



CHAPTER 57

An Act to amend the Workmen's Compensation Act
and other legislation

[Assented to 22 December 1978]

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

Interpre-
tation.

1. The Workmen's Compensation Act (Revised Statutes, 1964, chapter 159) is amended:

(a) by replacing the words or expressions "dependant" or "member of the family", "workman", "workman or his dependants", "industrial disease" and "the Province", wherever they appear, by the words or expressions "dependent person", "worker", "beneficiary", "occupational disease" and "Québec", respectively, with the necessary adaptations;

(b) by replacing the word "compensation" by the word "indemnity", with the necessary adaptation, in sections 6 and 14, in subsections 3 and 4 of section 23, in sections 24, 31, 39, 40a, 41 and 47, in subsection 3a of section 59, in section 59a and in subsection 6 of section 105;

(c) by replacing the word "compensation" by the word "benefit", with the necessary adaptations, in subsections 3, 4 and 5 of section 3, in subsections 1 and 2 of section 4, in section 5, in subsection 2 of section 7, in subsection 1 of section 10, in sections 11, 16, 17, 19, 20, 22, 25, 27, 28, 29, 30, 32, 43, 74, 75, in subsection 1 of section 76, in section 76a and in subsection 2 of section 104, and in subsections 2, 3, 4, 5, 8 and 9 of section 105;

(d) by replacing the expression "Schedule II", wherever it appears, by the expression "Schedule B";

(e) by replacing the expression "Schedule III", wherever it appears, by the expression "Schedule D"; and

(f) by replacing the expressions "in Schedule I", "mentioned in Schedule I" or "included in Schedule I", wherever they appear, by the expression "designated by regulation".

R.S.,
c. 159, s. 1,
replaced. **2.** Section 1 of the said act is replaced by the following section:

Applica-
bility. **"1.** This act applies to every industry or part of an industry, except domestic services where the worker is employed by an individual to serve at his domicile, and sports activities where the worker is a participating athlete."

R.S.,
c. 159, s. 2,
am. **3.** Section 2 of the said act, amended by section 31 of chapter 60 of the statutes of 1972 and by section 1 of chapter 42 of the statutes of 1977, is again amended by replacing subsection 1 by the following subsection:

Interpre-
tation:
"accident"; **"2.** (1) In this act, unless the context indicates otherwise,
(a) "accident" means an unexpected and sudden event, attributable to any cause, which befalls a person, arising out of or in the course of his work, resulting in his injury, illness or death;

"skilled
trades-
man"; (b) "skilled tradesman" means a person who, in the course of his business, alone, as part of a team or in partnership, for his own account and without any worker in his service, performs work;

"benefi-
ciary";
"Commis-
sion"; (c) "beneficiary" means a worker or a dependent person;
(d) "Commission" means the Commission des accidents du travail du Québec established under section 52;

"consorts"; (e) "consorts" means a man and a woman
(a) who are married and who live together, or
(b) who live together as husband and wife and who at the time of the accident
(i) had been living together for three years or for one year if a child was born of their union, and
(ii) were publicly represented as consorts;

"employ-
ment"; (f) "employment" means an occupation productive of income carried on in an industry;

"em-
ployer"; (g) "employer" means a person having in his service, under a contract of hiring of personal services or apprenticeship, a worker in an employment in or about an industry; the employer who hires or lends the services of a worker temporarily remains the employer of that worker for such time as those services are so hired or lent;

"accident
fund"; (h) "accident fund" means the accident fund established under section 73;

"industry"; (i) "industry" means an establishment, undertaking, trade or service;

- "invalid"; (j) "invalid" means a person who is physically or mentally incapable of earning;
- "occupational disease"; (k) "occupational disease" means a disease contracted out of or in the course of work and recognized by the Commission as characteristic of certain work or directly linked with the specific risks of certain work;
- "dependent person"; (l) "dependent person" means
- (1) a consort;
- (2) a person who is married or, as the case may be, has been married, to a worker and
- (i) is separated *de facto* or legally or whose marriage has been dissolved by a decree nisi of divorce or declared null by a judgment in nullity of marriage; and
- (ii) who, at the time of the accident, was entitled to receive from the worker alimony under a judgment or an agreement;
- (3) a child of the worker, less than 18 years of age;
- (4) a child of the worker, more than 18 years of age, who regularly attends a teaching institution in accordance with the terms and conditions provided for by regulation or who is an invalid;
- (5) another person related by blood to the worker and any stranger to whom the worker stood *in loco parentis* or who stood *in loco parentis* to the worker and who, at the time of the accident, was wholly or partly dependent upon the worker's income in accordance with the criteria provided for by regulation;
- "benefit"; (m) "benefit" means an indemnity paid in money, financial assistance or services furnished under this act;
- "regulation"; (n) "regulation" means a regulation made by the Commission and approved by the Lieutenant-Governor in Council under this act;
- "income"; (o) "income" means the annual gross earnings, up to the maximum rate of annual earnings established under section 42, made by the worker in the employment during which he has been injured or has died;
- "weighted net income"; (p) "weighted net income" means the income of the worker less the deductions weighted by income brackets established annually by regulation, taking into account family situations specified by regulation and taking into consideration, for those purposes, the Taxation Act (1972, chapter 23), the Act respecting income taxes (Revised Statutes of Canada, 1970, chapter I-5), the Unemployment Insurance Act (Revised Statutes of Canada, 1970, chapter U-2) and the Québec Pension Plan (1965, 1st session, chapter 24);

"worker".

(q) "worker" means a person who, under a contract of hiring of personal services or apprenticeship, performs work for remuneration for an employer, including,

(i) a skilled tradesman who performs for a person operating an industry work in or about that industry;

(ii) a student who, under the responsibility of a teaching institution, undergoes a non-remunerated training period in an industry;

(iii) a person who performs non-remunerated work in an industry, in the cases and in accordance with the terms and conditions provided for by regulation."

R.S.,
c. 159,
Div. II,
Title,
replaced.

4. The said act is amended by replacing the title of Division II by the following title:

"GENERAL PROVISIONS".

R.S.,
c. 159, s. 3,
am.

5. Section 3 of the said act, amended by section 1 of chapter 52 of the statutes of 1966/1967 and by section 1 of chapter 52 of the statutes of 1969, is again amended by replacing subsections 1 and 2 by the following subsections:

Entitled-
ment to
benefits.

"3. (1) A worker injured by reason of an accident is entitled to the benefits provided for by this act, except

(a) where the accident does not disable him, beyond the day during which such accident occurred, from earning full wages in the employment he holds at the time of the accident; or

(b) where the injury is attributable solely to his serious and wilful misconduct unless the injury results in death or serious disablement.

Exception.

(2) This section does not apply to a person whose employment is of a casual nature or foreign to the employer's industry, except where the worker is injured by reason of an accident on the property of his employer while accompanying a mining inspector under section 266 of the Mining Act (1965, 1st session, chapter 34)."

R.S.,
c. 159, s. 4,
am.

6. Section 4 of the said act is amended:

(a) by replacing paragraph *a* of subsection 1 by the following paragraph:

"(a) where the employer has an office or an undertaking in Québec and the residence and usual place of employment of the worker are therein, provided that the duration of the employment outside Québec has not exceeded thirty-six months and that it was the direct continuation of employment in Québec, in the service of the same employer;"

(b) by replacing subsection 3 by the following subsection:

Agree-
ments.

“(3) The Commission may, in accordance with the law, enter into an agreement with a government, a government agency or a person respecting any matter within its competence, for the application of this act.”

R.S.,
c. 159, s. 7,
am.

7. Section 7 of the said act, amended by section 32 of chapter 60 of the statutes of 1972, is again amended:

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

Recourse
against
third
persons.

“**7.** (1) Where an accident happens to a worker in the course of his employment under such circumstances as entitle a beneficiary to an action resulting from the fault of some person other than an employer whose industry is subject to this act, that beneficiary, if entitled to a benefit, may, at his election, claim that benefit or bring such action.

Offence or
criminal
act.

Notwithstanding the first paragraph, a beneficiary may bring that action against an employer whose industry is subject to this act, other than the worker's employer, where the fault of that employer constitutes an offence or a criminal act within the meaning of the Criminal Code.”;

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

Subroga-
tion.

“(3) If the beneficiary elects to claim a benefit, the employer, if he is individually liable to pay it, or the Commission, if the benefit is payable out of the accident fund, as the case may be, is subrogated *pleno jure* in the rights of the beneficiary and may, personally or in the name and stead of the beneficiary, institute legal action against the person responsible, and any sum so recovered by the Commission forms part of the accident fund. The subrogation takes place by the mere making of the election and may be exercised to the full extent of the amount of benefits which the employer or the Commission may be called upon to pay.”;

(c) by adding, at the end, the following subsection:

Delay for
action.

“(7) Notwithstanding the prescription enacted in article 2262 of the Civil Code, the recourse provided for in the second paragraph of subsection 1 may be instituted within a delay of six months from the date of the final judgment finding the employer guilty of an offence or a criminal act within the meaning of the Criminal Code.”

