



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 113

An Act to amend the Automobile Insurance Act

Introduction

**Introduced by
Mr Sam L. Elkas
Minister of Transport**

**Québec Official Publisher
1993**

EXPLANATORY NOTES

This bill proposes various amendments to the Automobile Insurance Act in order to permit more appropriate compensation for victims. In particular, the bill amends the definition of “dependant” in order that a minor child of a victim be, in all cases, considered to be a dependant of the victim. The bill also provides for the maintenance of the income replacement indemnity payments granted to the victim until the date of the decision of the Société de l’assurance automobile terminating such indemnity, where a medical examination has been required by the Société.

The bill proposes new rules in matters of residual pensions, lump sum indemnity payments on death and capitalization of expenses. The provisions relating to the payment of the indemnity for non-pecuniary damage are also amended with regard to the revalorization of such indemnity. In addition, the bill sets out the conditions applicable with regard to the capitalization of the income replacement indemnity.

Furthermore, the bill authorizes the direct reimbursement, by the Société, of the suppliers of goods and services for all of the expenses referred to in Title II of the said Act and, for this purpose, grants the Société a right of inspection.

Lastly, the bill contains amendments of a technical nature, amendments to ensure concordance and transitional provisions.

ACTS AMENDED BY THIS BILL:

- Automobile Insurance Act (R.S.Q., chapter A-25);
- Act respecting the Société de l’assurance automobile du Québec (R.S.Q., chapter S-11.011).

Bill 113

An Act to amend the Automobile Insurance Act

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 2 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended

(1) by striking out the words “, on the date of the accident,” in the first and second lines of the definition of “spouse”;

(2) by striking out the words “, on the date of the accident,” in the fourth line of paragraph 2 of the definition of “dependant”;

(3) by replacing paragraph 3 of the definition of “dependant” by the following paragraphs:

“(3) a minor child of the victim and a minor person to whom the victim stands *in loco parentis*;

“(4) a child of full age of the victim and a person of full age to whom the victim stands *in loco parentis*, provided that their basic needs and maintenance costs are borne by the victim to the extent of over 50%;

“(5) any other person related to the victim by blood or adoption and any other person who stands *in loco parentis* to the victim, provided that their basic needs and maintenance costs are borne by the victim to the extent of over 50%.”

2. The said Act is amended by inserting, after section 12, the following section:

“12.1 The Société must be impleaded in any action where a determination is to be made as to whether or not the bodily injuries were caused by an automobile.”

3. The said Act is amended by inserting, after section 49, the following section:

“49.1 Where, following an examination required by the Société under section 83.12, the victim is no longer entitled to the income replacement indemnity he was receiving on the date of the examination under section 14, 16, 17, 19, 21, 24, 26, 30, 32, 33, 37, 38, 39, 42 or 57, he shall continue to receive the indemnity until the date of the decision of the Société.

However, the first paragraph does not apply where, on the date of the examination, the victim is entitled to an income replacement indemnity under paragraph 4 of section 49 or section 50.”

4. Section 55 of the said Act is amended by inserting the words “derives or” after the word “he” in the tenth line.

5. Section 60 of the said Act is amended by striking out subparagraph 1 of the first paragraph.

6. Section 63 of the said Act is amended by replacing the words “deceased victim” in the first line of the first paragraph by the words “victim on the date of the victim’s death”.

7. Section 65 of the said Act is amended by replacing the words “deceased victim” in the first line by the words “victim on the date of the victim’s death”.

8. Section 66 of the said Act is amended

(1) by replacing the words “deceased victim” in the first line of the first paragraph by the words “victim on the date of the victim’s death”;

(2) by replacing the words “the date of his death” in the third line of the first paragraph by the words “that date”.

9. Section 68 of the said Act is amended

(1) by replacing the words “child as defined in paragraph 3 of the definition of the word “dependant” in section 2, the child” in the second and third lines by the words “dependant as defined in paragraph 3 or 4 of the definition of the word “dependant” in section 2, the dependant”;

(2) by replacing the word “child” in the seventh line by the word “dependant”.

10. Section 69 of the said Act is amended

(1) by replacing the words “deceased victim” in the first line of the first paragraph by the words “victim is a minor and”;

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

“If the victim is of full age and has no dependant on the date of his death, the indemnity shall be paid to his succession except where the property accrues to the State.”

11. Section 77 of the said Act is amended by inserting the words “and revalorized in accordance with section 83.34, on the date on which the Société renders its decision in first instance on the right to the indemnity,” after the word “accident” in the third line.

12. Section 83.22 of the said Act is amended by replacing paragraph 2 by the following paragraphs:

“(2) the person entitled to the indemnity was not resident in Québec on the date of the accident and has not been resident therein since that date;

“(3) the person entitled to the indemnity was resident in Québec on the date of the accident or has been resident therein since that date but, at the time of the application for capitalization, has not been resident in Québec for at least three years.”

13. Section 83.23 of the said Act is replaced by the following section:

“83.23 The Société may reimburse the expenses contemplated in Chapter V of this title, except those contemplated in section 79, in one or several instalments corresponding to the value of the expenses for a maximum period of one year.”

14. Section 83.24 of the said Act is amended

(1) by replacing the word and figure “section 83.2” in the first line by the words and figures “sections 79, 83, 83.1, 83.2 and 83.7 and the cost of the medical report referred to in section 83.31”;

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

“The Société may appoint any member of its staff to act as an inspector responsible for verifying the accuracy of the costs and supply of goods delivered or services rendered by suppliers to the victim.

An inspector may require the supplier to communicate any information or documents relevant to the carrying out of his assignment including books, accounts, registers or files, and make copies thereof.

Every person who has the custody, possession or charge of such books, registers, accounts, files or other documents must, on request, furnish them to the inspector and facilitate his examination of them.

No person shall hinder the work of an inspector, mislead him by concealment or false information or refuse to supply information or a document he is entitled to require or to examine."

15. Section 83.30 of the said Act, amended by section 89 of chapter 21 of the statutes of 1992, is again amended by inserting the words "on the date of the accident" after the word "dependants" in the second line of the fourth paragraph.

16. Section 83.32 of the said Act is amended by inserting the words "the second paragraph of" after the word "under" in the first line of the second paragraph.

17. Section 83.33 of the said Act is amended by inserting the word and figures ", 46 or 47" after the figure "45" in the second line of the second paragraph.

18. The said Act is amended by inserting, after section 190, the following section:

"190.1 Any person who contravenes the provisions of the fifth paragraph of section 83.24 is liable to a fine of not less than \$300 nor more than \$600."

19. Section 204 of the said Act is amended by inserting the words "of Transport" after the word "Minister".

20. Section 2 of the Act respecting the Société de l'assurance automobile du Québec (R.S.Q., chapter S-11.011) is amended by striking out subsection 3.

21. Section 77 of the Automobile Insurance Act, as it read prior to 1 January 1994, shall continue to apply to accidents occurring before 1 January 1994.

22. Sections 83.22 and 83.23 of the Automobile Insurance Act, as they read prior to 1 January 1994, shall continue to apply to

applications for capitalization made to the Société before 1 January 1994.

23. This Act will come into force on 1 January 1994.