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 an application for review and appeal in accordance with this Act."

c. S-2.1, s. 37, am., ss. 37.1-37.3, added **525.** The said Act is amended by replacing the second paragraph of section 37 by the following paragraphs and sections:

Absence of safety committee "If there is no safety committee or safety representative, the worker may send his request directly to the Commission.

Effect of decision The Commission shall render its decision within 20 days of the request and the decision has effect immediately notwithstanding any application for review.

Review "37.1 If a person believes he has been wronged by a decision rendered under section 37, he may, within ten days of being notified of the decision, apply for review thereof by a review office.

Preference "37.2 The review office shall proceed by preference with an application for review made under section 37.1.

Effect The decision rendered by the review office on the application has effect immediately, notwithstanding appeal.

Appeal

“37.3 If a person believes he has been wronged by a decision rendered by a review office following an application made under section 37.1, he may, within ten days of being notified of the decision, bring an appeal therefrom before the board of appeal.”

c. S-2.1, s.
39, am.

526. Section 39 of the said Act is amended by replacing the first paragraph by the following paragraph:

Retained
benefits

“39. A worker who has stopped working retains all the benefits relating to his employment before his work stoppage, subject to the first and second paragraphs of section 36.”

c. S-2.1, s.
42, replaced

527. Section 42 of the said Act is replaced by the following section:

Applicable
provisions

“42. Sections 36 to 37.3 apply, *mutatis mutandis*, where a female worker exercises her rights under sections 40 and 41.”

c. S-2.1, s.
45, replaced

528. Section 45 of the said Act is replaced by the following section:

Imputation
of cost

“45. The cost relating to the payment of the indemnity shall be charged to all the employers.”

c. S-2.1, s.
48, am.

529. Section 48 of the said Act is amended by replacing the figures “36, 37” in the first line by the figures and word “36 to 37.3,”.

c. S-2.1, s.
60, am.

530. Section 60 of the said Act is amended by replacing the first paragraph by the following paragraph:

Transmission
of
prevention
program

“60. The employer shall send the prevention program and any updating of it to the health and safety committee, if any; he shall also send the program and the updating of it to the Commission, with the committee’s recommendations, as the case may be, according to the terms and conditions and within the time limits prescribed by regulation.”

c. S-2.1, s.
62, am.

531. Section 62 of the said Act is amended by replacing what precedes subparagraph 1 of the first paragraph by the following:

Written
report

“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”.

c. S-2.1, s.
81, replaced

532. Section 81 of the said Act is replaced by the following section:

Prohibition

“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.

Exception 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.”

c. S-2.1, s. 90, am. **533.** Section 90 of the said Act is amended by replacing paragraph 8 by the following paragraph:

“(8) to submit complaints to the Commission;”.

c. S-2.1, s. 97, replaced **534.** Section 97 of the said Act is replaced by the following section:

Prohibition “**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.

Exception However, the employer may dismiss, suspend or transfer the safety representative or impose any other penalty on him if he abused his functions.”

c. S-2.1, s. 99.1, added **535.** The said Act is amended by adding, after section 99, the following section:

Sector-based association “**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.”

c. S-2.1, s. 145, replaced **536.** Section 145 of the said Act is replaced by the following section:

Observers “**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.

Meetings The observers shall participate in all the meetings of the board of directors, with no voting rights.”

c. S-2.1, s. 158, am. **537.** Section 158 of the said Act is amended by replacing the second paragraph by the following paragraph:

Applicable Act “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.”

c. S-2.1, s.
158.1,
added

538. The said Act is amended by adding, after section 158, the following section:

Resolutions

“158.1 The Commission shall deliver copies of the resolutions of the board of directors to its regional offices on request.”

c. S-2.1, s.
163, am.

539. Section 163 of the said Act is amended by replacing the first paragraph by the following paragraph:

Activities
report

“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.”

c. S-2.1, s.
167, am.

540. 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;”.

c. S-2.1, s.
171,
repealed

541. Section 171 of the said Act is repealed.

c. S-2.1, s.
172, am.

