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# NATIONAL ASSEMBLY

THIRTY-SECOND LEGISLATURE

FOURTH SESSION

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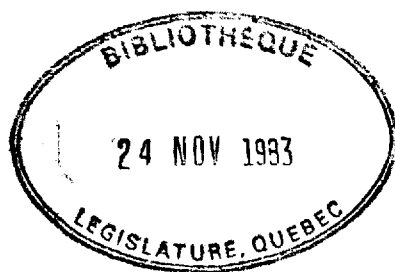
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Bill 42

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

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First reading



Introduced by  
Mr Raynald Fréchette  
Minister of Labour



## EXPLANATORY NOTES

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

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

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

*This bill has special provisions on occupational diseases. A worker producing a claim for asbestosis or silicosis will have to undergo examination by a pneumoconiosis committee consisting of three pneumologists appointed by the Commission, and by a special committee composed of the chairmen of the pneumoconiosis committees. The Commission, taking account of the diagnosis arrived at by the special committee, will decide whether the worker has contracted asbestosis or silicosis. Its decision may be appealed to the Social Affairs Commission within 30 days, and must be heard and decided by preference.*

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

*A worker no longer able to carry on his employment owing to an employment injury will be entitled to an income replacement indemnity equal to 90% of his weighted net annual income from employment; that income is deemed not less than the minimum yearly insurable earnings.*

*The maximum is 150% of the average earnings of the industrial composite in Québec as established by Statistics Canada. The amount of the income replacement indemnity will be reduced, during the first three years of the worker's disability, by a portion of his income from any new employment, and thereafter, by the amount of the income from the new employment or from a new employment he is fit to undertake at that time, whether it is available or not. The income replacement indemnity will cease on the first of the following events: when the worker becomes able to carry on his employment again, when he dies, when he reaches his sixty-eighth birthday, or sooner if he is receiving a retirement pension before 65 years of age. During the final three payment years, the income replacement indemnity will be reduced by 25, 50 and 75%.*

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

*This bill also provides for indemnities to dependants of workers who die as the result of employment injuries. The spouse of a deceased worker will be entitled to an indemnity of from one to three times the worker's gross yearly employment earnings, according to the spouse's age at the date of death. In no case will this indemnity be under \$50 000. The children will receive an indemnity of from \$50 000 to \$6 000 according to their age at the worker's death. Any other person who depended on the worker for over half of his needs at the date of the worker's death will be entitled to an indemnity of \$8 000 if he is under 35 years of age at that date, or equal to 75% of the worker's gross yearly employment earnings, if he is 35 years of age or older at that date. The bill contains special modes of computation where the dependant is an invalid at the worker's death. It also provides an indemnity of from \$3 000 to \$6 000 to any person who was dependent on the worker for over half of his needs at his death, and an indemnity of \$6 000 to the worker's parents if he died without dependants. Furthermore, it provides for the reimbursement of funeral expenses up to \$1 500 and transportation costs for the worker's remains.*

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

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

*Under this bill a worker is entitled to the medical aid his condition requires as a result of his employment injury. With certain reservations, he will be entitled to choose his health establishment and health professional, and the Commission will pay the cost of his medical aid.*

*It will also entitle a worker who suffers an employment injury to rehabilitation required for his social and vocational reintegration and sets out the Commission's relevant duties and powers.*

*The bill establishes the right to return to work, setting out its limits and the conditions of its exercise. Thus, a worker having suffered an employment injury will be entitled to resume his employment, at the wage and with the benefits he would be receiving if he had continued in it. If he remains unable to carry it on, he will have prior access to other employment available in the same establishment. These rights will be extinguished after a continuous period of absence, one year where up to twenty workers work in the establishment, two years if over twenty. Finally, he will have a right to complain to the Commission or to the labour commissioner general, according to the Act under which he complains, if he believes his right to return to work has been violated.*

