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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 92

## **An Act to amend the Automobile Insurance Act and other legislation**

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**Introduction**

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

100-220-1038

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## EXPLANATORY NOTES

*The object of this bill is to bring about a reform in the amounts of indemnities payable for bodily injuries to victims of highway accidents, with special regard for coverage for the damage to victims of serious injury.*

*This bill maintains the basic principles of the automobile insurance scheme, namely, no-fault compensation, compensation for economic loss by way of pensions, full indexation of indemnities and compensation for loss of potential income.*

*Titles I and II of the Automobile Insurance Act are replaced. Compensation for permanent sequelae is increased to \$75 000 from the date of coming into force of the Act, \$100 000 from 1 January 1991 and \$125 000 from 1 January 1992; thereafter, it will be revalorized on 1 January every year.*

*The bill provides for the prolongation of an income replacement indemnity for a determined period as living expenses while searching for employment, and special compensation for victims working without pay in a family enterprise. It also introduces an availability allowance for persons who accompany or must remain with a victim whose age or state of health so requires when the victim is receiving medical or paramedical care.*

*Indemmities for expenses for child care or care of disabled persons and personal assistance are also provided. In this regard, an indemnity will be obtainable varying, according to the category of victims concerned, from \$250 to \$340 per week or \$75 to \$150 per week, depending on the number of children under 16 years of age or of disabled persons being cared for. On the other hand, persons not eligible for this indemnity will be eligible for an indemnity for personal assistance expenses of up to \$220 per week. The amount of reimbursable expenses may be as much as \$500 per week where the state of health of a victim warrants the continual attendance of another person.*

*As to death benefits, this bill proposes the payment of lump sum indemnities. Thus, a surviving spouse will receive an amount of not less than \$40 000 and of up to \$200 000. Dependants other than the spouse will be eligible for an amount computed on the basis of their age on the date of death of the victim, varying from \$35 000 for a person under one year of age to \$19 000 for a person 16 years of age or over. If the deceased victim is unmarried and has no dependants on the day of his death, the bill awards his father and mother equal shares of the sum of \$15 000.*

*Under this bill, the Régie must suspend payment of an income replacement indemnity to a person who is detained under judicial process by reason of an indictable offence he committed while driving an automobile. It is provided, however, that the dependants of such a victim will be entitled to an income replacement indemnity. Furthermore, if the victim is found not guilty, the Régie will pay him the income replacement indemnity he would have been entitled to, with interest, from the date of suspension.*

*A further object of this bill is to compensate for real loss of employment income during the first six months after an accident and to invoke the principle of lost potential income from the seventh month for victims holding part-time or temporary employment or no employment.*

*In addition, this bill provides that the income replacement indemnity of a victim is to be gradually reduced from the time he reaches his sixty-fifth birthday.*

*Lastly, to compensate for a delay in completing his studies suffered by a victim of a highway accident, this bill introduces a lump sum indemnity of \$3 000 per year missed at the primary level, \$5 500 per year missed at the secondary level and \$5 500 per term missed at the post-secondary level, up to \$11 000 per year.*

*The bill also contains technical and concordance amendments designed to improve the administration of the automobile insurance scheme.*

#### **ACTS AMENDED BY THIS BILL:**

- Automobile Insurance Act (R.S.Q., chapter A-25);
- Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).



## Bill 92

### An Act to amend the Automobile Insurance Act and other legislation

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

#### “TITLE I

#### “DEFINITIONS

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

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

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

“damage caused by an automobile” means any damage caused by an automobile, by the use thereof or by the load carried in or on an automobile, including damage caused by a trailer used with an automobile, but excluding damage caused by the autonomous act of an animal that is part of the load or caused in doing maintenance or repair work to an automobile;

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

“owner” means a person who acquires or possesses an automobile under a title of ownership, under a title involving a condition or a term

giving him the right to become the owner thereof, or under a title giving him the right to use it as the owner thereof charged to deliver over, and a person who leases a road vehicle for a period of not less than one year;

“public highway” means that part of any land or structure which is intended for public automobile traffic, except any part of any land or structure which is mainly used by the following vehicles, as defined by regulation:

- (1) farm tractors, farm trailers, specialized equipment or drawn machinery;
- (2) snowmobiles;
- (3) vehicles intended for use off a public highway;

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

## “TITLE II

### “COMPENSATION FOR BODILY INJURY

#### “CHAPTER I

##### “GENERAL PROVISIONS

##### “DIVISION I

##### “DEFINITIONS AND INTERPRETATION

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

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

“dependant” means

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

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

“employment” means any remunerative occupation;

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

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

**“4.** For the purposes of this title, compensation includes the reimbursement of the expenses referred to in Chapter V.

## “DIVISION II

### “GENERAL RULES

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

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

**“7.** Every victim resident in Québec and his dependants are entitled to compensation under this title, whether the accident occurs in Québec or outside Québec.

Subject to paragraph 1 of section 195, a person resident in Québec is a person who lives in Québec and is ordinarily in Québec, and has the status of Canadian citizen, permanent resident or person having lawful permission to come into Québec as a visitor.

**“8.** Where an automobile registered in Québec is involved in an accident in Québec, the owner, the driver and the passengers are deemed to be resident in Québec.

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

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

Notwithstanding sections 83.45 and 83.59, in case of disagreement between the Régie and the victim with regard to his responsibility, the remedy of the victim against the Régie in that respect is submitted to the competent court. The remedy must be exercised within 180 days of the decision as to responsibility rendered by the Régie.

**“10.** No person is entitled to compensation under this title in the following cases:

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

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

(3) if the injury is caused by a snowmobile or a vehicle intended for use off a public highway, as defined by regulation;

(4) if the accident occurs as a result of an automobile contest, show or race on a track or other location temporarily or permanently closed to all other automobile traffic, whether or not the automobile that causes the injury is participating in the race, the contest or the show.

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

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

**“11.** Entitlement to compensation under this title is prescribed by three years from the accident or the time the injury appears and, with regard to a death benefit, from the time of death.