542. 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”.

c. S-2.1, ss.
176.1-176.20,
added

543. The said Act is amended by adding, after section 176, the following chapter and sections:

“CHAPTER IX.1

“REVIEW OFFICES

Jurisdiction

“176.1 A review office shall have exclusive jurisdiction to hear and dispose of every application for review made pursuant to section 358 of the Act respecting industrial accidents and occupational diseases or to section 37.1 or 191.1.

Composition

“176.2 A review office shall be composed of three members appointed by the Commission, including a chairman chosen among its officers, a member representing the workers and a member representing the employers.

Workers'
representa-
tive

The member representing the workers shall be chosen from a list prepared annually, for each region in which the Commission has a regional office, by the members of the board of directors of the Commission representing the union associations.

Employers'
representa-
tive

The member representing the employers shall be chosen from a list prepared annually, for each region in which the Commission has a regional office, by the members of the board representing the associations of employers.

Preparation
of list

The Minister may prepare the list provided for in the second or third paragraph where the members concerned of the board of directors of the Commission fail to do so.

Replace-
ment on list

"176.3 Where a person whose name is entered on a list contemplated in the second, third or fourth paragraph of section 176.2 dies, resigns or is unable to act, the members of the board of directors of the Commission who have entered his name on the list or the Minister, as the case may be, may strike his name off the list and enter the name of another person on it.

Appoint-
ment

"176.4 When the Commission forms a review office in a region, it shall call the persons whose names appear on the list of representatives of workers prepared for the region, in the order determined by the board of directors until one of them declares himself able to act; the Commission shall then appoint that person to the office for the purposes of hearing and disposing of every application for review it may indicate.

Appoint-
ment

The Commission shall proceed in the same manner to appoint a member representing the employers, using the list of representatives of the employers prepared for the region concerned.

Substitute

"176.5 Where a member of a review office dies, resigns or is unable to act, the Commission shall immediately appoint a substitute for him, proceeding in the same manner as for the appointment of the member replaced.

Application
for review

"176.6 An application for review is made by a writing filed in the office of the Commission

(1) in the region in which the domicile of the worker is situated or

(2) in a region in which the employer has an establishment, if no worker is a party to the application or if the worker is domiciled outside Québec.

Interested
persons

The Commission shall immediately send a copy of the application to every interested person.

Referral to
office

"176.7 Upon receipt of an application for review, the Commission shall refer it to a review office of the region in which the application was made.

Hearing

"176.8 The review office shall hold a hearing unless the parties renounce it in writing.

Notice

"176.9 The review office shall fix the date of the hearing, if a hearing is required, not later than thirty days after the date of the application for review, and give the parties written notice of proof and hearing not later than ten days before the date fixed for the hearing.

Hearing

"176.10 When the review office does not hold a hearing, it shall give each party an opportunity to be heard.

Powers and
immunity

"176.11 The review office 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 impose imprisonment.

Extension

"176.12 The review office may, on the application of a party, for reasonable cause and on the appropriate conditions, extend the time limit or relieve a party of the consequences of the party's failure to observe the time limit if the other party is not seriously harmed by it.

Rules

"176.13 Review offices are not required to follow the ordinary rules of proof in civil matters.

Provisional
decision

"176.14 Where an application for review made pursuant to section 191.1 is brought before it, a review office may render any provisional decision which it deems to be in the best interest of the workers' health and safety.

Effect

The decision has effect immediately and until the review office disposes of the application.

Decision

"176.15 A review office shall render a decision within 20 days following the end of the proof and hearing.

Decision

"176.16 A decision of a review office is taken by a majority of its members and shall be in writing, signed, substantiated and notified to the parties and to the Commission.

Dissent

If there is a dissenting member, the reasons for his disagreement shall be recorded in the decision.

Costs

"176.17 A review office may order a party or, where the office has acceded to the application for review, the Commission to pay certain costs.

Regulation The nature of the costs, the amount thereof and the cases or circumstances in which they may be awarded are determined by regulation.

Immunity “**176.18** No member of a review office may be prosecuted by reason of an act performed in good faith in the carrying out of his duties.

Remuneration “**176.19** The Commission shall pay to the members of a review office other than the chairman, the remuneration determined by regulation.