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

*As proposed in the bill, funding will be through assessments from employers by the Commission. From 1984 to 1988, the Commission will capitalize 90% of the cost of projected employment injuries, and 2% more annually up to 100%. Thereafter it will not have authority to assess the employers for deficits related to past operations. It requires employers to annually declare their wage bill for each establishment to the Commission, and requires the Commission to classify employers by units, with assessment rates for each unit. It allows the Commission to impose penalties and charge interest in certain cases, and gives it a privileged claim on a debtor's movable and immovable property. Lastly, it sets out the rules for imputing the cost of benefits owing to a worker who has suffered an employment injury, and a special procedure for review and appeal in the matters of classification, assessment and imputation.*

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

*Again, this bill establishes that all decisions of the Commission except those determining whether workers have contracted asbestosis or silicosis are subject to administrative review by the Commission. For the decisions excepted above, an appeal will lie to the Social Affairs Commission.*

*A simplified procedure for the recovery of overpayments is provided. Beneficiaries will not have the right to institute ordinary civil proceedings against the employer of an employee who has suffered an employment injury, or against the agent or employees of that employer, in the matter of the employment injury. If the matter concerns another employer, only three cases will be open to civil proceedings. In all cases, the Commission will be subrogated to the rights of the beneficiary.*

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

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

*It makes the required amendments for concordance, and provides that workers in good faith whose first diagnosis of asbestosis or silicosis was quashed retain their right to their pension or indemnity. It makes certain provisions to synchronize the new scheme with the Québec Pension Plan. It makes rather substantial amendments, in particular, to the compensation schemes under the Crime Victims Compensation Act and the Act to promote good citizenship.*

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

#### ACTS AMENDED BY THIS BILL

- The Civil Code of Lower Canada;
- The Workmen's Compensation Act (R.S.Q., chapter A-3);
- The Automobile Insurance Act (R.S.Q., chapter A-25);
- The Act to promote good citizenship (R.S.Q., chapter C-20);
- The Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34);
- The Crime Victims Compensation Act (R.S.Q., chapter I-6);
- The Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7);
- The Summary Convictions Act (R.S.Q., chapter P-15);

- The Act respecting probation and houses of detention (R.S.Q., chapter P-26);
- The Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1);
- The Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4);
- The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- The Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- The Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2).





# Bill 42

## An Act respecting industrial accidents and occupational diseases

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### ADMINISTRATION

**1.** The Commission de la santé et de la sécurité du travail established by the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is entrusted with the administration of this Act.

### CHAPTER II

#### INTERPRETATION AND APPLICATION

##### DIVISION I

##### GENERAL PROVISIONS

**2.** In this Act, unless the context requires otherwise,

“**beneficiary**” means a person entitled to a benefit under this Act;

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

“**contaminant**” means a solid, liquid or gaseous matter, a microorganism, a sound, a vibration, a radiation, heat or an odor, or any combination of these likely to alter in any way the health or safety of workers;

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

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

(1) to do housework, or

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

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

**“employment injury”** means an injury or a disease arising out of or in the course of an industrial accident, or an occupational disease; an injury or disease caused by an employment injury is deemed to be an employment injury;

**“establishment”** means an establishment within the meaning of the Act respecting occupational health and safety, but includes a construction site within the meaning of that Act;

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

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

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

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

**“regulation”** means a regulation made under this Act;

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

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

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

(a) has been living with the worker for three years, or one year if a child has been born or is to be born of their union, and

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

**“worker”** means a natural person who does work for an employer for remuneration under a contract of hire of personal service or of apprenticeship, but does not include a domestic, a natural person engaged by an individual to care for a child or a sick, handicapped or aged person and who does not live in the dwelling of the individual, or a person who plays sports as his main source of income.

**3.** For the purposes of this Act, the Commission shall determine the minimum wage of a worker according to the minimum wage for a normal workweek to which he may be entitled under the Act respecting labour standards (R.S.Q., chapter N-1.1) and the regulations thereunder.

In the case of a worker having no remunerated employment, or for whose employment no minimum wage is fixed by regulation, the Commission shall apply the minimum wage prescribed in article 3 of the Regulations respecting labour standards (R.R.Q., 1981, chapter N-1.1, r.3) and the normal workweek described in section 52 of the Act respecting labour standards.

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

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

**6.** Employees of the Government of Canada contemplated in the Government Employees Compensation Act (R.S.C., 1970, chapter G-8) are subject to this Act to the extent provided by federal law.