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

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

**“12.** Where the Régie transacts or compromises with a victim with respect to compensation contemplated in this title, the resulting transaction cannot be set up against the victim unless it is drawn up in writing and bears his signature.

**“13.** Any assignment or any transfer in collateral guarantee or otherwise of the right to any indemnity contemplated in this title is null by operation of law.

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

## “CHAPTER II

### “INCOME REPLACEMENT INDEMNITY AND OTHER INDEMNITIES

#### “DIVISION I

##### “ENTITLEMENT TO AN INDEMNITY

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

**“14.** This subdivision does not apply to a victim under sixteen years of age or to a victim sixteen years of age or over attending a secondary or post-secondary educational institution on a full-time basis.

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

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

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

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

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

The indemnity is computed, in accordance with the rules set out in section 16, on the basis of the gross income the victim derives from the employment he is unable to hold, or on the basis of the aggregate of the gross incomes he derives from the several employments he becomes unable to hold, where that is the case.

**“18.** A victim who proves that he would have held a more remunerative employment at the time of the accident but for special circumstances is entitled to receive an income replacement indemnity computed on the basis of the gross income he would have derived from that employment, provided he is unable to hold it by reason of the accident.

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

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

**“19.** This subdivision does not apply to a victim under sixteen years of age or to a victim sixteen years of age or over attending a secondary or post-secondary educational institution on a full-time basis.

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

During that period, the victim is entitled to the indemnity for such time as he remains unable, by reason of the accident, to hold that employment.

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

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

(2) if the victim is self-employed, the indemnity is computed on the basis of the gross income determined by regulation of the Régie for

an employment of the same class, or on the basis of the gross income he derives from his employment, if that is higher;

(3) if the victim holds more than one employment, the indemnity is computed on the basis of the gross income he derives from the employment or, where such is the case, the employments he becomes unable to hold.

A victim who, by reason of the accident, is deprived of unemployment insurance benefits to which he was entitled at the time of the accident is entitled to receive an additional indemnity computed on the basis of the unemployment insurance benefits that would have been paid to him. The benefits are deemed to form part of his gross income.

**“22.** From the one hundred and eighty-first day after the accident, the Régie shall determine an employment for the victim in accordance with section 46.

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

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

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

(2) the work experience of the victim in the five years preceding the accident and, in particular, the periods during which he was fit to hold employment or was unemployed or held only temporary or part-time employment;

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

If the victim held more than one temporary or part-time employment at the time of the accident, the Régie shall determine only one employment for him in accordance with section 46.

**“23.** The income replacement indemnity computed in accordance with section 22 shall not be less than the income replacement indemnity the victim was receiving, if such was the case, at the end of the one hundred and eightieth day after the accident.

“§ 3.—*Victim unemployed but able to work*

**“24.** This subdivision does not apply to a victim under sixteen years of age or to a victim sixteen years of age or over attending a secondary or post-secondary educational institution on a full-time basis.

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

(1) by reason of the accident, he is unable to hold an employment that he would have held during that period had the accident not occurred;

(2) by reason of the accident, he is deprived of the unemployment insurance benefits to which he was entitled at the time of the accident.

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

**“26.** The indemnity to which the victim described in subparagraph 1 of the first paragraph of section 25 is entitled is computed on the basis of the gross income he would have derived from the employment he would have held had the accident not occurred.

The indemnity to which the victim described in subparagraph 2 of the first paragraph of section 25 is entitled is computed on the basis of the unemployment insurance benefits that would have been paid to him had the accident not occurred.

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

**“27.** From the one hundred and eighty-first day after the accident, the Régie shall determine an employment for the victim in accordance with section 46.

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

The indemnity is computed in accordance with the third paragraph of section 22 and shall not be less than the indemnity the victim was receiving, if such was the case, at the end of the one hundred and eightieth day after the accident.

“§ 4.—*Victim sixteen years of age or over in full-time attendance at an educational institution*

“**28.** For the purposes of this subsection,

(1) current studies are studies forming part of a program of studies at the secondary or post-secondary level which, on the day of the accident, the victim has admission to begin or continue at an educational institution;

(2) a victim is considered to be attending, on a full-time basis, an institution offering courses at the secondary or post-secondary level from such time as he is admitted by the institution as a full-time student in a program of that level, until such time as he completes the last term, abandons his studies, or no longer meets the requirements set by the institution he is attending for continuing his studies, whichever occurs first.

“**29.** A victim who on the day of the accident is sixteen years of age or over and attending a secondary or post-secondary educational institution on a full-time basis is entitled to an indemnity for such time as, by reason of the accident, he is unable to begin or to continue his current studies, if they are delayed. The right to the indemnity ceases on the date scheduled, at the time of the accident, for the completion of his current studies.

“**30.** The indemnity shall be in the amount of

(1) \$5 500 for every school year missed at the secondary level;

(2) \$5 500 for every term missed at the post-secondary level, up to \$11 000 a year.

“**31.** A victim who, at the time of the accident, also holds an employment or, had the accident not occurred, would have held an employment is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold that employment.

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

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

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

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

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

**“33.** A victim who, after the scheduled date for completion of his current studies is unable, by reason of the accident, to begin or to continue the studies and unable to hold any employment is entitled to an income replacement indemnity for as long as he remains incapacitated for that reason.

The indemnity is computed on the basis of a gross income equal to 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 which precedes the scheduled date of completion of his studies.

**“34.** A victim who resumes his studies but who, by reason of the accident, is unable to hold any employment after completing or ending his current studies is entitled to an indemnity from the date of the end of his studies and for such time as he remains incapacitated for that reason.

If his studies end before the scheduled date for their completion, the victim is entitled to an indemnity under section 30.

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

“§ 5.—*Victim under sixteen years of age*

**“35.** For the purposes of this subdivision,

(1) a school year begins on 1 July in one year and ends on 30 June in the following year;

(2) the primary level extends from kindergarten to the sixth grade.