R.S.,
c. 159, s. 8,
replaced.

8. Section 8 of the said act is replaced by the following section:

Common
law
recourse.

“8. Notwithstanding any provision to the contrary and notwithstanding the fact that a benefit may have been obtained under the election contemplated in subsection 1 of section 7, the beneficiary, may, before the prescription enacted in article 2262 of the Civil Code is acquired, claim, under common law, from any person other than the employer of the worker any additional sum required to constitute, with the benefit due to him under this act, an amount proportionate to the loss actually sustained.”

R.S.,
c. 159, s. 9,
replaced.

9. Section 9 of the said act is replaced by the following section:

“9. No recourse contemplated in sections 7 and 8 may be exercised against the workers, servants or mandataries of the employer whose industry is subject to this act by reason of any fault committed in the performance of their duties.”

R.S.,
c. 159,
s. 10, am.

10. Section 10 of the said act is amended by replacing subsections 2 and 3 by the following subsections:

Reimburse-
ment.

“(2) Where the employer has made payment, under subsection 1, of assessment or benefit, he is entitled to reimbursement from the contractor or sub-contractor to such extent as the Commission may determine.

Joint and
several
liability.

“(3) Where a person, referred to in this subsection and in subsection 4 as the “principal”, carrying on an industry subject to this act, contracts with any other person herein called: “the contractor or sub-contractor”, for the execution by such contractor or sub-contractor of the whole or any part of any work for the principal, it is the duty of the principal to see that any sum which the contractor or sub-contractor is liable to contribute to the accident fund is paid; and if any such principal fails to do so, he is jointly and severally liable to pay it to the Commission, and the Commission has the like powers and rights to compel the principal to pay, as it possesses for the collection of an assessment.”

R.S.,
c. 159,
s. 12,
replaced.

11. Section 12 of the said act, amended by section 2 of chapter 52 of the statutes of 1966/1967, section 1 of chapter 45 of the statutes of 1971, section 1 of chapter 54 of the statutes of 1975 and replaced by section 3 of chapter 42 of the statutes of 1977, is again replaced by the following section:

Employer
or
director.

“12. (1) In the case of an industry designated by regulation, an employer or a director of a corporation, being the victim of an accident, or their dependants are entitled to the benefits under this act, provided:

(a) that such employer or director is carried or carries himself on the pay-roll of the industry at an amount which the Commission deems reasonable, but not exceeding the maximum rate of annual earnings established according to subsection 1 of section 42;

(b) that the intention to include such employer or director of a corporation as a worker be stated in the pay-roll and in the statement furnished to the Commission under section 82; and

(c) that the amount of the salary of such employer or director, as shown in the said pay-roll and statement, be included in the estimate for the year.

Computation of indemnity.

For the purpose of determining the indemnity, the earnings of such employer or director shall not be taken to be more than the amount as shown by such pay-roll and statement, or to be more than the maximum rate of annual earnings established according to subsection 1 of section 42.

Skilled tradesman.

(2) Where a skilled tradesman carries on his functions in an industry designated by regulation, that skilled tradesman or, as the case may be, his dependent persons, if he is the victim of an accident, is entitled to the benefits provided in this act, provided he has given to the Commission a written notice indicating:

(a) the nature and place of his industry;

(b) an estimate of the annual gross earnings from his industry not exceeding the maximum rate of annual earnings established according to subsection 1 of section 42.

Protection continued.

(3) An employer or a director of a corporation who, on 6 May 1977, or in the case of a skilled tradesman who, on 1 January 1979, has the benefit of the protection granted by subsection 1 or 2 or who avails himself of it after that date shall continue to have the benefit of such protection until he gives notice in writing to the Commission that he no longer wishes to avail himself of it.

Protection terminated.

Failure by the employer, the corporation or the skilled tradesman to pay an assessment following a notice under section 91 is equivalent to the notice in writing mentioned in the first paragraph and terminates the protection granted under subsection 1 or 2."

R.S.,
c. 159,
s. 13, am.

12. Section 13 of the said act is amended by replacing subsection 1 by the following subsection:

Exclusive jurisdiction.

"13. (1) No action before any court of justice shall lie for the recovery of a benefit whether it is payable by the employer individually or out of the accident fund, but all claims for a bene-

fit payable by the employer or out of the accident fund are heard and determined exclusively by the Commission, subject to the appeal provided for in section 59b."

R.S.,
c. 159,
s. 15,
replaced.

13. Section 15 of the said act is replaced by the following section:

No other
recourse.

"15. Subject to sections 7 and 8, the benefits under this act are in lieu of all rights, recourses and rights of action, of any nature whatsoever, of the beneficiary against an employer whose industry is subject to this act by reason of any accident happening to him, and no action in respect thereof lies in any court of justice."

R.S.,
c. 159,
s. 18, am.

14. Section 18 of the said act is amended by replacing subsection 2 by the following subsection:

Penalties.

"(2) Every employer who contravenes this section is guilty of an offence and is bound, in addition to any other penalty provided by this act, to reimburse to the worker, on an order of the Commission, the amount which he has so deducted from the earnings of that worker or otherwise received from the latter."

R.S.,
c. 159,
s. 21, am.

15. Section 21 of the said act is amended by replacing subsections 2 and 3 by the following subsections:

Notice by
employer.

"(2) The employer must sign the notice duly filled in, remit a copy of it to the worker and enable him to take cognizance of its contents before signing it.

Penalties.

"(3) Every employer who does not comply with this section or who knowingly transmits or causes to be transmitted false information to the Commission is guilty of an offence and is bound in addition to any other penalty or liability which he may incur under this act, to pay to the Commission, if so ordered by it, the amount of benefits awarded by the Commission in accordance with the evidence or information deemed sufficient."

R.S.,
c. 159,
s. 23, am.

16. Section 23 of the said act is amended by replacing subsection 2 by the following subsection:

Report of
expert.

"(2) The expert to whom a reference is made under subsection 1 of this section or who has examined the worker by the direction of the Commission under subsection 1 of section 22, shall certify to the Commission as to the condition of the worker and his fitness for employment, specifying, where necessary, the kind of employment, and, if unfit, the cause and degree of such unfitness."

R.S.,
c. 159,
s. 33,
replaced.

17. Section 33 of the said act is replaced by the following section:

Retro-
active
payment.

"33. Where payment of an indemnity is suspended under this act, the Commission may, when the suspension is raised, pay the indemnity to the worker retroactively to the date of suspension."

R.S.,
c. 159,
Div. III,
title,
replaced.

18. The said act is amended by replacing the title of Division III by the following title:

"INDEMNITIES".

R.S.,
c. 159,
s. 34,
replaced.

19. Section 34 of the said act, amended by section 3 of chapter 52 of the statutes of 1966/1967 and by section 2 of chapter 45 of the statutes of 1971, is replaced by the following section:

Death
benefit.

"34. (1) The death of a worker entitles the surviving consort, for life, and the other dependent persons or, if there is no surviving consort, the dependent persons, in equal portions, to an indemnity proportionate annually to a percentage of the indemnity to which the worker would have been entitled had he survived and had he become totally incapable of earning full wages in the employment he held at the time of the accident.

Percent-
ages.

(2) The percentage contemplated in subsection 1 is established at fifty-five per cent for a dependent person, at sixty-five per cent for two dependent persons and, if there are more than two, at sixty-five per cent plus five per cent per dependent person over two, up to eighty per cent.

Persons
deemed
dependant.

(3) The dependent persons contemplated in subparagraph 4 of paragraph 1 of subsection 1 of section 2 are considered dependent so long as, in the manner prescribed by regulation, those persons could have been considered as dependent on the worker had the latter survived.

Incapable
depend-
ants.

(4) Where the worker leaves no surviving consort and he leaves dependent persons contemplated in subparagraph 3 or 4 of paragraph 1 of subsection 1 of section 2, the indemnity of those dependent persons, when they are incapable, is paid to their tutor or to their curator and, failing those persons, to the person designated by the Commission. The person so designated has the obligations of a tutor or a curator, as the case may be.

Apportion-
ment of
indemnity.

(5) Where a worker leaves a surviving consort and other dependent persons, the Commission may order, in the interest of those dependent persons, that part of the indemnity, rather than being paid to the surviving consort, be paid to the dependent persons or, as the case may be, to their tutor or curator and, failing

and a tutor or a curator, to the person designated by the Commission. The person so designated has the obligations of a tutor or a curator, as the case may be.

Proportional allocation.

(6) Notwithstanding subsection 1, where there are both dependent persons who were wholly dependent on the worker and dependent persons who were partly dependent on him, the Commission may allocate to those persons who were partly dependent on the worker such part of the amount of the indemnity that may be granted to them proportionately to the pecuniary loss sustained by each of them. The Commission may pay that amount in a capital sum, in accordance with the terms and conditions determined by it.

Funeral costs.