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

(1) has an establishment in Québec, or

(2) has no establishment in Québec, under the conditions and to the extent provided by an agreement made under section 170 of the Act respecting occupational health and safety.

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

(1) his domicile is in Québec,

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

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

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

**9.** An employer who lends or hires out the services of a worker in his employ continues to be the worker's employer.

**10.** An employer who awards a job contract is considered to be the employer of the contractor's workers until the contractor makes the statements prescribed by this Act and is assessed by the Commission.

Notwithstanding the first paragraph, a contractor who is an employer contemplated in Chapter IX continues to be the employer of his workers.

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

(1) simultaneously for several persons or

(2) under a service exchange agreement with another independent operator carrying on similar activities.

**12.** The employer of an independent operator contemplated in section 11 is also the employer of the worker engaged by the independent operator as his replacement while he is on vacation or sick, provided he is notified of the replacement by the independent operator.

If the employer has paid an assessment under this Act, the independent operator shall reimburse him for the part of the assessment corresponding to the duration of his replacement in relation to the duration of his activities for the employer.

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

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

(2) carrying on an activity determined by regulation.

**14.** The following are deemed workers employed by the Government:

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

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

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

(b) executes a probation order involving community work;

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

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

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

**16.** The Government is deemed to be the employer of the persons contemplated in sections 14 and 15, but only for purposes of application of Chapter VIII.

**17.** A person who is not a worker within the meaning of this Act may nevertheless be deemed to be employed by the Government, by an agency or by a legal person, as the case may be, on the conditions and to the extent provided by an agreement made under section 170 of the Act respecting occupational health and safety.

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

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

(2) the nature of the voluntary work;

(3) the number of persons doing voluntary work for the purposes of the establishment or who are likely to do it within twelve months after the statement; and

(4) the average duration of the volunteer work.

This Act, except Division II of Chapter VI, applies to persons who do volunteer work for the purposes of the establishment within 12 months from the sending of the statement.

**19.** A person who sends the statement prescribed in section 18 to the Commission shall keep an up-to-date list of the volunteer workers contemplated in the statement and inform them by a notice posted up in a conspicuous place in his establishment that for the period he indicates they have protection under this Act, except in respect of the right to return to work.

**20.** A recipient within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5) who does work in view of his physical, mental or social reeducation under the responsibility of an establishment contemplated in that Act may be deemed a worker on the conditions and to the extent provided by an agreement made under section 170 of the Act respecting occupational health and safety.

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

If a person registered with the Commission suffers an employment injury, he is entitled thereby to the benefits provided for by this Act as if he were a worker, provided that on the day the injury appears the payment of his assessment to the Commission is not in default.

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

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

**23.** Registration with the Commission is made by way of a notice in writing indicating the place, nature and expected duration of the work and the amount of protection applied for.

In no case may the amount be less than the gross annual income determined on the basis of the minimum wage for a regular workweek in force at the time of registration, or exceed the maximum annual insurable amount established under section 62.

**24.** Protection granted under section 21 ceases on the day the Commission receives notice in writing to that effect from the person who made the registration.

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

**25.** An association of independent operators or of domestics that registers its members with the Commission or sends it the notice prescribed in the first paragraph of section 24 shall inform its members thereof by means of a notice published in a newspaper circulated in each area where they are domiciled.

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

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

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

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

(2) an activity prescribed as part of the worker's medical treatment or of his rehabilitation program.

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

## DIVISION II

### SPECIAL PROVISIONS ON OCCUPATIONAL DISEASES

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

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

**30.** Where a worker files a claim with the Commission under section 28 and produces a medical certificate to the Commission attesting that he has a pathological condition characteristic of an occupational disease arising from exposure to a contaminant in the establishment where he works, the Commission may request his employer to assign him to a task that does not entail such exposure.

The certificate is issued in accordance with section 33 of the Act respecting occupational health and safety.

**31.** If the worker is not reassigned immediately, he may, with the authorization of the Commission, cease working until he is reassigned or the Commission has decided on his entitlement to a benefit.

For the period he is not working, the worker is entitled to an income replacement indemnity as if he had become unable to carry on his employment because of an employment injury, and the amount of the indemnity is not recoverable subsequently even if the Commission denies the worker's claim, unless he obtained it fraudulently.