**“36.** A victim who at the time of the accident is under sixteen years of age is entitled to an income replacement indemnity for such time as, by reason of the accident, he is unable to begin or to continue his studies, if they are delayed.

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

**“37.** The indemnity shall be in the amount of

(1) \$3 000 for every school year missed at the elementary level;

(2) \$5 500 for every school year missed at the secondary level.

**“38.** A victim who, at the time of the accident, also holds an employment or, had the accident not occurred, would have held an employment is, in addition, entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold that employment.

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

The indemnity is computed in the manner set out in section 32.

**“39.** A victim who, from the end of the school year in which he reaches sixteen years of age, is unable to begin or to continue his studies and to hold any employment by reason of the accident is entitled to an income replacement indemnity for such time as he remains incapacitated for that reason.

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

**“40.** A victim who resumes his studies but who, by reason of the accident, is unable to hold any employment after finishing or ending his studies is entitled to an indemnity from the end of his studies and for such time as he remains incapacitated for that reason.

If his studies end before the scheduled date for their completion, the victim is entitled to an indemnity under section 37.

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

*“§ 6.—Victims 64 years of age or over*

**“41.** Where a victim is 64 years of age or over on the date of the accident, the income replacement indemnity to which he is entitled is reduced by 25% from the second year following the date of the accident, by 50% from the third year and by 75% from the fourth year.

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

**“42.** A victim who, on the date of the accident, is 65 years of age or over and does not hold any employment is not entitled to an income replacement indemnity.

**“43.** Notwithstanding section 42, a victim 65 years of age or over who, by reason of the accident, is unable to hold an employment that he would have held during the first 180 days following the accident, had it not occurred, is entitled to an income replacement indemnity for that period.

The indemnity is computed on the basis of the gross income he would have derived from the employment that he could have held had the accident not occurred. The victim is entitled to the indemnity for such time as the employment would have been available and that he is unable to hold it by reason of the accident.

Subject to section 41, the victim is entitled, from the one hundred and eighty-first day following the accident, to an income replacement indemnity computed in accordance with sections 22 and 23.

**“44.** When a victim receiving an income replacement indemnity under this chapter reaches his sixty-fifth birthday, the indemnity to

which he is entitled is reduced by 25 % from that date; it is reduced by 50 % from the date of his sixty-sixth birthday and by 75 % from the date of his sixty-seventh birthday.

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

“§ 7.—*Victim regularly unable to hold any employment*

“**45.** A victim who, at the time of the accident, is regularly unable to hold any employment for any reason whatever except age is not entitled to an income replacement indemnity.

“DIVISION II

“DETERMINATION OF AN EMPLOYMENT FOR A VICTIM

“**46.** Where the Régie is required, from the one hundred and eighty-first day after an accident, to determine an employment for a victim, it must take into account, in addition to the standards and terms and conditions prescribed by regulation, the training, work experience and physical and intellectual abilities of the victim on the date of the accident.

The employment must be an employment which the victim could have held at the time of the accident on a regular and full-time or, failing that, part-time basis.

“**47.** From the third year after the date of an accident, the Régie may determine an employment that could be held by a victim able to work but who, by reason of the accident, has become unable to hold

- (1) the employment he held at the time of the accident;
- (2) an employment referred to in section 18; or

(3) the employment determined for him by the Régie pursuant to section 46 from the one hundred and eighty-first day after the accident.

“**48.** The Régie may determine an employment for a victim contemplated in subdivisions 4 and 5 of Division I at any time from the scheduled date of the end of his current studies if the victim is able to work but unable, by reason of the accident, to hold an employment from which the gross income is equal to or greater than the gross income that would have applied to him under section 33, 34, 39 or 40, as the case may be, if he had been unable to hold any employment by reason of the accident.

**“49.** In determining an employment in any case described in section 47 or 48, the Régie shall take the following factors into account, in addition to the standards and terms and conditions prescribed by regulation:

(1) the training, work experience and physical and intellectual abilities of the victim at the time it decides to determine an employment for him pursuant to that section;

(2) where applicable, the knowledge and skills acquired by the victim through a rehabilitation program approved by the Régie.

The employment must be an employment which the victim is able to hold on a regular and full-time or, failing that, part-time basis.

### “DIVISION III

#### “CESSATION OF ENTITLEMENT TO INCOME REPLACEMENT INDEMNITY

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

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

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

(3) when he becomes able to hold an employment determined for him by the Régie pursuant to section 46;

(4) one year after becoming able to hold an employment determined for him by the Régie pursuant to section 47 or 48; or

(5) at any time fixed pursuant to a provision of Division I of this chapter different from the times provided for in paragraphs 1 to 4.

**“51.** Notwithstanding section 50, a victim who, at the time of the accident, held a regular full-time or part-time employment continues to be entitled to the income replacement indemnity even when he regains the ability to hold his employment, if he lost such employment by reason of the accident.

The Régie shall continue to pay the indemnity to the victim after he regains the ability to hold his employment for a period of

(1) 30 days if the victim’s disability lasted for not less than 90 days but not more than 180 days;

(2) 90 days if the disability lasted for more than 180 days but not more than one year;

(3) 180 days if the disability lasted for more than one year but not more than two years;

(4) one year if the disability lasted for more than two years.

#### “DIVISION IV

##### “COMPUTATION OF INDEMNITY

“**52.** The income replacement indemnity computed on the basis of the gross income from the employment of a victim is nil where that income is less than \$25 a week.

“**53.** The income replacement indemnity of a victim contemplated by this chapter is equal to 90% of his net income computed on a yearly basis.

Subject to sections 41, 44 and 58, the income replacement indemnity of a victim who, at the time of the accident, held a regular full-time employment, or of a victim for whom the Régie determines an employment from the one hundred and eighty-first day following the accident, in accordance with section 46, shall not be less, however, than the indemnity that would be computed on the basis of a gross annual income determined on the basis of the minimum wage as defined in section 3 of the Regulation respecting labour standards (R.R.Q., 1981, chapter N-1.1, r.3) and, except in the case of a part-time employment, of the regular workweek as defined in section 52 of the Act respecting labour standards (R.S.Q., chapter N-1.1), as they read on the day on which they are applied.