Public Service Act “**176.20** The personnel required for the administration of this chapter shall be appointed and remunerated in accordance with the Public Service Act and be responsible to the Commission.”

c. S-2.1, ss. 177, 178, replaced **544.** Sections 177 and 178 of the said Act are replaced by the following sections:

Public Service Act “**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.

Applicable provisions “**178.** Sections 160 and 161 apply to an inspector appointed under section 177.”

c. S-2.1, ss. 191-193, replaced **545.** The said Act is amended by replacing sections 191 to 193 by the following sections:

Effect of decision “**191.** An order or decision of an inspector has effect immediately, notwithstanding any application for review.

Review “**191.1** Any person who believes he has been wronged by an order or decision of an inspector may apply for review thereof by a review office within ten days of being notified of the decision.

Preference “**191.2** Where the review relates to the complete or partial closing of a workplace or to the exercise of the right of refusal, the review office shall proceed with the review by preference.

Effect “**192.** A decision rendered by a review office following an application made under section 191.1 has effect immediately, notwithstanding appeal.

Appeal “**193.** Any person who believes he has been wronged by a decision rendered by a review office following an application made under section

191.1 may, within ten days of being notified of the decision, bring an appeal therefrom to the board of appeal.”

c. S-2.1, s.
210, am.

546. Section 210 of the said Act is amended by replacing paragraph 8 by the following paragraph:

“(8) to submit complaints to the Commission.”

c. S-2.1, s.
223, am.

547. 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 in which persons or the executive committee have authority pursuant to section 172 or in which a revision office has authority pursuant to section 176.1;”;

(2) by striking out subparagraph 38;

(3) by replacing subparagraph 40 by the following subparagraphs:

“(40) determining the cases or circumstances where a party is entitled to reimbursement of the costs incurred for an investigation or hearing held under section 172 or held by a revision office, specifying the nature and indicating the amounts thereof;

“(40.1) determining the remuneration of the members of a revision office, other than the chairman;”;

(4) by adding, at the end, the following paragraph:

Reference

“A regulation may refer to an approval, certification or homologation of the Bureau de normalisation du Québec or of another standardizing body.”

c. S-2.1, ss.
224-233,
replaced

548. Sections 224 to 226 and Chapter XIII, including sections 227 to 233, of the said Act are replaced by the following sections:

Publication

“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.

Adoption by
Government

“225. The Government itself may adopt regulations if the Commission fails to adopt them within the time it considers reasonable.

- Publication 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.
- Publication 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.
- Coming into force 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.
- Coming into force “**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

- Grievance or complaint “**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, if he so elects, submit a complaint in writing to the Commission within thirty days of the penalty or measure about which he is complaining.
- Applicable provisions “**228.** Division III of Chapter VII and sections 358 and 359 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.”
- c. S-2.1, ss. 242-244, replaced **549.** Sections 242 to 244 of the said Act are replaced by the following sections:
- Institutor of proceedings “**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.

Information **"243.** In the cases contemplated in the first paragraph of section 236, the prosecutor shall, by mail, serve a notice of offence on the offender. The notice constitutes an information.

Contents **"243.1** The notice of offence shall describe the offence, specify the minimum fine and the amount of the costs and indicate to the offender that he may pay the required amount within 30 days at the place indicated.

Costs The costs are five dollars.

Presump- If the offender pays the required amount within the allotted time
tion at the place indicated, he is deemed to have pleaded guilty. However,
the payment shall not be deemed to be an admission of civil liability.

Summons Failing payment under the third paragraph, the notice of offence shall be brought before a justice of the peace who, if he is of the opinion that there is reason to do so, shall issue a summons.

Service **"243.2** Failure to serve the notice of offence shall not be invoked against the prosecutor and it is not necessary to allege or prove that it was served.

Failure to Notwithstanding the foregoing, no offender who, at the appearance,
serve notice admits his guilt and then proves that the notice of offence was not served upon him, shall be sentenced to pay a higher amount than he would have been required to pay pursuant to the notice.