**32.** The Commission shall form not fewer than four pneumoconiosis committees, the function of which is to determine whether a worker is suffering from asbestosis or silicosis.

A pneumoconiosis committee shall be composed of three pneumologists, one of whom is the chairman, appointed by the Commission.

**33.** The Commission shall refer to a pneumoconiosis committee every worker who files a claim with it alleging that he is suffering from asbestosis or silicosis.

The chairman of the committee shall make a report in writing to the Commission of the committee's findings and diagnosis.

**34.** Upon receiving a report under section 33, the Commission shall submit the worker's record to a special committee composed of three persons whom it shall designate from among the chairmen of the pneumoconiosis committees, except the chairman who made the report to be examined by the special committee.

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

The special committee shall confirm or quash the diagnosis arrived at by the pneumoconiosis committee and notify the Commission.



**35.** The Commission, taking into account the diagnosis arrived at by the special committee, shall decide whether the worker is suffering from asbestosis or silicosis.

## CHAPTER III

### GENERAL PROVISIONS

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

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

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

The Commission may order the employer to repay the contribution to the worker. The order becomes executory upon being filed in the office of the court of competent jurisdiction by the Commission or the worker concerned, as in the case of a final judgment of the court that is not subject to appeal, and has all the same effects.

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

**39.** The failure of an employee to comply with this Act does not exempt his employer from his own obligations thereunder.

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

**40.** Any provision of any order, decree or agreement or of any regulation or by-law thereunder is void by operation of law if it restricts the scope of this Act.

Notwithstanding the first paragraph, nothing prevents an order, decree or agreement or a regulation or by-law thereunder from making more favourable provisions for a worker than those prescribed by this Act.

**41.** A worker receiving an income replacement indemnity under this Act who, by reason of a new event, claims an income replacement indemnity under the Automobile Insurance Act is not entitled to both one and the other indemnity for the same period.

The Commission shall come to an understanding with the Régie de l'assurance automobile du Québec to settle a mode of processing claims described in the first paragraph which makes it possible to

(1) distinguish between the damages resulting from the new event and those attributable to the employment injury;

(2) determine the entitlement to and the amount of the benefits payable under each of the Acts;

(3) specify the modalities of payment of the income replacement indemnity while awaiting the determination of the entitlement to and the amount of the benefits payable under each of the Acts.

Where a worker contemplated in the first paragraph claims an income replacement indemnity under the Act to promote good citizenship or the Crime Victims Compensation Act, the Commission shall distinguish between the damages resulting from the new event and those attributable to the employment injury and determine the corresponding entitlement to and amount of the benefits payable under those Acts.

**42.** Where, by reason of one and the same employment injury, a person is entitled to both a benefit under this Act and a benefit under the law of another jurisdiction, he shall elect one of them and notify the Commission of his election within six months of the industrial accident or of the date when it is medically established and brought to the attention of the worker that he has contracted an occupational disease or, where such is the case, of the death as a result of the employment injury.

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

**43.** An application to the Commission for benefits preserves the beneficiary's right to claim benefits under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or under any other public or private insurance plan, notwithstanding the expiry of the time limit for claims under the plan.

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

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

**45.** Notwithstanding the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), the health professional designated by the employer by whom the worker is employed when he suffers an employment injury has a right of access to the medical record or rehabilitation record of the worker kept by the Commission.

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

**46.** The right of access to a record includes the right to obtain a written or verbal communication of it.

**47.** If a person entitled to access to a record is denied access to it by the Commission, he may apply to the Commission d'accès à l'information in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information.

## CHAPTER IV

### INDEMNITIES

#### DIVISION I

##### INCOME REPLACEMENT INDEMNITY

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

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

**49.** A worker who is a student contemplated in section 13 or a full-time student is entitled to an income replacement indemnity if he becomes unable, by reason of an employment injury, to pursue his studies or to carry on the employment he held when the injury occurred.

The Commission may, however, determine that the worker is entitled to the indemnity for a longer period than that of his disability by taking account

(1) of the loss of an employment he would have held had he not sustained an employment injury;

(2) of the delay he incurs in pursuing his studies and in gaining access to an employment, in relation to the completion of his studies.