“**54.** The net income of the victim is equal to his gross yearly employment income up to the amount of the Maximum Yearly Insurable Earnings less an amount equivalent to the income tax determined under the Taxation Act (R.S.Q., chapter I-3) and the Income Tax Act (R.S.C., 1970, chapter I-5), the premium determined under the Unemployment Insurance Act, 1971 (S.C., 1970-71-72, chapter 48) and the contribution determined under the Act respecting the Québec Pension Plan, all of which are computed in the manner prescribed by regulation.

The Acts mentioned in the first paragraph apply as they read on 31 December of the year preceding that in which the Régie makes the computation of net income under this chapter.

**“55.** For the purposes of the deductions under section 54, the Régie shall take into account the number of dependants of the victim on the date of the accident.

**“56.** For the year 1989, the amount of the Maximum Yearly Insurable Earnings is \$38 000.

For the year 1990 and each subsequent year, the amount of the Maximum Yearly Insurable Earnings is obtained by multiplying the Maximum for the year 1989 by the ratio between the sum of the average of weekly salaries and wages of the Industrial Composite in Québec as established by Statistics Canada for each of the twelve months preceding 1 July of the year preceding the year for which the amount of the Maximum Yearly Insurable Earnings is computed and the same sum for each of the twelve months preceding 1 July 1988.

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

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

If, on 1 October in any year, the data furnished by Statistics Canada are incomplete, the Régie may use the data available at that time to establish the Maximum Yearly Insurable Earnings.

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

**“57.** If the victim becomes able to hold an employment determined for him by the Régie pursuant to section 47 or 48 and if, by reason of his bodily injury, he can derive from his employment only a gross income that is less than the income used by the Régie as the basis for computing the income replacement indemnity he was receiving before the determination of that employment, the victim is entitled, at the expiry of the year referred to in paragraph 4 of section 50, to an income replacement indemnity equal to the difference between the indemnity he was receiving at the time the Régie determined the employment for him and the net income he could derive from the employment determined by the Régie.

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

**“59.** If a victim suffers a relapse of his bodily injury within two years from the accident, he shall receive compensation from the date of the relapse as though his disability resulting from the accident had not been interrupted.

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

If the victim suffers a relapse more than two years after the accident, he shall receive compensation as if the relapse were a second accident.

**“60.** A victim receiving an income replacement indemnity, other than an indemnity under section 51 or 57, who claims such an indemnity following a second accident or a relapse cannot receive both indemnities.

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

### “CHAPTER III

#### “DEATH BENEFIT

##### “DIVISION I

###### “INTERPRETATION AND APPLICATION

**“61.** For the purposes of this chapter,

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

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

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

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

**“62.** For the application of this chapter, a person who would have been a dependant of the victim if the victim had had an employment at the time of the accident is considered to be a dependant of the victim although the victim had no employment at that time.

**“63.** The death of a victim by reason of an accident gives entitlement to compensation under this chapter.

## “DIVISION II

### “INDEMNITIES TO DEPENDANTS

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

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

**“65.** The amount of the lump sum indemnity payable under section 64 to the spouse of a deceased victim shall not be less than \$40 000.

**“66.** The spouse of a deceased victim is entitled, where the victim would not have been entitled to an income replacement indemnity under section 64, to a lump sum indemnity of \$40 000.

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

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

**“68.** If the dependant referred to in section 67 is disabled on the date of death of the victim, he is entitled to an additional lump sum indemnity of \$16 500.

**“69.** If the victim has no spouse on the date of his death but has a child as defined in paragraph 3 of the definition of the word “dependant” in section 2, the child is entitled, in addition to an indemnity under section 67 and, as the case may be, in addition to an

indemnity under section 68, to a lump sum indemnity in an amount equal to the indemnity provided for by section 64, 65 or 66, as the case may be. If there is more than one child, the indemnity shall be divided equally among them.

**“70.** If the deceased victim has no dependant on the date of his death, his mother and father are entitled to equal shares of a lump sum indemnity of \$15 000.

If one of the parents has died, has been deprived of parental authority or has abandoned the victim, his share accrues to the other parent.

**“71.** The succession of a victim is entitled to a lump sum indemnity of \$2 800 for funeral expenses.

**“72.** The Régie, on the application of a dependant entitled to an indemnity under this division, may pay the indemnity in periodic instalments corresponding to a proportion of the value of the lump sum indemnity over a period not exceeding 20 years.

### “DIVISION III

#### “SPECIAL PROVISION

**“73.** The surviving spouse or the dependants of a deceased victim who are entitled on (*insert here the date of the day preceding the date of the coming into force of this section*) to a death benefit in the form of a life annuity may apply for its replacement by an amount of equivalent value. The amount is payable in periodic instalments according to the terms and conditions prescribed by regulation.

### “CHAPTER IV

#### “COMPENSATION FOR NON-PECUNIARY DAMAGE

**“74.** A victim who suffers permanent physical or mental impairment by reason of an accident is entitled, in accordance with the provisions of this chapter, to a lump sum indemnity not exceeding the amount of \$75 000 for non-pecuniary damage.

The maximum amount shall be increased to \$100 000 from 1 January 1991 and \$125 000 from 1 January 1992, and shall be revalorized on 1 January of each subsequent year in accordance with section 83.36.

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

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

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

**“77.** The Régie shall evaluate the impairment in terms of a percentage determined on the basis of the schedule of permanent impairments established by regulation. The percentage shall include the loss of enjoyment of life and other unfavourable consequences of the impairment and shall not exceed 100%.

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

**“78.** The lump sum indemnity is an amount equal to the product obtained by multiplying the maximum amount applicable pursuant to section 74 at the time of the accident by the percentage determined for the impairment.