Court **"244.** Proceedings under this Act or the regulations are brought before the court, and sections 118, 121, 123 to 128, 133 to 136 and 147 of the Labour Code apply."

c. S-2.1, ss.
254 and
334,
repealed **550.** 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

c. S-3.2, s.
4, replaced **551.** 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:

Right to **"4.** Every beneficiary is entitled to receive, in addition to income
benefits 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 (1985, chapter 6) 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

Regulations
continued

552. 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.

Application

553. Subject to section 555, the provisions of this Act apply to industrial accidents and deaths which occur from the date of their coming into force.

Application

Subject to section 555 and the first paragraph of section 576, the provisions of this Act apply to occupational diseases for which a claim is made from the date of their coming into force.

Application

The provisions of this Act also apply to the classification and assessment made for the year 1986 and subsequent years and to the imputation made from the date of their coming into force.

Permanent
disability

554. 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 elects as in section 562.

Recurrence
or aggrava-
tion

555. 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 from that date becomes subject to this Act.

Income
replacement
indemnity

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) receives benefits for permanent total disability pursuant to the Workmen’s Compensation Act, whatever his age.

Gross
income

556. For the purposes of computing an income replacement indemnity of a person contemplated in the first paragraph of section 555, the gross income of the person is that

(1) which he receives from the employment he holds at the time of the recurrence, relapse or aggravation, or

(2) which 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.

Permanent
disability

557. Where a degree of permanent disability has already been recognized respecting a person contemplated in section 555 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 89 applies for the purposes of computing the indemnity for physical injuries, with the necessary changes.

Death
benefit

558. A person who, on the date of the coming into force 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 559 or 562.

Surviving
spouse

559. A person contemplated in section 558 who is entitled to a life pension as the surviving spouse of a deceased worker may, if he is less than 65 years of age, opt to receive the indemnities provided for in sections 98, 100 and 101.

Computa-
tion

For the purposes of computing the indemnities,

(1) the date of the option is deemed to be the date of the worker's death;

(2) the gross annual employment income of the deceased worker is the higher of

(a) that which he derived from the employment he held at the date of his death, revalorized each year until the date of the option according to the percentage determined in accordance with the Workmen's Compensation Act for each of those years, up to the Maximum Yearly Insurable Earnings established under section 66 at the date of the option; and

(b) \$25 000.

Revaloriza-
tion

For the purposes of this section, the amount of \$25 000 provided for herein is revalorized in accordance with sections 118 to 123 and the amount of the gross annual income that is the basis for the computation of the indemnity provided for in section 101 is revalorized each year on the anniversary of the option in accordance with sections 119 to 123.

Minor child

560. Where a surviving spouse exercises the option provided for in section 559, his child who is a minor at the date of the option and for whom he receives, at that date, monthly benefits under the Workmen's Compensation Act by reason of the death of the worker, is entitled to the indemnity provided for in section 102 in lieu of those benefits.

Dependant
of full age

561. Where a surviving spouse exercises the option provided for in section 559 and there is, at the date of the option, a dependent person of full age for whom he receives monthly benefits under the Workmen's Compensation Act by reason of the death of the worker, the dependent person is entitled to receive his share of the benefits in the form of monthly benefits, revalorized pursuant to section 41 of the said Act.

Death after
31 Dec.
1978

If the monthly benefits received by the spouse under the Workmen's Compensation Act are due by reason of a death which occurred after 31 December 1978, the share of the dependent person is equal to a percentage of the indemnity contemplated in subsection 1 of section 35 of the said Act, revalorized pursuant to section 41 of the said Act.

Computa-
tion of per-
centage

The percentage is equal to the difference between the percentage established under subsection 2 of section 35 of the said Act, according to the number of dependent persons at the date of the option and 55%, divided by the number of dependent persons, other than the spouse, existing at that date.

Redetermi-
nation

The percentage is redetermined each time one of the dependent persons, other than the spouse, ceases to be a dependent person, according to the number of remaining dependent persons, including the spouse.

Options

562. 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 558 who is entitled to a life pension 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 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, subject to the second paragraph of section 563, 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, lower monthly benefits.

Redistribution
option

563. Where a person exercises the redistribution option, the amount of his new monthly benefits is established by multiplying the amount of the monthly benefits to which he is entitled under the Workmen's Compensation Act by the factor provided for in Schedule VIII according to his age at the date of the option and according to whether he is an injured worker or a surviving spouse.