(7) Where an accident causes the death of a worker, the Commission shall reimburse to the person who has paid them the expenses incurred for funeral costs up to \$600, in addition to the costs of transportation of the body in the cases and amount prescribed by regulation.

Special indemnity.

Furthermore, the surviving consort and other dependent persons or, if there is no surviving consort, the dependent persons are granted by the Commission, in equal shares, an amount of \$500 as a special indemnity.

Presumption.

(8) Where a worker has disappeared following an accident under circumstances which raise a presumption that he is dead, the Commission may acknowledge that, for the purposes of this act and until proof to the contrary, the worker is dead and the date of his death is that of the accident.

Monthly payment.

(9) Subject to subsections 6 and 7, the indemnity provided for in this section is paid in the form of an amount payable monthly.

Minimum amount.

(10) Where the dependent persons are a consort or a consort and children contemplated in paragraph 1 of subsection 1 of section 2, the monthly amount must not be less than the amounts established in Schedule C.

Maximum amount.

(11) Setting aside the indemnities provided for by subsection 7 and subject to the revalorization provided by section 38b, the total of monthly amounts payable under this section shall not exceed 80% of the indemnity contemplated in subsection 1, except to the extent permitted in subsection 10."

R.S.,
c. 159,
s. 35,
replaced.

20. Section 35 of the said act is replaced by the following section:

Cessation
of
payments.

"35. (1) A surviving consort of less than thirty-five years of age, and a dependent person contemplated in subparagraph 2 of paragraph 1 of subsection 1 of section 2, who has no children

and who is not an invalid, are no longer considered as dependent five years after the death of the worker, and the portion of the percentage contemplated in subsection 2 of section 34 to which each person was entitled is no longer paid at the expiry of that period or at the death of the beneficiary, whichever occurs first.

Remarriage or cohabitation.

(2) A surviving consort loses his or her right to an indemnity under this act when he or she remarries or he or she lives as husband and wife with another person for three years or for one year if a child is born of their union and they are publicly represented as consorts.

Applicability.

This provision also applies to a dependent person contemplated in subparagraph 2 of paragraph 1 of subsection 1 of section 2.

Delay.

(3) In the cases provided for by the two preceding subsections, the right to an indemnity is not extinguished, however, before the expiry of a delay of five years after the death of the worker.

Notice of changes.

(4) The beneficiary contemplated in subsections 1 and 2 must, without delay, notify the Commission of any change in his situation that may affect the right to a benefit or the amount of the indemnity."

R.S., c. 159, s. 36, replaced.

21. Section 36 of the said act is replaced by the following section:

Indemnity to child.

"36. The indemnity owing to a child is extinguished when he reaches eighteen years of age or at his death if he dies before that age, unless he regularly attends a teaching institution or is an invalid.

Child deemed to be dependent.

A child of more than eighteen years of age who regularly attends a teaching institution or who is an invalid is considered dependent so long as, in the manner prescribed by regulation, he would have been considered dependent upon the worker, had the latter survived."

R.S., c. 159, s. 37, am.

22. Section 37 of the said act, amended by section 4 of chapter 52 of the statutes of 1966/1967, is again amended by replacing subsections 1, 2 and 3 by the following subsections:

Disability.

"37. (1) Where permanent total disability results from an accident, the worker is entitled, for life, to an amount equal annually to 90% of his weighted net income.

Partial disability.

(2) In the case of permanent partial disability, the worker is entitled, for life, to a payment provided for in subsection 1 according to the degree of his or her disability.

Capital
payment.

(3) Where the payment provided for in the preceding subsections does not exceed sixty dollars a month at the commencement of the right to that payment, the Commission must, unless it is not in the worker's interest to do so, convert the payment into a capital sum that is paid to him at the expiry of the delays provided by sections 59*a* and 59*b* or when the review office or the Commission des affaires sociales has rendered its decision, as the case may be.

Monthly
payment.

The monthly payment to which the worker is entitled is paid to him until its conversion into a capital sum in accordance with the preceding paragraph.

Computa-
tion.

The conversion of the amount payable to the worker into a capital sum is established in proportion to the worker's age, on the basis of the values mentioned in Schedule E."

R.S.,
c. 159,
s. 386, am.

23. Section 38*b* of the said act, enacted by section 2 of chapter 52 of the statutes of 1969, is amended by replacing subsection 1 by the following subsection:

Revalori-
zation.

"38*b*. (1) The sums payable under subsection 1 of section 34, subsections 1 and 2 of section 37, sections 38 and 38*a*, the amount provided for in subsection 3 of section 37 and the minimum amounts established in Schedule C must be revalorized each year, in such manner and time as are prescribed in accordance with section 130 of the Québec Pension Plan for the adjustment of the benefits payable under the said act, so that the amount payable for a month in any year following the first is equal to the product obtained by multiplying the amount that would have been otherwise payable for that month by the ratio that the Pension Index for that following year bears to the Pension Index for the year preceding that following year.

Revalori-
zation
of the
income.

Where the worker dies by reason of an accident or an occupational disease after a period of disability resulting from that accident or that disease, the Commission must, to fix the indemnity provided for in subsection 1 of section 34, if the income of the worker at the time of his death is less than that used as the basis of establishment of the prior indemnity, revalorize, in accordance with the preceding paragraph, the income of the worker which served as the basis of establishment of the prior indemnity."

R.S.,
c. 159,
s. 39*a*,
added.

24. The said act is amended by inserting, after section 39, the following section:

Additional
reim-
burse-
ment.

"39*a*. A worker is entitled, to the extent that that advantage is not already covered by another plan:

(a) to the reimbursement of a sum the amount and terms and conditions of which are determined by regulation to take account of damage to clothing resulting from an accident or the wearing of a prosthesis or orthopedic device;

(b) to the reimbursement, in the cases and for the amounts determined by regulation, of the cost of repair or of replacement of a prosthesis or orthopedic device involuntarily broken or damaged by reason of or in the course of his work."

R.S.,
c. 159,
s. 40a, am.

25. Section 40a of the said act, enacted by section 4 of chapter 42 of the statutes of 1977, is amended by replacing the first paragraph by the following paragraph:

Payment of
indemnity
by em-
ployer.

"40a. The employer in whose service the worker is employed at the time of the accident, in the case of the first paragraph of section 39, or of the aggravation in the case of subsection 1 of section 40 or of a relapse resulting from a prior accident, shall pay to such worker, at the time his salary would ordinarily have been paid, the indemnity contemplated in the first paragraph of section 39 or in subsection 1 of section 40, for each of the first five days on which the worker is totally disabled to work, not counting the day on which the accident, aggravation or relapse occurred."

R.S.,
c. 159,
s. 42,
replaced.

26. Section 42 of the said act, amended by section 8 of chapter 52 of the statutes of 1966/1967, section 1 of chapter 45 of the statutes of 1971, section 1 of chapter 54 of the statutes of 1975 and by section 5 of chapter 42 of the statutes of 1977, is replaced by the following section:

Maximum
rate of
annual
earnings.

"42. (1) The maximum rate of annual earnings is equal to 150% of a yearly average computed on the basis of the average weekly earnings of the industrial composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year preceding the year for which the maximum rate of annual earnings is computed.

Calcula-
tion and
applica-
bility.

The maximum rate of annual earnings is rounded off to the next highest \$500 and is applicable, for the year 1979 and each of the subsequent years, from 1 January of each year.

Adjust-
ments.

Where a new method is adopted by Statistics Canada to determine the average weekly earnings for a given month, by modifying either the time basis or the content basis, and the yearly average computed in accordance with the data of the new method is more than one per cent higher or lower than that computed in accordance with the data of the former method, the average weekly earnings to be used to establish the yearly aver-

age 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 in use by Statistics Canada on 1 September 1977.

Statistics
Canada.

For the application of this subsection, the Commission shall use the data supplied by Statistics Canada on 1 October of the year in which the twelve-month period serving as the basis for computing the maximum rate of annual earnings terminates.

Basis for
computa-
tion.

(2) The Commission determines the income of the worker, basing itself on his earnings during the twelve months preceding his accident if his employment was not less than twelve months in the employ of the same employer, or on his earnings during any other shorter period during which he was in the employ of his employer, according to the method it deems most appropriate to the circumstances.

Other basis
for com-
putation.

Where, owing to the shortness of the time during which the worker was in the employ of his employer or the casual nature of his employment or the special conditions thereof, the Commission cannot determine his earnings according to the method provided in the preceding paragraph, it may take as a basis the earnings of a worker in the same grade employed at the same work by the same employer, or if there is no worker so employed over a period of twelve months prior to the accident, according to the earnings of a worker in the same grade employed in the same class of employment in the same economic region or in the same locality over a period of twelve months prior to the accident.

Several
employers.

(3) Where the worker is working for several employers, in turn, his income is computed on the basis of what, in the opinion of the Commission, he would probably have been earning if he had been employed solely for the employer for whom he was working at the time of the accident.

Interpreta-
tion.

(4) Employment by the same employer means employment by the same employer in the grade in which the worker was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

Special
expenses.