**“79.** Compensation for non-pecuniary damage shall not be less than \$500.

## “CHAPTER V

### “REIMBURSEMENT OF CERTAIN EXPENSES AND REHABILITATION

#### “DIVISION I

#### “REIMBURSEMENT OF CERTAIN EXPENSES

#### “§ 1.—*Personal assistance and care expenses*

**“80.** In the cases and on the conditions prescribed by regulation, the actual expenses for personal home assistance may be reimbursed to any victim, other than a victim described in section 81, who by reason of the accident is unable to care for himself and to perform, without assistance, the essential activities of everyday life.

Expenses are reimbursed on presentation of vouchers. They shall not exceed \$220 per week.

**“81.** A victim holding a part-time employment or an unemployed victim able to work who, on the date of the accident, has the care of a child under sixteen years of age or of a person who, for any reason whatever, is ordinarily unable to hold any employment is entitled to an indemnity for care and personal assistance expenses.

The indemnity shall be a weekly payment in the amount of

(1) \$250 where the victim has the care of a person contemplated in the first paragraph;

(2) \$280 where the victim has the care of two persons contemplated in the first paragraph;

(3) \$310 where the victim has the care of three persons contemplated in the first paragraph;

(4) \$340 where the victim has the care of four or more persons contemplated in the first paragraph.

The victim shall receive the indemnity for as long as he is unable to care for the person contemplated in the first paragraph.

**“82.** Where the physical or mental condition of a victim contemplated in section 80 or 81 warrants the continual attendance of another person, the amount of the reimbursed expenses may be increased to \$500 weekly in the cases and under the conditions prescribed by regulation. These additional expenses shall be reimbursed upon the presentation of vouchers.

**“83.** From the one hundred and eighty-first day following his accident, the victim contemplated in section 81 may, at any time he considers appropriate, choose one of the following indemnities:

(1) the same indemnity as he is already receiving under section 81;

(2) an income replacement indemnity granted under section 27 to an unemployed victim who is able to work.

Where the victim avails himself of the option provided for in this section, the Régie shall assist him and provide him with the information necessary to make an enlightened choice.

**“83.1** A victim who becomes unable to care for a child under sixteen years of age or for a person ordinarily unable, for any reason

whatever, to hold any employment is entitled to the reimbursement of expenses incurred by reason of the accident in order to pay the cost of such care, provided that he also, on the date of the accident,

(1) holds a regular full-time employment or temporary employment;

(2) is sixteen years of age or over and attends an educational institution on a full-time basis;

(3) holds a regular part-time employment and subsequently elects the income replacement indemnity in subparagraph 2 of the first paragraph of section 83; or

(4) holds no employment, yet is able to work, and subsequently elects the income replacement indemnity provided for in subparagraph 2 of the first paragraph of section 83.

The expenses shall be reimbursed on a weekly basis on presentation of vouchers, up to the amount of

(1) \$75 where the victim has the care of one person contemplated in the first paragraph;

(2) \$100 where the victim has the care of two persons contemplated in the first paragraph;

(3) \$125 where the victim has the care of three persons contemplated in the first paragraph;

(4) \$150 where the victim has the care of four or more persons contemplated in the first paragraph.

The expenses shall be reimbursed for such time as the victim remains unable to care for the person contemplated in the first paragraph.

However, where the victim has a spouse, the victim cannot receive the reimbursement of his expenses unless his spouse, by reason of illness, disability or absence for the purposes of work or studies is also unable to care for the person contemplated in the first paragraph.

**“83.2** A victim working at the time of the accident without pay in a family enterprise who is unable to perform his regular duties by reason of the accident is entitled to the reimbursement of his expenses during the 180 days after the accident to cover the cost of manpower required to perform those duties.

Such expenses of up to \$500 weekly shall be reimbursed on the presentation of vouchers.

“§ 2.—*General expenses*

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

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

The victim is also entitled, in the cases and on the conditions prescribed by regulation, to the reimbursement of any other expenses determined by regulation of the Régie.

“**83.4** A person who pays any of the expenses referred to in section 83.3 on behalf of a victim is entitled to the reimbursement of the expenses as provided in that section.

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

“**83.6** The person who accompanies or must constantly attend a victim whose physical or mental condition or age so requires when the victim is receiving medical or paramedical care is entitled, in the cases and on the conditions prescribed by regulation, to an availability allowance and to the reimbursement of the transportation and lodging expenses he incurs.

“**83.7** The expenses contemplated in this subdivision shall be reimbursed, on the presentation of vouchers, subject to a deductible amount of \$100.

“DIVISION II

“REHABILITATION

“**83.8** The Régie may take any necessary measures to contribute to the rehabilitation of a victim, to lessen or cure any

disability resulting from bodily injury and to facilitate his return to a normal life or his reintegration into society or the labour market.

## “CHAPTER VI

### “CLAIMS PROCEDURE

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

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

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

**“83.12** A person who applies for compensation shall, at the request of the Régie and at its expense, undergo an examination to be administered by the health professional of his choice.

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

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

**“83.14** A person who undergoes the examination referred to in section 83.12 or 83.13 is entitled to the reimbursement of the transportation and lodging expenses incurred in connection with the examination.

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

**“83.15** The health professional who examines a victim at the request of the Régie shall make a report to the Régie on the condition of the victim and on any other matter for which the examination was required.

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

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

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

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

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

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

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

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

A written transcription of the data contemplated in the first paragraph must reproduce such data faithfully. The transcription, where certified by an officer authorized in accordance with section 15 of the Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4), is proof of its contents.

**“83.20** An intelligible transcription in writing of the data stored by the Régie in a computer or on any other magnetic medium is a document of the Régie and is proof of its contents where such transcription is certified by an authorized officer in accordance with section 15 of the Act respecting the Régie de l'assurance automobile du Québec.

## “CHAPTER VII

## “PAYMENT OF INDEMNITIES

“**83.21** An income replacement indemnity shall be paid in the form of a pension once every fourteen days.

The indemnity granted to a person under section 80 or 81 shall be paid once every fourteen days.