Amount of
benefits

However, if the amount of the new benefits is greater than that of the income replacement indemnity determined on the basis of the Maximum Yearly Insurable Earnings established under section 66, the person exercising the redistribution option is entitled to receive, in lieu of the amount computed in accordance with the first paragraph, the following amount:

(1) until the age of 65, monthly benefits equal to the amount of the income replacement indemnity determined on the basis of the Maximum Yearly Insurable Earnings established under section 66;

(2) from his sixty-fifth birthday, monthly benefits for life equal to the difference between

(a) the monthly benefits to which he is entitled, at the date of the option, under the Workmen's Compensation Act; and

(b) the amount obtained by dividing the amount contemplated in paragraph 1, less the amount contemplated in subparagraph *a*, by the factor, less the number one, provided for in Schedule VIII according to his age at the date of the option.

Smoothing
option

564. Where a person exercises the smoothing option, the amount of the new monthly benefits he is entitled to receive until he reaches 65 years of age is established by adding to the amount of the monthly benefits to which he is entitled under the Workmen's Compensation Act the product obtained by multiplying the amount of his reference benefits by the factor provided in Schedule IX according to his age at the date of the option and according to whether he is an injured worker or a surviving spouse.

Reference
benefits

The amount of a person's reference benefits is the lesser of

(1) the amount of the monthly benefits to which he is entitled under the Workmen's Compensation Act at the date of the option; and

(2) the difference between

(a) the sum of the retirement pension to which he will be entitled on his sixty-fifth birthday under the Act respecting the Québec Pension Plan in force at the date of the option and the pension to which he would be entitled under the Old Age Security Act (R.S.C., 1970, chapter O-6) if he were 65 years of age at the date of the option; and

(b) the amount of the disability pension and the retirement pension he receives, where such is the case, under the Act respecting the Québec Pension Plan and the amount of the surviving spouse's pension he receives, where such is the case, under the said Act if he is at least 55 years of age at the date of the option or if he is not, the amount of the latter pension to which he would be entitled if he were 55 years of age at that date.

Sixty-fifth
birthday

From his sixty-fifth birthday, a person who has exercised the smoothing option is entitled to receive monthly benefits equal to the monthly benefits to which he would be entitled at that date under the Workmen's Compensation Act, less the amount of his reference benefits, plus the product contemplated in the first paragraph.

Surviving
spouse

565. Where a person who exercises the redistribution option or the smoothing option is the surviving spouse of a worker who died after 31 December 1978, the amount of the monthly benefits to which he is entitled under the Workmen's Compensation Act is established, for the purposes of sections 563 and 564, at 55% of the indemnity contemplated in subsection 1 of section 35 of the said Act, revalorized until the date of the option pursuant to section 41 of the said Act.

Dependants

566. Where a person who exercises the redistribution option or the smoothing option is the surviving spouse of a worker who died after 31 December 1978, the other persons dependent upon the worker within the meaning of the Workmen's Compensation Act, for whom the spouse receives benefits under the said Act at the date of the option, are entitled to receive, from that date, in equal shares, monthly benefits determined on the basis of a percentage of the indemnity contemplated in subsection 1 of section 35 of the said Act, revalorized until the date of the option pursuant to section 41 of the said Act.

Computa-
tion of per-
centage

The percentage is equal to the difference between the percentage established under subsection 2 of section 35 of the Workmen's

Compensation Act according to the number of dependent persons at the date of the option and 55%.

Redetermination

The percentage is redetermined each time one of the dependent persons, other than the spouse, ceases to be a dependent person, according to the number of remaining dependent persons, including the spouse.

Revalorization

567. The new monthly benefits to which a person who exercises the redistribution option or the smoothing option is entitled before or after the age of 65, as well as those to which a dependent person contemplated in section 566 is entitled are revalorized pursuant to section 41 of the Workmen's Compensation Act.

Death of surviving spouse

568. Where a surviving spouse who exercised an option provided for in section 559 or 562 dies, the persons who are still, at the date of that death, persons dependent upon the predeceased worker, within the meaning of the Workmen's Compensation Act, are entitled to receive, from the date of the spouse's death, the monthly benefits to which they would be entitled under the said Act if the spouse had not exercised the option.