(5) In computing the income of a worker, the sums which the employer was accustomed to pay the worker for any special expenses entailed by the nature of his employment shall not be reckoned.

Alternate
basis.

(6) The Commission may, if this seems more equitable to it, establish the income of the worker on the basis of his hourly earnings at the time of the accident, taking into account the nature and special conditions of his employment.

Work by
students
and non-
remuner-
ated work.

(7) For the purposes of this act, the Commission establishes the income:

(a) of a student who, under the responsibility of a teaching institution, undergoes a non-remunerated training period in an industry, based on the order of the Commission du salaire minimum in force on the day of the accident;

(b) of a person who carries on non-remunerated work in an industry, based on the order of the Commission du salaire minimum in force on the day of the accident, or if it seems more equitable to it, on the earnings of a worker in the same grade employed at the same work in the same economic region or in the same locality over a period of twelve months prior to the accident."

R.S.,
c. 159,
s. 45,
replaced.

27. Section 45 of the said act is replaced by the following section:

Remar-
riage or
cohabita-
tion.

"**45.** The widow of a worker who, before 1 January 1979, was entitled to a monthly payment under section 34 as it then existed, loses her rights to that payment when she remarries or she lives with a man as husband and wife for three years or for one year if a child was born of their union and they were publicly represented as consorts.

Global
amount.

The payment of the widow is then replaced by the payment of an amount equal to the total of the payment for two years."

R.S.,
c. 159,
s. 146,
replaced.

28. Section 46 of the said act is replaced by the following section:

Diversion
to depen-
dants.

"**46.** The Commission may divert the whole or part of the payment to which a worker is entitled for the benefit of the consort or children of such worker, where:

(a) the worker has left Québec, leaving behind his or her consort or child or children under eighteen years of age without adequate means of support; or

(b) the worker, although still residing in Québec, neglects or fails to provide for the support of his or her consort or children."

R.S.,
c. 159,
s. 47a,
repealed.

29. Section 47a of the said act, enacted by section 3 of chapter 45 of the statutes of 1971, is repealed.

R.S.,
c. 159,
s. 48, am.

30. Section 48 of the said act is amended:

(a) by replacing subsection 3 by the following subsection:

Medical
aid.

"(3) Where the accident occurs in an industry subject to this act, the injured worker must be furnished with all the medical aid that his case requires.";

(b) by replacing subsection 7 by the following subsection:

Prohibited
contribu-
tion.

"(7) Subject to the following provisions, it is not lawful for any employer, directly or indirectly, to retain, receive or collect from any worker any contribution toward the fees or expenses of medical aid, and every employer contravening this provision is for every such contravention guilty of an offence and may be liable, upon the order of the Commission, to reimburse the worker treble the amount of any sum so retained, received, or collected.";

(c) by adding at the end the following subsection:

Expenses
paid by the
Commis-
sion.

"(13) Subject to subsections 10 and 11, expenses and disbursements that may be effected for medical aid are paid by the Commission and levied in the manner provided in Division x.

Expenses
reimbursed
by the
employer.

Where an employer belongs to an industry mentioned in Schedule B, he must reimburse those expenses and those disbursements to the Commission in the manner it determines by regulation."

R.S.,
c. 159,
Div. V,
replaced.

31. Division v of the said act is replaced by the following division:

"DIVISION V

"REHABILITATION

Measures
and
expendi-
tures.

"51. The Commission takes such measures as it deems necessary and makes such expenditures as it deems expedient to assist a worker who is the victim of an accident or an occupational disease in his rehabilitation, to lessen or remove any handicap resulting from an injury and to facilitate his return to normal life and his reintegration into society and on the labour market.

Powers
of the
Commis-
sion.

"51 a. In the exercise of the functions incumbent on it in matters of rehabilitation, the Commission may, in particular:

(a) organize and provide rehabilitation services;

(b) develop, support and promote the activities of professionals in the field of health, of health establishments, of departments and of any other organization dealing with rehabilitation and cooperate with them;

(c) assess the services available for rehabilitation and their efficiency;

(d) cause research to be carried out on new rehabilitation methods;

(e) see to the effectiveness of the rehabilitative measures and bring about the appropriate corrections;

(f) distribute any information on rehabilitation;

(g) facilitate the access of a worker injured in an accident to consultation services in the field of rehabilitation;

(h) ensure that the worker suffering from a disability following an accident or an occupational disease has access to consultation services, particularly in the fields of vocational guidance, psychology, social service and manpower, to favour his reintegration into the functions he held before his accident;

(i) in the case where reintegration into the functions he held before his accident is impossible, provide for his re-education or training and furnish him with any form of assistance to enable him to have work adapted to his residual capacity;

(j) ensure the granting of financial assistance for the worker suffering from a disability resulting from an accident or an occupational disease in the case where it deems it useful or necessary for his reintegration into work, during a period of training, education or apprenticeship or in other cases it determines by regulation; or

(k) in the case of a permanent disability compelling the worker to stay in an establishment within the meaning of the Act respecting health services and social services (1971, chapter 48), favour the adaptation of his place of residence to the needs of that worker if such an adaptation may enable him to leave the establishment.

Expenses
paid
by the
Commission.

“51 b. The expenses and disbursements that may be incurred for the purposes of this division are paid by the Commission and levied in the manner provided in Division x.

Expenses
paid
by the
employer.

Where an employer belongs to an industry mentioned in Schedule B, he must reimburse those expenses and disbursements to the Commission in the manner it determines by regulation.”

R.S.,
c. 159,
s. 52, am.

32. Section 52 of the said act, amended by section 9 of chapter 17 of the statutes of 1966/1967 and by section 4 of chapter 52 of the statutes of 1969, is again amended:

(a) by replacing the word “de” in the third line of subsection 1 of the French text and in the fourth line of the English text by the word “du”;

(b) by striking out the words “ou “Québec Workmen's Compensation Commission”” in the third and fourth lines of subsection 1 of the French text;

(c) by striking out the words "Québec Workmen's Compensation Commission" or" in the second and third lines of subsection 1 of the English text.

R.S.,
c. 59,
s. 59, am.

33. Section 59 of the said act, amended by section 7 of chapter 42 of the statutes of 1977, is again amended by replacing subsection 2 by the following subsection:

Exclusive
jurisdiction.

"(2) Without limiting the generality of the provisions of the preceding subsection 1, the Commission has exclusive jurisdiction to decide:

(a) the nature of the industry operated by an employer, according to his principal activities;

(b) the sector of economic activity, the unit or the class of units in which a particular industry or a part, a branch or a subsidiary of such industry is to be included;

(c) any matter or question relating to the classification of industries, employers' assessment, medical aid, rehabilitation or prevention."

R.S.,
c. 159,
s. 59c,
added.

Payment
not
suspended.

34. The said act is amended by inserting after section 59*b*, the following section:

"**59c.** An application for review or appeal under sections 59*a* and 59*b* does not suspend the payment of an indemnity paid in the form of a pension."

R.S.,
c. 159,
s. 60, am.

35. Section 60 of the said act is amended by striking out subsection 2.

R.S.,
c. 159,
s. 62,
replaced.
Costs.

36. Section 62 of the said act is replaced by the following section:

"**62.** At an inquiry or hearing, the Commission may decide to take upon itself, or order a party, to defray certain expenses the nature and amount of which, as well as the cases where they may be awarded, are determined by regulation.

Delegation.

For the purposes of an inquiry or hearing held by a review board, the Commission may delegate to such board, generally, the powers contemplated in the preceding paragraph."

R.S.,
c. 159,
s. 66,
repealed.

37. Section 66 of the said act, amended by section 21 of chapter 26 of the statutes of 1969, is repealed.

R.S.,
c. 159,
ss. 70, 71,
repealed.

38. Sections 70 and 71 of the said act are repealed.

R.S.,
c. 159,
s. 73,
replaced.

39. Section 73 of the said act is replaced by the following section:

Creation
of fund.

"73. (1) An accident fund is established to provide payment of benefits and any other obligation incumbent on the Commission under this act.

Contribu-
tors.

All employers, except those listed in Schedule B must contribute to the financing of the fund.

Classes.

(2) The Commission may, by regulation, establish sectors of economic activity and define the units and classes of units that are related thereto. It shall classify each employer, according to the principal activities exercised by him, in one or several units.

Rates.

(3) The Commission shall fix, every year, by order, the rates of assessment applicable to a unit or a class of units."

R.S.,
c. 159,
s. 76, am.

40. Section 76 of the said act is amended by replacing subsection 2 by the following subsection:

Varying
reserve
fund.

"(2) It shall not be necessary that the reserve fund be uniform as to all the units or all the classes of units but, subject to sections 75 and 96, the Commission may establish a reserve fund differing from one unit or class of units to another."

R.S.,
c. 159,
s. 77,
replaced.

41. Section 77 of the said act is replaced by the following section:

Separate
accounts.