The indemnity granted under section 29 or 36 shall be paid at the end of the term or school year that the student misses by reason of the accident.

No income replacement indemnity is payable for the first seven days of the disability entitling the victim to an indemnity, unless the disability is the result of a relapse of his bodily injury.

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

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

“**83.23** The Régie may pay an income replacement indemnity in a single payment equivalent to the capital value of the indemnity where

(1) the amount to be paid at the intervals prescribed in the first paragraph of section 83.21 is less than \$100;

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

“**83.24** The Régie may reimburse the expenses contemplated in Chapter V of this title in one or several instalments of equal value to the expenses.

“**83.25** The expenses referred to in section 83.3 may, at the request of the victim, be paid directly to the suppliers.

“**83.26** Any unpaid indemnity on the date of death of the person entitled thereto shall be paid to his succession.

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

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

**“83.29** Where a person entitled to compensation is under legal incapacity, the Régie shall pay the indemnity to his tutor or curator, as the case may be, or, if none, to the person it designates; the designated person has the powers and duties of a tutor or of a curator, as the case may be.

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

**“83.30** Income replacement indemnities are deemed to be the salary of the person receiving them and are seizable as a debt for support in accordance with the last paragraph of article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25), adapted as required. Such indemnities are unseizable in respect of any other debt.

Every other indemnity paid under this title is unseizable.

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

The Régie shall remit the withheld amount to the department.

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

(1) where the claimant

(a) deliberately produces false or inaccurate information;

(b) refuses or neglects to produce any information required by the Régie or to give the authorization necessary for obtaining it;

(2) where the person, without valid reason,

(a) refuses a new employment, refuses to return to his former employment or leaves an employment that he could continue to hold;

(b) interferes with an examination required by the Régie or neglects or refuses to undergo such an examination;

(c) does not follow the recommended medical or paramedical treatment or is not available for or refuses such treatment;

(d) prevents or delays his recovery by his action or activities;

(e) does not follow the rehabilitation program put at his disposal by the Régie under section 83.8 or refuses or is not available for such program.

**“83.32** The Régie shall suspend payment of the income replacement indemnity of a victim who is being held in detention under judicial process by reason of an indictable offence he has committed while driving an automobile, from the month following the month of his admission to a detention centre. The suspension shall remain in force until the end of the period of detention or, where such is the case, until the date of the judgment finding him not guilty of that indictable offence.

The dependants of the victim are entitled, however, during the suspension, to an indemnity equivalent on a yearly basis to the following percentage of the income replacement indemnity to which the victim would have been entitled:

(1) 55% for one dependant;

(2) 65% for two dependants;

(3) 70% for three dependants, plus 5% for each additional person, up to 90%.

If the victim is not found guilty of the indictable offence described in the first paragraph, the Régie shall pay him, from the date of the suspension, the income replacement indemnity to which he would have been entitled, with interest computed as in section 83.34.

**“83.33** A victim whose petition for review or appeal is allowed and who has filed a medical expert’s written report in support of his petition is entitled to reimbursement of the cost of that report, up to the amount established by regulation.

**“83.34** Where the Régie or the Commission des affaires sociales recognizes a person’s entitlement to an indemnity that was formerly denied or increases the amount of an indemnity, it shall order, in every case, that interest be paid to him.

The rate of interest is that fixed under section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) and shall be computed from the date of the decision refusing to recognize

entitlement to an indemnity or from the date of the decision refusing to increase the amount of an indemnity.

## “CHAPTER VIII

### “REVALORIZATION

**“83.35** The amount of the gross annual income used as the basis for computing the income replacement indemnity shall be revalorized each year, on the anniversary of the accident.

The amount of the gross annual income fixed by the Régie for the employment determined pursuant to section 46 shall be revalorized each year on that date.

**“83.36** All amounts of money listed in Schedule III or referred to in this title except sections 71 and 83.7 shall be revalorized on 1 January each year.

**“83.37** The revalorization is made by multiplying the amount to be revalorized by the ratio between the Consumer Price Index for the current year and that for the preceding year.

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

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

If Statistics Canada uses a new method to compute the monthly Consumer Price Index, the Régie shall modify the computation of the revalorization according to the change in the monthly Consumer Price Index from 1 January of the year following the change of method.

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

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

**“83.41** The amount obtained through revalorization is rounded off to the nearest dollar.

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

## “CHAPTER IX

### “JURISDICTION OF THE RÉGIE, REVIEW AND APPEAL

#### “DIVISION I

##### “JURISDICTION OF THE RÉGIE

**“83.43** Subject to section 83.69, the Régie has exclusive jurisdiction, in first instance and in review, to examine, hear and decide any matter related to compensation under this title.

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

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

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

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

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

**“83.45** A decision rendered in first instance must give reasons and be transmitted in writing to the interested person.

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

If the decision is rendered by the Régie, it shall, when transmitting its decision, inform the interested person of his right to

appeal therefrom to the Commission des affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of claimed expenses.

**“83.46** So long as a decision rendered in first instance has not been inscribed for review or appeal, the Régie or a public servant may, on its or his own initiative or at the request of an interested person, reconsider the decision

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

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

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

## “DIVISION II

### “REVIEW AND APPEAL

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

The application must mention the main grounds on which it is based.

**“83.48** The Régie may allow a person to act after the expiry of the time prescribed in section 83.47 if it was impossible *de facto* for him to act within that time.

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

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

**“83.50** A decision rendered in review by a public servant must give reasons and be transmitted in writing to the interested person.

The public servant, when transmitting his decision, shall inform the person of his right to appeal therefrom to the Commission des

affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of claimed expenses.

**“83.51** A person who believes he has been wronged by a decision rendered by the Régie in first instance or by a decision rendered after a review may appeal therefrom to the Commission des affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of claimed expenses.

The Commission des affaires sociales shall dispose of the appeal according to its rules of proof, procedure and practice.