Information on election

569. The Commission shall furnish to a person who may elect under section 559 or 562 the assistance and information necessary to allow him to make an informed election.

Stabilization program

570. A worker who is benefiting from an economic or social stabilization program of the Commission on the date of coming into force of this Act is entitled to continue to benefit from it after that date on the conditions and to the extent provided for in the program.

Temporary total disability

A worker who suffered an industrial accident before the coming into force of this Act or who filed a claim for an occupational disease before that date and who is entitled, on that date, to benefits for temporary total disability owing to the accident or disease is entitled to benefit from any economic or social stabilization program of the Commission on the conditions and to the extent provided for in the program.

Matters pending

571. Any revision office established under section 171 of the Act respecting occupational health and safety to examine, hear and decide, in second instance, all matters or questions relating to matters enumerated in subsection 4 of section 63 of the Workmen's Compensation Act becomes a review board established under subsection 5 of section 63 of the said Act, enacted by section 483, and it shall

continue to examine, hear and decide, without continuance of suit, all matters or questions pending before it on the date of coming into force of this Act.

Proceedings

572. Proceedings for an infringement of the Workmen's Compensation Act or any regulation which is its instrument are instituted or continued in accordance with the said Act.

Personally bound employer

573. The employer whom the Commission considered 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.

Payment by Commission

574. The Commission may pay benefits owing by an employer whom it considered 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.

Declaratory section

This section is declaratory.

Regulation continued

575. 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.

Recurrence or aggravation

576. A person who, before the date of the coming into force of Division I of Chapter III, 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.

Applicable provisions

If the person does not receive an indemnity as in the first paragraph at the time, he becomes subject to this Act and sections 556 and 557 apply to him, with the necessary changes.

Asbestosis or silicosis

577. 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.

Death of
worker

A person who received benefits before the date of coming into force of Chapter III, pursuant to the Workmen's Compensation Act following the death of a worker recognized by the Commission or its review board as having died by reason of asbestosis or silicosis benefits from the rights provided for in the first paragraph.

Imputation
of costs

The cost of the benefits or indemnity contemplated in the first or second paragraph is charged to the employers of all units.

Declaratory
section

This section is declaratory.

Rescuers

578. 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.

Non-
applicable
provisions

Sections 558, 559 and 562 do not apply to any person who is entitled to benefits under one of the said Acts.

Commission
des affaires
sociales

579. Notwithstanding sections 494 to 497, 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 this Act, under section 65 of the Workmen's Compensation Act or under section 12 of the Act respecting indemnities for victims of asbestosis or silicosis in mines and quarries.

Appeals

Appeals contemplated in the first paragraph, including those pending before the industrial accidents division of the Commission des affaires sociales, are heard by the rescuers and crime victims indemnity division.

Applicable
regulation

580. Any matter or question relating to the classification of industries and the assessment of employers made before 1 January 1986 for a year preceding 1986 is, for the purposes of the contestation, governed by the Regulation respecting the classification of employers (R.R.Q., 1981, chapter A-3, r. 5).

Jurisdiction
retained

581. Notwithstanding section 541, the revision office or review board for matters relating to the classification of industries and the assessment of employers established under section 171 of the Act respecting occupational health and safety is continued and preserves its jurisdiction to examine, hear and decide finally any matter or question relating to the classification of industries and the assessment of employers made before 1 January 1986 for a year preceding 1986.

Composition

Notwithstanding the foregoing, the Commission may modify the composition of the office or board.

Application

582. Sections 522 and 545 apply to a decision rendered by an inspector from the date of their coming into force.

Regional
chief
inspector

583. Notwithstanding paragraph 3 of section 521 and section 544, 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 522 and 545, under section 19, Chapter X or Division V of Chapter XI of the said Act.

New
appointment

The Commission may appoint a new regional chief inspector, if required, to exercise the authority provided in the first paragraph.

Jurisdiction
retained

584. Notwithstanding section 541, 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.

Application

585. Sections 227 and 228 of the Act respecting occupational health and safety enacted by section 548 apply to a penalty or measure imposed from the date of the coming into force of section 548.