"77. (1) The Commission shall keep separate accounts indicating the amounts collected and expended in each sector of economic activity, each class of units and each unit, but, for the purpose of paying benefits, the accident fund shall be indivisible.

Additional
contribu-
tion for
lack of
preven-
tion.

(2) Where the Commission deems that the accidents in any industry are partly due to not taking the proper precautions for their prevention, or where, in the opinion of the Commission, working conditions, the machinery or appliances in that industry are defective or insufficient, the Commission may, so long as such condition continues to exist, add to the amount of the contribution to the accident fund of the employer who operates that industry such a percentage as it may deem just and levy the amount upon such employer. The Commission may, moreover, exclude, at its discretion, such industry from the unit or class of units in which it is included and add it to the industries in Schedule B.

Applica-
tion
of addition-
al contribu-
tion.

(3) Any additional percentage levied and collected under subsection 2 shall, at the discretion of the Commission, be added to the accident fund or applied in reduction of the contribution of the other employers in the unit or class of units of industries to which the employer from whom it is collected belongs."

R.S.,
c. 159,
s. 80,
replaced.

42. Section 80 of the said act is replaced by the following section:

Inclusion
in a class
or unit.

"30. The Commission may, upon the application of an employer, add to a unit or a class of units for such time and upon such conditions as the Commission may determine, any industry or part of an industry of such employer."

R.S.,
c. 159,
s. 81,
repealed.

43. Section 81 of the said act is repealed.

R.S.,
c. 159,
s. 82, am.

44. Section 82 of the said act is amended:

(a) by replacing subsection 3 by the following subsection:

Separate
state-
ments.

"(3) Where the undertaking of the employer embraces more than one branch of business, the Commission may require separate statements from such employer for each branch of business, and such statements shall be made, audited and transmitted as provided by subsection 1.";

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

Additional
assess-
ment.

"(5) The Commission may, if the employer fails or delays in furnishing such statement or furnishes an insufficient statement of the wages he has to pay to his employees, in addition to any other penalty provided by this act, condemn the employer to pay, as the case may be, an additional amount of assessment or interest, as fixed by the Commission."

R.S.,
c. 159,
s. 83, am.

45. Section 83 of the said act is amended by striking out the second paragraph.

R.S.,
c. 159,
s. 84,
repealed.

46. Section 84 of the said act is repealed.

R.S.,
c. 159,
s. 85,
replaced.

47. Section 85 of the said act is replaced by the following section:

Examina-
tion of
books.

"85. The Commission, any member of it, and any officer or person authorized by it for that purpose, has the right to examine the books and accounts of any employer and to make such other inquiry as the Commission may deem necessary for the purpose of ascertaining whether any statement furnished to it under the provisions of section 82 is an accurate statement of the matters which are required to be stated therein, or of ascertaining the amount of the pay-roll of any employer, or of ascertaining any other fact necessary for the application of this act."

R.S.,
c. 159,
s. 86,
replaced.

48. Section 86 of the said act is replaced by the following section:

Inaccurate
state-
ments.

"86. (1) If a statement is found to be inaccurate, the assessment shall be made on the true amount of the pay-roll as ascertained by such examination or inquiry; if an assessment has

been made against the employer on the basis of his pay-roll being as shown by the statement, the employer shall pay to the Commission the difference between the amount for which he was assessed and the amount for which he would have been assessed if the exact amount of the pay-roll had been stated, and in addition, by way of penalty, a sum equal to such difference.

Remission. (2) The Commission, if satisfied that the inaccuracy of the statement was not intentional, may remit the penalty or part of the penalty incurred by such employer provided by the preceding subsection."

R.S.,
c. 159,
s. 87, am. **49.** Section 87 of the said act is amended by striking out subsection 2.

R.S.,
c. 159,
s. 88, am. **50.** Section 88 of the said act is amended by striking out paragraph 2.

R.S.,
c. 159,
s. 89, am. **51.** Section 89 of the said act is amended:
(a) by replacing subsection 1 by the following subsection:

Assess-
ments. **"89.** (1) The Commission shall, each year, assess the employers other than those operating an industry listed in Schedule B, at the rate applicable to the unit or class of units to which their industries belong, to provide for the financing of the accident fund, and, in particular:

benefits; (a) to pay the benefits for the current year in respect of injuries to workers employed in the industries within such unit or class of units;

expenses; (b) to pay the expenses of the Commission in the administration of this act for that year, or so much of such expenses as may not be otherwise provided for;

reserve
fund; (c) to maintain a reserve fund, deemed sufficient by the Commission to pay the benefits payable in future, in respect of claims for accidents in that unit or class of units happening in that year and to thus prevent the employers from being burdened later on with payments to be made in respect of accidents which have happened previously.

Percent-
age levied. For that purpose, the Commission shall levy such percentage of the statement of wages or such other sum as it considers sufficient.";

(b) by adding, at the end, the following subsection:

Skilled
tradesman
deemed an
employer. **"(5)** For the purposes of Divisions VIII, IX and X, the skilled tradesman contemplated in section 12 is deemed to be an employer.

Association
of skilled
tradesmen.

The Commission may, where it is so required, consider an association of skilled tradesmen as an employer. In such a case, the Commission shall assess the association for all its members and the latter shall benefit by the protection of this act in cases other than those provided for in paragraph *q* of subsection 1 of section 2."

R.S.,
c. 159,
s. 90, am.

52. Section 90 of the said act, amended by section 9 of chapter 52 of the statutes of 1966/1967, section 1 of chapter 45 of the statutes of 1971, section 1 of chapter 54 of the statutes of 1975 and by section 9 of chapter 42 of the statutes of 1977 is again amended by replacing subsection 2 by the following subsection:

Varying
assessment.

"(2) It is not necessary that the assessment upon the employers in a unit or class of units be uniform for all employers, but it may vary for each industry comprised in a unit or class of units in relation to the hazard of such industry."

R.S.,
c. 159,
s. 93,
replaced.

53. Section 93 of the said act is replaced by the following section:

General
supplemen-
tary
assessment.

"93. (1) Where any deficiency in the amount realized from any assessment in any unit or class of units is caused by the failure of some of the employers in that unit or class of units to pay their share of the assessment or by any disaster or other circumstance which, in the opinion of the Commission, would unfairly burden the employers in that unit or class of units, the deficiency or loss may be made up by supplementary assessment upon the employers in all the classes of units and the provisions of section 91 shall apply to such assessment; the Commission may defer such supplementary assessing until the next annual assessment and then include in such annual assessment, the amount necessary to make up the deficiency.

Special
fund.

(2) The Commission, where it deems proper, may add to the assessment for any unit or class of units, a percentage or additional sum for the purpose of raising a special fund to be laid aside and used to meet the loss arising from any disaster or other circumstance which, in the opinion of the Commission, would unfairly burden the employers in any unit or class of units.

Handi-
capped
worker.

(3) Where an employer employs a worker handicapped as a result of a previous accident, a congenital infirmity or a pathological condition, the Commission may charge all or part of the cost of expenditures and benefits respecting such accident to a special fund.

Additional
assessment.

(4) The Commission may add to the assessment for any or several units or all classes of units a percentage or additional sum in order to establish the special fund contemplated in subsection 3.

Accident
attribut-
able to
employer.

(5) Where a worker is the victim of an accident occasioned totally or partly through the fault of an employer whose industry is subject to this act, of an employee, servant or mandatary of such an employer or of a person driving an automobile within the meaning of the Automobile Insurance Act (1977, chapter 68), the Commission may charge all or part of the costs of expenditures and benefits respecting such accident, to a special fund, to the employer, to one or more units, or to all classes of units.

Costs
claimed
from
employer.

Where the employer contemplated in the preceding paragraph is an employer listed in Schedule B, the Commission shall claim all or part of the cost of expenditures and benefits respecting such accident."

R.S.,
c. 159,
s. 94, am.

54. Section 94 of the said act is amended by replacing subsection 3 by the following subsection:

Sums
credited.

"(3) Any sum collected from an employer under subsection 2 shall be credited to the employers in the unit and class of units of industries to which such employer belonged and shall be deducted from the next assessment."

R.S.,
c. 159,
s. 96, am.

55. Section 96 of the said act is amended by replacing the first paragraph by the following paragraph:

Supple-
mentary
assess-
ment
required
by Lt-Gov.
in C.

"96. Whenever the Lieutenant-Governor in Council is of the opinion that the available amount of the accident fund, with the reserves exclusive of the special reserve, is not sufficient to meet all the payments to be made in respect of benefits as they become payable, and so as not to unduly burden the employers in any unit or class of units of industry in future years with payments which are to be made in respect of accidents which have happened in previous years, he may require the Commission to make a supplementary assessment of such sum as in his opinion is necessary to be added to the accident fund."

R.S.,
c. 159,
s. 96,
replaced.
Penalty
for non-
payment.

56. Section 98 of the said act is replaced by the following section:

"98. If an assessment is not paid at the time when it becomes payable, the defaulting employer shall pay, as a penalty, such a percentage upon the amount unpaid as may be prescribed by the regulations."