## “CHAPTER X

### “REMEDIES

#### “DIVISION I

##### “RECOVERY OF INDEMNITIES

**“83.52** A person who has received an indemnity to which he is not entitled or the amount of which exceeds that to which he is entitled shall reimburse the amount received in excess to the Régie.

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

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

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

**“83.53** Notwithstanding section 83.52, if, following an application for review or an appeal, the Régie or the Commission des affaires sociales renders a decision which cancels an indemnity or reduces its amount, the sums already paid are not recoverable unless they were obtained in bad faith or unless the application for review or the appeal pertains to a decision rendered pursuant to section 83.52.

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

**“83.55** A person who, contrary to the second paragraph of section 83.61, prevents the Régie from exercising its recourse as subrogee is required to reimburse the indemnity received from the Régie.

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

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

**“83.56** The Régie shall put the debtor in default by a decision stating the amount and reasons for the exigibility of the debt.

The decision interrupts prescription as provided in section 83.52, 83.55 or 83.63, as the case may be.

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

(1) attesting the failure of the debtor to appeal from the decision rendered under section 83.56 or confirming the decision of the Commission des affaires sociales maintaining the decision, as the case may be;

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

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

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

## “DIVISION II

### “CIVIL LIABILITY

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

Subject to sections 83.65 and 83.66, where bodily injury was caused by an automobile, the benefits or pecuniary benefits provided

for the compensation of such injury by the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act stand in lieu of all rights and remedies by reason of such bodily injury and no action in that respect shall be admitted before any court of justice.

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

**“83.61** A person entitled to compensation under this title by reason of an accident that occurred outside Québec may benefit by the compensation while retaining his remedy with regard to any compensation in excess thereof under the law of the place where the accident occurred.

A person who exercises such remedy may, unless authorized by the Régie, prevent the Régie from exercising its remedy as subrogee pursuant to section 83.62. The Régie is released from its obligation toward a person who prevents it from exercising that remedy.

**“83.62** Notwithstanding section 83.59, where the Régie compensates a person by reason of an accident that occurred outside Québec, it is subrogated to the person’s rights and is entitled to recover the indemnities and the capital representing the pensions that the Régie is required to pay from any person not resident in Québec who, under the law of the place where the accident occurred, is responsible for the accident and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

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

**“83.63** Notwithstanding section 83.59, where the Régie compensates a person by reason of an accident that occurred in Québec, it is subrogated to the person’s rights and is entitled to recover the indemnities and the capital value of the pensions that the Régie is required to pay from any person not resident in Québec who is responsible for the accident to the extent that he is responsible therefor and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

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

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

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

**83.64** Notwithstanding section 83.59, where, following an accident, the following bodies are subrogated to the rights of a person under the Acts hereinafter mentioned, they shall have the same remedies as the Régie to recover their claim from the person not resident in Québec who is responsible for the accident or from the person liable for compensation for bodily injury caused in the accident by that person:

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

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

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

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

### “DIVISION III

#### “REMEDIES UNDER OTHER PLANS

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

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

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

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

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

**“83.68** The Régie shall reach an agreement with the Commission de la santé et de la sécurité du travail to establish a procedure for the processing of claims filed under the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act by any person contemplated in section 83.67.

The agreement must make it possible to

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

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

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

**“83.69** Where a person referred to in section 83.67 claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or total disability benefits under the Act to promote good citizenship or the Crime Victims Compensation Act, the Régie and the Commission de la santé et de la sécurité du travail shall, in carrying out the agreement described in section 83.68, render a joint decision which distinguishes between the damage attributable to each event and determines the corresponding entitlement to and amount of the benefits, compensation or indemnities payable under each of the applicable Acts.

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

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

**“83.70** Where, by reason of an accident, a victim is entitled to both an income replacement indemnity payable under this Act and a disability benefit payable under an income security programme established by the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or under a similar programme in another jurisdiction, the income replacement indemnity is reduced by the total of disability benefits payable to the victim.”

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

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

For the purposes of this title, every person who sustains property damage in an accident is deemed to be a victim.”

**3.** Section 85 of the said Act is amended by inserting, after the word “injuries” in the third line of the third paragraph, the words “referred to in the definition of “bodily injury” in section 2 and that have been”.

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

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

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

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

**“141.1** For the purposes of this title, every person who sustains property damage in an accident is deemed to be a victim.”

**7.** Section 142 of the said Act is amended

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

(2) by replacing the words and figure “paragraph *b* of section 17” in the second line by the words and figures “subparagraphs 2 and 3 of the first paragraph of section 10”.

**8.** Section 143 of the said Act is amended by replacing the words and figure “paragraph *b* of section 17” in the first and second lines of the second paragraph by the words and figures “subparagraphs 2 and 3 of the first paragraph of section 10”.

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

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

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

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

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

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

“(3) the child or the spouse of the debtor, as defined under the definition of the word “spouse” in section 2;”.

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

“An authorized insurer is an insurer authorized to transact automobile insurance under the Act respecting insurance (R.S.Q., chapter A-32), holding a permit issued by the Inspector General of

Financial Institutions, except a person who transacts exclusively in reinsurance.”

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

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

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

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

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

(2) to define, for the purposes of subparagraph 1 of the first paragraph of section 10, the expression “a device that can be operated independently”;

(3) to define, for the purposes of the definition of “public highway” in section 1 and of subparagraph 2 of the first paragraph of section 10, the words “farm tractor”, “farm trailer”, “specialized vehicle” and “drawn machinery”;

(4) to define, for the purposes of the definition of “public highway” in section 1 and of subparagraph 3 of the first paragraph of section 10, the words “snowmobile” and “vehicle intended for use off a public highway”;

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

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

(7) to establish the manner of determining the gross income for the purposes of section 18;

(8) to establish the manner of determining the gross income for the purposes of section 22;

(9) to identify classes of employments, determine gross incomes on a weekly or yearly basis corresponding to each class according to

work experience and establish the manner of reducing such incomes to take into account the fact that the victim holds a part-time employment, for the purposes of sections 16, 21 and 32;