Cost of
services

586. Notwithstanding the tenth paragraph of section 3 of the Health Insurance Act enacted by section 488, the Commission shall assume the cost of any service contemplated in that paragraph so long as no agreement contemplated in the second paragraph of section 19 of the said Act, enacted by section 489, is in force in respect of that service.

Fixing of
cost

The Commission shall fix the cost according to what it would be fair and reasonable to claim from the worker for a similar service if he were required to pay for it himself.

- 587.** Section 535 has effect from 1 January 1981.
- 588.** Section 537 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 (R.S.Q., chapter A-21.1).
- 589.** The Commission de la santé et de la sécurité du travail is responsible for the administration of this Act, except Chapter XII.
- 590.** The Minister of Justice is responsible for the administration of Chapter XII.
- The Government shall designate a minister to be responsible for the administration of the other provisions of this Act.
- 591.** Within three months from assent to this Act, the Conseil consultatif du travail et de la main-d'oeuvre shall perform, for the current year, the obligation imposed on it by section 216.
- 592.** Within three months from assent to this Act, the members of the board of directors of the Commission shall draw up the list of members for the current year of the review boards provided for in the second and third paragraphs of section 176.2 of the Act respecting occupational health and safety enacted by section 543.
- 593.** The Commission may, before the date of coming into force of this Act, make a regulation under paragraph 3 of section 454 and under paragraph 40.1 of section 223 of the Act respecting occupational health and safety enacted by paragraph 3 of section 547.
- Notwithstanding any provision inconsistent herewith, the regulation shall be submitted for approval to the Government and comes into force on the date of publication in the *Gazette officielle du Québec* of the order approving it and of its final text or on any later date fixed in the order.
- 594.** Division I of Chapter XII and sections 493, 535, 537, 574, 577 and 587 to 593 come into force on the day this Act is assented to.
- Sections 176.20 and 244 of the Act respecting occupational health and safety, enacted by sections 543 and 549, also come into force on the same day.
- 595.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming into
force **596.** Subject to section 594, this Act comes into force on 19 August
1985 or on any earlier date the Government fixes by 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 toxic compounds:	any work involving the utilization, handling or other form of exposure to those metals;
(2) Poisoning by halogens and their organic or inorganic toxic compounds:	any work involving the utilization, handling or other form of exposure to those halogens;
(3) Poisoning by the organic and inorganic toxic compounds of boron:	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 toxic compounds:	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 toxic compounds:	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 toxic compounds:	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 toxic compounds of sulfur:	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 toxic compounds:	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 toxic compounds:	any work involving the utilization, handling or other form of exposure to tellurium or those compounds of tellurium;
(10) Poisoning by the organic or inorganic toxic compounds of nitrogen:	any work involving the utilization, handling or other form of exposure to those compounds of nitrogen;

DISEASE	TYPE OF WORK
(11) Poisoning by the organic or inorganic toxic compounds of oxygen:	any work involving the utilization, handling or other form of exposure to those compounds of oxygen;
(12) Poisoning by aliphatic, alicyclic and aromatic hydrocarbons:	any work involving the utilization, handling or other form of exposure to those substances.

DIVISION II

DISEASES CAUSED BY INFECTIOUS AGENTS

DISEASE	TYPE OF WORK
(1) Bacterial cutaneous or fungus infections (pyodermatosis, bacterial folliculitis, paronychia, dermatomycosis, 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 <i>sarcoptes scabiei</i> , <i>pediculus humanus</i> ;
(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 substances such as a solvent, detergent, soap, acid, alkali, cement, lubricant or other irritating agent;
(2) Allergic contact dermatitis:	any work involving contact with substances such as nickel, chrome, epoxy, mercury or antibiotic and other allergens;
(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 exposure to high or low temperatures:	any work carried on under conditions of high or low temperatures;
(5) Disease caused by ionizing radiations:	any work involving exposure to ionizing radiations;
(6) Disease caused by vibrations:	any work involving vibrations;
(7) Retinitis:	any work involving electro-welding or acetylene welding;
(8) Cataract caused by non-ionizing radiation:	any work involving exposure to infrared radiation, microwaves or laser beams.