R.S.,
c. 159,
s. 99, am.

57. Section 99 of the said act is amended:

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

Liability in
case of
default.

"99. (1) Any employer who refuses or neglects to make and transmit any pay-roll, return or other statement required to be

furnished by him under sections 82 and 102, or who refuses or neglects to pay any assessment or special or supplementary assessment, or the provisional amount of any assessment, or any instalment or part of such assessments, shall, in addition to any penalty and other liability to which he may be subject, pay to the Commission the full amount or capitalized value, as determined by it, of the benefits payable in respect of any accident to a worker in his employ which happens during the period of such default. The employer may be compelled to pay such amount in the same manner as the payment of an assessment may be enforced.”;

(b) by striking out subsection 3.

R.S.,
c. 159,
s. 102,
replaced.

58. Section 102 of the said act is replaced by the following section:

Notice by
new
industries.

“102. An employer must, within ten days following the beginning of the operation of an industry, give a written notice to the Commission setting forth:

- (a) the nature and location of the industry;
- (b) an estimate of wages for the remainder of the year;
- (c) any other information determined by regulation.

Offence.

The employer who fails to comply with the preceding paragraph is guilty of an offence and is liable, in addition to any other penalty or liability incurred under this act, to pay to the Commission the penalties contemplated in subsection 5 of section 82.”

R.S.,
c. 159,
s. 103, am.

59. Section 103 of the said act is amended by striking out subsection 3.

R.S.,
c. 159,
Div. XI,
Title,
replaced.

60. The said act is amended by replacing the title of Division XI by the following title:

“OCCUPATIONAL DISEASE”.

R.S.,
c. 59,
s. 105, am.

61. Section 105 of the said act is amended,

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

Benefits
for
occupational
disease.

“105. (1) Where an occupational disease disables a worker or causes his death and the disease is due to the nature of any employment in which he was engaged at any time within twelve months previous to the date of his disablement, whether under one or more employments, the beneficiary shall be entitled to the benefits provided for under this act, as if the disease were a bodily injury by accident and the disablement were the happening of an accident, subject to the modifications hereinafter mentioned;

no benefit may be paid if the worker, at the time of entering into the employment, had wilfully and falsely represented himself in writing as not having previously suffered from the disease.”;

(b) by replacing subsection 7 by the following subsection:

Accident
fund.

“(7) Where the benefits are payable out of the accident fund, the Commission shall make such investigation as it deems necessary to ascertain the unit or class of units or sector of economic activity against which the benefits should be charged and act accordingly.”

R.S.,
c. 159,
s. 109, am.

62. Section 109 of the said act, amended by section 11 of chapter 42 of the statutes of 1977, is again amended:

(a) by replacing subsection 2 by the following subsection:

Expendi-
tures.

“(2) The expenditures incurred for such clinics shall be paid by the Commission out of the accident fund and shall be levied by means of an addition to the assessment of the unit or class of units to which the industries for the benefit of which such clinics are established belong.”;

(b) by replacing subsections 4 and 5 by the following subsections:

Medical
examina-
tion.

“(4) The Commission may by regulation require, for any industry, unit, class of units in which, in its opinion, the workers are exposed to the inhalation of siliceous dust, a periodical medical examination of the workers in a clinic established or subsidized under this section.

Fitness
certificate.

“(5) After the coming into force of any such regulation, no employer in any industry mentioned therein may utilize the services of any worker who does not furnish him, at the time and in the manner determined by such regulation, with a certificate establishing that he is fit to hold an employment that may expose him to the inhalation of siliceous dust.”;

(c) by striking out subsections 6 and 7.

R.S.,
c. 159,
Div. XII,
Title,
replaced.

63. The said act is amended by replacing the title of Division XII by the following title:

“PREVENTION”.

R.S.,
c. 159,
s. 110,
replaced.

64. Section 110 of the said act is replaced by the following section:

Associa-
tions.

“**110.** (1) The employers of a unit or class of units may form an association for accident prevention and make rules for that purpose.

Approval
of rules.

(2) The Commission may, if of opinion that an association so formed sufficiently represents the employers and workers in the industries included in a unit or a class of units, approve such rules, and when approved by the Lieutenant-Governor in Council, they shall be binding on all the employers in industries included in the unit or class of units.

Inspector.

(3) Where an association, under the authority of its rules, appoints an inspector for the purpose of accident prevention, the Commission may, as it shall deem just, pay the whole or any part of the salary or remuneration of such inspector out of the accident fund or out of that part of it which is to the credit of any one or more of the units or classes of units.

Grant.

(4) The Commission may, in any case where it deems proper, make a special grant toward the expenses of any such association.

Assess-
ment.

(5) Any moneys so paid by the Commission under this section shall be levied as part of the assessment against the unit or the class of units in question."

R.S.,
c. 159,
s. 111,
replaced.

Committee
of em-
ployers.

65. Section 111 of the said act is replaced by the following section:

"111. The employers in any unit, class of units or sector of economic activity may appoint a committee of not more than five employers to watch over their interests in matters to which this act relates.

Medium of
communi-
cation.

The committee may be the medium of communication between that unit, class of units or sector of economic activities and the Commission."

R.S.,
c. 159,
Div. XIV,
title,
replaced.

66. The said act is amended by replacing the title of Division XIV by the following title:

"OFFENCES".

R.S.,
c. 159,
s. 113,
repealed.

67. Section 113 of the said act is repealed.

R.S.,
c. 159,
s. 114,
replaced.

68. Section 114 of the said act is replaced by the following sections:

Offence
and
penalty.

"114. Every employer who contravenes section 18 or 21 or subsection 7 of section 48 is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than three hundred dollars, in the case of an individual;

(b) to a fine of not less than six hundred dollars, in the case of an artificial person.

Offence
and
penalty.

"114a. Every employer who contravenes section 40a is guilty of an offence and is liable, in addition to the costs, to a fine equal to double the amount of the indemnity he failed to pay to the worker, unless he proves that the claim of the worker was judged to be unfounded.

Obstruc-
tion.

"114b. Any person who, without reasonable cause, the proof of which is on him, hinders an inquiry, an examination or a hearing of the Commission, of any person designated by it or of a review board, or refuses or fails to comply with an order of the Commission, any person designated by it or of a review board, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than one hundred and fifty dollars, in the case of an individual;

(b) to a fine of not less than three hundred dollars, in the case of an artificial person.

False
declara-
tion.

"114c. The employer who contravenes subsection 1, 2 or 3 of section 82, who makes or files, to comply therewith, a false or erroneous declaration, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than three hundred dollars, in the case of an individual;

(b) to a fine of not less than five hundred dollars, in the case of an artificial person.

Offence.

"114d. The employer who contravenes section 83 is guilty of an offence and is liable, in addition to the costs, to a fine of not less than one hundred dollars for each day the offence continues.

Obstruc-
tion.

"114e. Any person who prevents, hinders or refuses the inspection provided for in section 87 is guilty of an offence and is liable, in addition to the costs, to a fine of not less than five hundred dollars.

Disclosure.

"114f. Any person who contravenes section 88 is guilty of an offence and is liable, in addition to the costs, to a fine of not less than one hundred dollars.

Non-
payment.

"114g. An employer who contravenes section 102 or 103, or neglects to pay, within one month from the date it is due, any assessment or any special or additional assessment, or the amount of any provisional assessment, or any instalment or part of such assessments and who, after that period, and while still in default, continues to operate an industry, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than three hundred dollars per day, in the case of an individual;

(b) to a fine of not less than six hundred dollars per day, in the case of an artificial person.

Absence of
fitness
certificate.

"114h. An employer who contravenes subsection 5 of section 109 is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than one thousand dollars, in the case of an individual;

(b) to a fine of not less than two thousand dollars, in the case of an artificial person.

Penalty
not
provided.

"114i. Any person who omits to file a declaration required by the Commission or makes or files a false or incorrect declaration to or with the Commission, or is a party to an agreement contrary to this act, or, who infringes a prescription of the act, of a regulation or of the rules of an association for the prevention of accidents provided in section 110, in respect of which no penalty is specially provided, is guilty of an offence and is liable, in addition to the costs,

(a) to a fine of not less than one hundred dollars, in the case of an individual;

(b) to a fine of not less than three hundred dollars, in the case of an artificial person.

Subse-
quent
offence.

"114j. For the first subsequent offence within two years, the offender, in addition to the costs, is liable to a fine of an amount that must not be less than double the fines provided in sections 114 to 114i.

Subse-
quent
offence.

For any other subsequent offence within two years, the amount of the fine must not be less than treble the fines provided for in sections 114 to 114i.

Fine
multiplied
by ten.

"114k. If the offences referred to in sections 114 to 114i have directly endangered the life or the health of a worker, the offender is liable to a fine in an amount that must not be less than ten times the fines provided for in sections 114 to 114i.

Employer
not free
from
obligation.

"114l. Failure by a worker to comply with this act or the regulations hereunder does not relieve the employer from an obligation imposed on him by this act or the regulations hereunder.