(10) to establish the standards and procedures for determining an employment for a victim for the purposes of section 46, identifying classes of employments, determining gross income on a yearly or weekly basis corresponding to each class according to work experience, and to establish the manner of reducing such incomes to take into account the fact that a victim holds a part-time employment;

(11) to establish the method for computing the net income of a victim and the amount equivalent to the income tax, the premium and the contribution referred to in section 54;

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

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

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

(15) to determine the cases and conditions entitling a person to the reimbursement of the expenses referred to in section 83.3 and to fix the maximum amount thereof;

(16) to determine what expenses may be reimbursed to a victim under the second paragraph of section 83.3;

(17) to fix the amounts paid to reimburse the cost of a medical expert's report to a victim whose petition for review or appeal is allowed;

(18) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the availability allowance referred to in section 83.6 and to fix the maximum amount of such expenses and allowance;

(19) to prescribe in what cases and on what conditions the expenses contemplated in sections 80 and 82 are reimbursable to a victim;

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

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

(22) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the availability allowance referred to in section 83.14 and to fix the maximum amount of such expenses and allowance;

(23) to determine the conditions on which the Régie may authorize the transmission of a document by means of a magnetic medium or an electronic system;

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

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

(26) to prescribe in what cases and on what conditions the Régie may waive the reimbursement of any sum already paid in accordance with sections 83.22 and 83.53;

(27) to prescribe the terms and conditions of payment of an amount described in section 73 by periodic instalments.

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

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

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

**15.** Section 15 of the Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4) is replaced by the following section:

**“15.** The minutes of the sittings of the board of directors, approved by it and certified by the secretary or by a person authorized to that effect by regulation, are authentic. The same rule applies to documents and copies emanating from the Régie or forming part of its records, when so certified.

No deed, document or writing binds the Régie or may be attributed to the Régie unless it is signed by the chairman, one of the vice-chairmen or a member of the personnel of the Régie and, in the last case, only to the extent determined by regulation.

Such a regulation may, on the conditions fixed therein, allow the signature to be affixed by means of an automatic device to the documents mentioned in the resolution. It may also allow a facsimile of the signature to be engraved, lithographed or printed on the documents mentioned therein. The facsimile has the same value as the signature itself.”

**16.** Section 17.1 of the said Act is replaced by the following section:

**“17.1** The Régie, by by-law, may delegate to the general manager, to a member of its personnel or to the holder of an office which is designated therein the powers vested in the Régie by this Act, the Automobile Insurance Act or the Highway Safety Code.

The Régie may also, by the same by-law, allow the subdelegation of the functions mentioned therein. Where it allows such subdelegation, it shall identify the member of its personnel or the holder of an office to whom the subdelegation may be made.”

**17.** The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by adding, after section 105, the following section:

**“105.1** Notwithstanding section 105, the payment of the disability pension is included in the payment due from the Régie de l'assurance automobile du Québec where the beneficiary is entitled to both the pension and the income replacement indemnity payable under the Automobile Insurance Act (R.S.Q., chapter A-25). The Régie de l'assurance automobile du Québec shall pay the total amount of the pension and the indemnity to the beneficiary.

The Board shall make a global, monthly payment to the Régie de l'assurance automobile du Québec for the amount corresponding to the disability pensions referred to in the first paragraph.

This section does not apply to a beneficiary who became disabled by reason of an accident occurring before (*insert here the date of coming into force of this section*).

The accident referred to in this section is an accident defined in the Automobile Insurance Act.”

**18.** Section 139 of the said Act is amended by adding, at the end, the following paragraph:

“Where the Board is notified by the Régie de l’assurance automobile du Québec that a contributor is entitled to an income replacement indemnity under the Automobile Insurance Act, the contributor is presumed, for the purposes of this section, to have made an application for a disability pension under this Act. The notice must be accompanied with a photocopy of the income replacement indemnity application and by all documents supporting such application.”

**19.** Section 139.2 of the said Act is replaced by the following section:

“**139.2** An application for a benefit is deemed to be made on the day it is received at an office of the Board, on the prescribed form duly completed.

The Board may consider the application for a benefit as having been made on a date prior to its receipt

(a) where the applicant has sent to the Board, within the twelve preceding months, a writing indicating his intention to apply for a benefit;

(b) where the Régie de l’assurance automobile du Québec notifies the Board that the applicant is entitled to an income replacement indemnity payable under the Automobile Insurance Act”.

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

**21.** This Act applies to persons who suffer bodily injury from (*insert here the date of coming into force of this section*); however, the provisions of Division I of Chapter V of Title II, except sections 81, 83 and 83.2, as well as section 83.23 apply to persons who suffer bodily injury before that date.

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

## SCHEDULE I

## LUMP SUM INDEMNITY TO SPOUSE OF DECEASED VICTIM

*(Section 64, first paragraph)*

Age of victim (years)	Factor
25 or less	1.0
26	1.2
27	1.4
28	1.6
29	1.8
30	2.0
31	2.2
32	2.4
33	2.6
34	2.8
35	3.0
36	3.2
37	3.4
38	3.6
39	3.8
40	4.0
41	4.2
42	4.4
43	4.6
44	4.8
45	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4
59	2.2
60	2.0
61	1.8
62	1.6

63	1.4
64	1.2
65 or over	1.0

### SCHEDULE II

#### LUMP SUM INDEMNITY TO DISABLED SPOUSE OF DECEASED VICTIM

*(Section 64, second paragraph)*

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

### SCHEDULE III

#### LUMP SUM INDEMNITY TO DEPENDANT OF DECEASED VICTIM

*(Section 67)*

Age of dependant (years)	Amount of indemnity (\$)
Less than 1	\$35 000
1	\$34 000
2	\$33 000

3	\$32 000
4	\$31 000
5	\$30 000
6	\$29 000
7	\$28 000
8	\$27 000
9	\$26 000
10	\$25 000
11	\$24 000
12	\$23 000
13	\$22 000
14	\$21 000
15	\$20 000
16 or over	\$19 000