DIVISION V

LUNG 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 84)

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

LUMP SUM INDEMNITY TO THE SPOUSE OF A DECEASED WORKER

(Section 98)

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

TEMPORARY INDEMNITY TO THE SPOUSE
OF A DECEASED WORKER*(Section 101)*

AGE	PERIOD
34 or under	1 year
35 to 44	2 years
45 to 54	3 years
55 or over	2 years

SCHEDULE V

CHILD CARE EXPENSES

(Section 164)

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 VI

OATH OR SOLEMN AFFIRMATION
OF A COMMISSIONER OF THE
BOARD OF APPEAL*(Section 372)*

I swear (*or* solemnly declare) that I will fulfil the duties of my office of commissioner of the Commission d'appel en matière de lésions professionnelles 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

OATH OR SOLEMN AFFIRMATION OF THE
PRESIDENT AND VICE-PRESIDENTS OF THE
BOARD OF APPEAL*(Section 373)*

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 lésions professionnelles 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 VIII

TABLE OF FACTORS FOR REDISTRIBUTION
OF MONTHLY BENEFITS*(Section 563)*

AGE	FACTOR	
	<i>Injured worker</i>	<i>Surviving spouse</i>
10	1.055	—
11	1.057	—
12	1.060	—
13	1.062	—
14	1.065	—
15	1.067	1.102
16	1.070	1.107
17	1.073	1.111
18	1.076	1.115
19	1.080	1.120
20	1.083	1.125
21	1.087	1.130
22	1.091	1.136
23	1.095	1.142
24	1.100	1.148
25	1.104	1.155
26	1.109	1.162
27	1.115	1.169
28	1.120	1.177
29	1.126	1.185
30	1.133	1.194
31	1.140	1.203
32	1.147	1.214
33	1.155	1.224
34	1.163	1.236
35	1.172	1.248
36	1.182	1.262
37	1.193	1.276

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Industrial accidents

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AGE	FACTOR	
	<i>Injured worker</i>	<i>Surviving spouse</i>
38	1.204	1.292
39	1.217	1.308
40	1.230	1.327
41	1.245	1.347
42	1.262	1.369
43	1.280	1.393
44	1.300	1.419
45	1.322	1.448
46	1.347	1.481
47	1.375	1.517
48	1.406	1.558
49	1.442	1.604
50	1.483	1.656
51	1.530	1.717
52	1.585	1.786
53	1.649	1.868
54	1.726	1.966
55	1.819	2.083
56	1.934	2.227
57	2.079	2.408
58	2.266	2.641
59	2.517	2.953
60	2.870	3.391
61	3.403	4.049
62	4.295	5.149
63	6.084	7.353
64	11.466	13.971

SCHEDULE IX

TABLE OF FACTORS FOR SMOOTHING
OF MONTHLY BENEFITS

(Section 564)

AGE	FACTOR	
	<i>Injured worker</i>	<i>Surviving spouse</i>
10	.052	—
11	.054	—
12	.056	—
13	.058	—
14	.061	—
15	.063	.093
16	.066	.096
17	.068	.100
18	.071	.103
19	.074	.107
20	.077	.111
21	.080	.115
22	.083	.120
23	.087	.124
24	.091	.129
25	.095	.134
26	.099	.139
27	.103	.145
28	.107	.150
29	.112	.156
30	.117	.162
31	.122	.169
32	.128	.176
33	.134	.183
34	.140	.191
35	.147	.199
36	.154	.207
37	.162	.216

AGE	FACTOR	
	<i>Injured worker</i>	<i>Surviving spouse</i>
38	.170	.226
39	.178	.236
40	.187	.246
41	.197	.257
42	.208	.269
43	.219	.282
44	.231	.295
45	.244	.309
46	.258	.325
47	.273	.341
48	.289	.358
49	.307	.376
50	.326	.396
51	.346	.417
52	.369	.440
53	.394	.465
54	.421	.491
55	.450	.520
56	.483	.551
57	.519	.585
58	.559	.621
59	.603	.661
60	.652	.705
61	.706	.753
62	.767	.806
63	.836	.864
64	.913	.928

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