Worker
not free
from
obligation.

Failure by an employer to comply with this act or the regulations hereunder does not relieve the worker from an obligation imposed on him by this act or the regulations hereunder.

Prior
notice to
offender.

"114m. Except in cases of a subsequent offence within two years, no action is instituted under this act or the regulations hereunder unless the Commission or the person authorized to institute it has mailed to the offender a prior notice describing the offence and indicating the minimum fine, the amount of the costs determined by regulation and the place where payment must be made within ten days following the notice.

Payment.

Payment of the required amount within the delay fixed in the notice prevents penal proceedings.

Presump-
tion.

After such payment, the offender is deemed to have been found guilty of the offence.

Omission
of notice.

Failure to give the notice required by this section shall not be invoked against an action for an offence and it is not necessary to allege that it was given nor to prove it.

Restric-
tion.

However, if the offender, when appearing, pleads guilty and subsequently proves that such notice was not given to him, he shall not be condemned to pay an amount greater than that he would have been required to pay pursuant to the notice.

Proceed-
ings.

"114n. Proceedings for offences against the act or the regulations are instituted by the Commission or by a person generally or specially designated by it for that purpose.

R.S.,
c. 35, to
apply.

The Summary Convictions Act (Revised Statutes, 1964, chapter 35) applies to proceedings instituted under this act.

Prescrip-
tion.

"114o. Proceedings instituted under sections 114 to 114k are prescribed by six months from the date of the offence."

R.S.,
c. 159,
Div. XV,
replaced.

69. The said act is amended by replacing Division XV by the following:

"DIVISION XV

"BENEFITS TO VISUALLY HANDICAPPED WORKERS

Interpreta-
tion.

"116. For the purposes of this division, a visually handicapped person is a person whose vision renders him incapable of doing work for which sight is necessary.

Repay-
ment.

"117. Where the total amount of the benefits payable by reason of an accident to a visually handicapped worker exceeds fifty dollars, the excess shall be repaid by the Ministre des finances to the accident fund or to the employer, as the case may be, provided that, at the time of the accident, such visually handicapped worker was employed, with the approval of an

institute for visually handicapped persons recognized by the Lieutenant-Governor in Council on the recommendation of the Commission.

Consolidated
revenue
fund.

"118. The payment contemplated by the preceding section shall be made by the Ministre des finances out of the consolidated revenue fund, upon the certificate of the Commission.

"DIVISION XVI

"REGULATIONS

Regulations.

"119. The Commission may make regulations

(a) designating the industries in which employers are required to contribute to the accident fund;

(b) specifying the criteria according to which a student may be considered to regularly attend a teaching establishment;

(c) defining, in the case of a dependent person, the expression "wholly or partly dependent upon the worker's income";

(d) establishing the deductions for the purpose of computing the weighted net income of the worker and specifying the family situations and the income brackets necessary for such computation;

(e) determining the cases where a person performing non-remunerated work in an industry may be considered as a worker and specifying the terms and conditions therefor;

(f) prescribing the content of the notice that must be transmitted to the Commission by a skilled tradesman under section 12 and specify the delays therefor;

(g) defining, for the purposes of subsection 3 of section 34, and section 36, the words "could have been considered as dependent on the worker had the latter survived";

(h) determining the cases where the costs of transportation of the body of a worker may be granted and in what amount;

(i) determining the cases, the amount and the terms and conditions for the reimbursement of the amounts contemplated in section 39a;

(j) specifying, for the purposes of subsection 13 of section 48, the terms and conditions of reimbursement, by an employer listed in Schedule B, of the expenses and disbursements incurred by the Commission for medical aid;

(k) determining, for the purposes of paragraph j of section 51a, the cases where financial assistance is granted to a worker and specifying the amounts and the terms and conditions thereof;

(*l*) specifying, for the purposes of the second paragraph of section 51*b*, the terms and conditions of reimbursement by an employer listed in Schedule B, of the expenses and disbursements incurred by the Commission for rehabilitation of a worker;

(*m*) determining the cases where a party is entitled to the reimbursement of the costs incurred for an investigation or a hearing held by the Commission or by a review board, specifying the nature and establishing the amounts thereof;

(*n*) defining the words and expressions: "sector of economic activity", "class of units" and "unit";

(*o*) establishing sectors of economic activity, units and classes of units;

(*p*) determining the unit or class of units to which an industry belongs;

(*q*) determining the cases where an employer may belong to more than one unit;

(*r*) establishing a system to review periodically the classification of employers and industries;

(*s*) defining the procedure of review of a decision of the Commission dealing with assessment and classification;

(*t*) defining, for the purposes of section 98, the meaning of the expression "a percentage upon the amount unpaid";

(*u*) defining the content of the notice required under section 102;

(*v*) specifying the cases where the Commission may require the periodic medical examination provided for under subsection 4 of section 109;

(*w*) requiring that a certificate attesting that a worker is fit to hold an employment that may expose him to the inhalation of siliceous dust;

(*x*) determining, for the purposes of section 114*m*, the nature and amount of the costs incurred for penal proceedings;

(*y*) recognizing an occupational disease other than those listed in Schedule D as a characteristic of certain work or as being directly related to the specific risks of certain work;

(*z*) generally prescribing any other measure required for the implementation of this act.

"120. The regulations shall be published in the *Gazette officielle du Québec* with a notice that at the expiry of thirty days following that notice, they are to be submitted to the Lieutenant-Governor in Council for approval.

Coming
into force.

They come into force on the day of the publication in the *Gazette officielle du Québec* of a notice indicating that they have received the approval of the Lieutenant-Governor in Council or, in case of amendment, of their final text, or on any later date fixed in the notice or in the final text."

R.S.,
c. 159,
Sched. I,
repealed.
R.S.,
c. 159,
Sched. C,
added.

70. The said act is amended by striking out Schedule I.

71. The said act is amended by inserting, after Schedule B, the following:

"SCHEDULE C

TABLE OF MINIMUM AMOUNTS PAYABLE IN 1978 (section 34, subsection 8)

Consort alone	\$227.24
Consort and one child	\$286.34
Consort and more than one child	\$345.44 "

R.S.,
c. 159,
Sched. III,
replaced.

72. The said act is amended by replacing Schedule III by the following:

"SCHEDULE D

OCCUPATIONAL DISEASES

DESCRIPTION OF DISEASES	DESCRIPTION OF PROCESS
(1) Infected blisters:	Any process involving continuous friction, rubbing or vibration.
(2) Anthrax:	Handling of wool, hair, bristles, hides and skins.
(3) Brucellosis:	Care, slaughtering, cutting, transport of slaughter-house animals. Laboratory work of an employer subject to the act.
(4) Bursitis:	Any process involving continuous rubbing, pressure, irritation or vibration of the parts affected.
(5) Dermatitis:	
(6) Poisoning or its sequelae:	
(a) Arsenic:	Any process involving the use of arsenic or its preparations or compounds.
(b) Benzol:	Any process involving the use of benzol.
(c) Cadmium:	Any process involving the use of cadmium or its preparations or compounds.
(d) Chrome:	Any process involving the use of chromium or its compounds.
(e) Brass, nickel, zinc:	Any process involving the use of nickel or brass, or melting or smelting of zinc.
(f) Chlorinated hydrocarbons, Carbon tetrachloride, Trichlorethylene, Tetrachlorethane, Trichloronaphtalene and others:	Any process in the manufacture or involving the use of these substances.
(g) Mercury:	Any process involving the use of mercury or its preparations or compounds.

DESCRIPTION OF DISEASES	DESCRIPTION OF PROCESS
(h) Nitro- and amino-derivatives of benzene, phenol and their homologues (trinitrotoluene, dinitrophenol, anilin and others):	Handling any nitro- or amino-derivatives of benzene or phenol or any of their homologues, or any process in the manufacture or involving the use thereof.
(i) Carbon monoxide:	Any process involving the emanation of carbon monoxide.
(j) Phosphorus:	Any process involving the use of phosphorus or its preparations or compounds.
(k) Lead:	Any process involving the use of lead or its preparations or compounds.
(l) Nitrous fumes:	Any process in which nitrous fumes are evolved.
(7) Compressed air illness or caisson disease:	Any work carried on in compressed air.
(8) Diseases caused by exposure to X-Rays or radium or other radioactive substances:	
(9) Pneumoconiosis (Silicosis and asbestosis):	Mining, quarrying, cutting, crushing, grinding or polishing of stone. Smelting, grinding or polishing of metal. Pottery.
(10) Retinitis:	Electro-welding or acetylene welding.
(11) Tenosynovitis:	
(12) Deafness:	Any process involving exposure to levels of excessive noise."

R.S.,
c. 159,
Sched. E,
added.

73. The said act is amended by adding, after Schedule D, the following:

"SCHEDULE E

TABLE OF ACTUARIAL VALUES FOR
CAPITALIZATION OF MONTHLY AMOUNT OF \$1.00

Age	Value	Age	Value	Age	Value
15	168.45	44	137.42	73	65.22
16	168.00	45	135.45	74	62.47
17	167.55	46	133.43	75	59.74
18	167.08	47	131.34	76	57.04
19	166.60	48	129.20	77	54.36
20	166.09	49	127.00	78	51.71
21	165.54	50	124.75	79	49.11
22	165.95	51	122.47	80	46.56
23	165.31	52	120.15	81	44.08
24	163.61	53	117.81	82	41.66
25	162.86	54	115.44	83	39.31
26	162.06	55	113.04	84	37.03
27	161.20	56	110.62	85	34.84
28	160.27	57	108.16	86	32.73
29	159.29	58	105.68	87	30.71
30	158.25	59	103.16	88	28.77
31	157.16	60	100.61	89	26.91
32	156.00	61	98.02	90	25.15
33	154.80	62	95.39	91	23.47
34	153.54	63	92.71	92	21.88
35	152.22	64	89.98	93	20.36
36	150.83	65	87.24	94	18.92
37	149.38	66	84.48	95	17.57
38	147.87	67	81.72	96	16.28
39	146.29	68	78.96	97	15.07
40	144.64	69	76.20	98	13.90
41	142.93	70	73.46	99	12.76
42	141.16	71	70.72	100	11.54
43	139.32	72	67.98	101	9.92".

1966/1967,
c. 77,
s. 128, am.

74. Section 128 of the Bar Act (1966/1967, chapter 77), amended by section 45 of chapter 48 of the statutes of 1969, section 72 of chapter 44 of the statutes of 1973 and by section 55 of chapter 81 of the statutes of 1975, is again amended by adding, at the end of paragraph *a* of subsection 2, the following subparagraph:

"(4) The Commission des accidents du travail or a review board established under the Workmen's Compensation Act (Revised Statutes, 1964, chapter 159)."

1971,
c. 18,
ss. 1, 2, 5
and 5b,
French,
am.

75. Sections 1, 2, 5 and 5b of the Crime Victims Compensation Act (1971, chapter 18) are amended by replacing the word “dépendant”, wherever it appears in the French text, by the expression “personne à charge”, *mutatis mutandis*.

1971,
c. 18, s. 4,
replaced.

76. Section 4 of the said act, replaced by section 3 of chapter 10 of the statutes of 1976, is again replaced by the following section:

Dependent
persons.

“4. The dependants of a victim are, for the purposes of this act, the persons who, at the time of the crime or injury, as the case may be, were dependent on him within the meaning of the Workmen's Compensation Act.”

1971,
c. 18, s. 5a,
replaced.

77. Section 5a of the said act, enacted by section 5 of chapter 10 of the statutes of 1976, is replaced by the following section:

Funeral
expenses
reim-
bursed.

“5a. Notwithstanding section 2, the person who, without being a dependent, has paid for the funeral expenses of the victim, may be reimbursed for them up to six hundred dollars; if such a person has paid for the costs of transportation of the remains of the victim, he is entitled, in the cases provided for by the regulations made under the Workmen's Compensation Act, to be reimbursed for the sum prescribed therein.”

1971,
c. 18, s. 7,
am.

78. Section 7 of the said act, replaced by section 7 of chapter 10 of the statutes of 1976, is amended by replacing the first paragraph by the following paragraphs:

Subroga-
tion.

“7. Upon the production of a claim, the commission is subrogated *pleno jure* in the rights of the claimant up to the amount it may be called upon to pay to him and it may, in its own name or in the name and stead of the claimant, continue or institute civil proceedings.

Consoli-
dated
revenue
fund.

Any sum so recovered shall be paid into the consolidated revenue fund.”

1971,
c. 18, s. 16,
replaced.

79. Section 16 of the said act is replaced by the following section:

Indemnity
established
by the
commis-
sion.

“16. Where the indemnity in a case of total or partial disability cannot be determined on the basis of the victim's earnings, the commission itself shall establish it according to the method it considers best suited to the circumstances.”

1975, c. 55,
word
replaced in
French
text.

80. The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (1975, chapter 55), is amended

by replacing the word "ouvrier" by the word "travailleur" wherever it occurs in the French text.

1975,
c. 55, s. 12,
am.

81. Section 12 of the said act is amended by adding, at the end, the following paragraphs:

Medical
experts
committee.

"A review board with which an application for review of a decision pursuant to subsection 1 of section 2 is filed must, when so required, in respect of any decision of a medical nature, render its decision on the report of a committee of three medical experts, one member being appointed by the employer, one member being appointed by the worker and the third being selected by them from a list of medical specialists furnished by the Conseil consultatif du travail et de la main d'oeuvre or, if there is disagreement, by the Commission.

Appoint-
ment.

The terms and conditions of appointment of members are determined by regulation.

Costs.

The costs of such expert's opinion are charged to the Commission."

1975,
c. 55, s. 13,
am.

82. Section 13 of the said act, amended by section 15 of chapter 42 of the statutes of 1977, is again amended by adding at the end the following paragraph:

"(b) to determine the terms and conditions of appointment of members to a committee formed under section 12."

Appeal
referred.

83. An appeal brought before a council of arbitration created pursuant to section 12 of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (1975, chapter 55) as it existed before 1 September 1977, that has not been heard or that has not been the object of a decision, shall, at the request of a party, be referred to a review board of the Commission des accidents du travail for proof and hearing.

Applica-
bility.

Section 12 of the said act, as replaced by section 14 of chapter 42 of the statutes of 1977, applies to such a case.

1977, c. 7,
ss. 6, 17,
21 and 24,
word
replaced.

84. Sections 6, 17, 21 and 24 of the Act to promote good citizenship (1977, chapter 7) are amended by replacing the word "compensation" in the said sections by the word "benefit", *mutatis mutandis*.

1977, c. 7,
ss. 8, 9, 12
and 14,
word
replaced.

85. Sections 8, 9, 12 and 14 of the said act are amended by replacing the word "compensation" in the said sections by the word "indemnity", *mutatis mutandis*.

1977, c. 7,
s. 1, am.

86. Section 1 of the said act is amended by replacing subparagraphs c, d and e by the following subparagraphs:

“(c) “dependant” means a person who, at the time when the rescuer sustained an injury, was dependent on him within the meaning of the Workmen's Compensation Act;

“(d) “injury” means bodily harm or property damage sustained by a person;

“(e) “benefit” means the benefits provided for by Divisions III, IV and V of the Workmen's Compensation Act and, in the case of material injury sustained by the rescuer, an amount not exceeding one thousand dollars;”.

1977, c. 7,
s. 2,
replaced.

87. Section 2 of the said act is replaced by the following section:

Benefit.

“**2.** A rescuer who sustains an injury or, if he dies therefrom, a dependant, may obtain a benefit from the commission.

Funeral
expenses
reim-
bursed.

The person who, without being a dependant, has paid for the funeral expenses of the rescuer may be reimbursed for them up to six hundred dollars; if such a person pays for costs of transportation of the remains, he is entitled, in the cases provided for by the regulations under the Workmen's Compensation Act, to be reimbursed for the sum prescribed therein.”

1977, c. 7,
s. 3, re-
placed.

88. Section 3 of the said act is replaced by the following section:

Delay for
applica-
tion.

“**3.** A rescuer must apply to the commission in writing within one year after the injury was sustained; in the case of a dependant, such application must be made within one year after the death of the rescuer; in the case of the person contemplated in the second paragraph of section 2, the application must be made within one year of the payment.

Presump-
tion.

The claimant who does not make the application within the prescribed delay is presumed to have renounced the benefit.”

1977, c. 7,
s. 10,
repealed.

89. Section 10 of the said act is repealed.

1977, c. 7,
s. 22,
replaced.

90. Section 22 of the said act is replaced by the following section:

Deduction.

“**22.** Where, in circumstances to which this act is applicable, a claimant obtains an indemnity under section 49a of the Wild-life Conservation Act (1969, chapter 58), it must be deducted from any indemnity received pursuant to this act.”

Applica-
bility.

91. This act applies to beneficiaries whose entitlement to benefits arising out of an accident commences on or after 1 January 1979.

Applica-
bility.

Notwithstanding the preceding paragraph, sections 17 and 31 of this act also apply to beneficiaries whose entitlement to benefits arises out of an accident that occurred before 1 January 1979.

Applica-
bility.

This section also applies to the claimants contemplated in the Crime Victims Compensation Act and in the Act to promote good citizenship.

Interpre-
tation.

92. Wherever the expression "Commission des accidents du travail de Québec" occurs in any act, regulation, order, proclamation, order in council or document, it shall be read as "Commission des accidents du travail du Québec".

Effect.

93. Notwithstanding section 69, the regulations made under subparagraphs *a*, *d*, *n*, *o*, *p* and *q* of section 119 of the Workmen's Compensation Act have effect from 1 January 1979.

Coming
into force.

94. This act comes into force on 1 January 1979, except sections 24 and 67, which will come into force on any later date to be fixed by proclamation of the Government.