**50.** A worker holding remunerated employment with an employer, or a person registered with the Commission, who is the victim of an employment injury while acting as a person contemplated in section 14 or 15 or as a volunteer worker contemplated in section 18 is entitled to an income replacement indemnity if, by reason of the injury, he becomes unable to carry on his remunerated employment or to perform the work for which he is registered with the Commission.

**51.** A worker who is the victim of an employment injury while acting as a person contemplated in subparagraph *a* of paragraph 2 of the first paragraph of section 14 or a worker who is unemployed when an employment injury appears is entitled to the income replacement indemnity if, by reason of the injury, he becomes unable to carry on the employment he usually held or, if unemployed, the employment that he could have regularly held full-time.

The Commission shall determine the last-mentioned employment by considering, in particular, the qualifications, work experience and physical and intellectual aptitudes of the worker before his employment injury.

**52.** A worker in respect of whom a final decision was made, recognizing him as suffering from asbestosis or silicosis, and to or from whom the Commission refuses or withdraws the health certificate required by regulation under the Act respecting occupational health and safety, is considered to be unable to carry on his employment by reason of that disease, if his work exposes him to asbestos or silica dust.

**53.** The employer of a worker who becomes unable to carry on his employment shall pay to that employee, at the time his salary or wages would normally have been paid, 90% of his net straight-time pay for each day he would normally have worked had he not been disabled, for fourteen full days following the beginning of his disability.

The salary or wages paid under the first paragraph constitutes an income replacement indemnity and the Commission shall reimburse the amount thereof to the employer.

If the worker's claim for benefits is subsequently dismissed, the Commission shall claim reimbursement from the worker.

**54.** An employer shall pay to a worker his net straight-time pay for any day, where the worker

(1) becomes unable to carry on his employment during that day by reason of employment injury;

(2) must be absent from his work to receive care or undergo medical examinations in connection with his employment injury, or to take part in a rehabilitation program prescribed by the Commission.

The Commission shall reimburse to the employer the equivalent of the salary or wages paid by him for the period of absence of his worker in relation to a case provided for in subparagraph 2 of the first paragraph, except in the case of a medical examination required by the employer.

**55.** For the purposes of sections 53 and 54, the net straight-time pay of the worker is equal to his gross straight-time pay less the deductions usually made by the employer

(1) under an Act, a decree or order, a collective agreement or a regulation giving effect thereto,

(2) at the request of the employee, for any purpose whatever, and

(3) in execution of a judgment of seizure by garnishment for unpaid support payments.

The employer shall remit the sum withheld to each person or body for which it is intended except sums withheld under the Income Tax Act (R.S.Q., chapter I-3), the Income Tax Act (R.S.C. 1952, chapter 148), the Unemployment Insurance Act, 1971 (S.C. 1970-71-72, chapter 48) and the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).

**56.** The income replacement indemnity is reduced by 25% from the sixty-fifth birthday of the worker or, if a retirement pension becomes payable to him before that date under the Act respecting the Québec Pension Plan or a similar plan within the meaning of that Act, from the date that pension becomes payable to him, by 50% from the second year and by 75% from the third year following the said date.

Notwithstanding the first paragraph, the income replacement indemnity of a worker who is the victim of an employment injury when 65 years of age is reduced, by 25% from the second year following the date of the beginning of the disability, by 50% from the third year and by 75% from the fourth year following the said date.

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

(1) when the disability giving rise to the right ceases, subject to the second paragraph of section 49;

(2) the death of the worker;

(3) three years after the date a retirement pension becomes payable to the worker under the Act respecting the Québec Pension Plan or a similar plan within the meaning of the said Act, where the pension becomes payable to him before 65 years of age; or

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

If, however, the worker dies from a cause unrelated to his employment injury, the income replacement indemnity continues to be paid to his spouse for three months from the date of death.

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

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

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

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

(2) the employee's premiums payable under the Unemployment Insurance Act, 1971 (S.C. 1970-71-72, chapter 48), and

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

The Commission shall publish each year in the *Gazette officielle du Québec* a gross income table by brackets of \$100, of family situations and the corresponding weighted net incomes.

Where the gross income of a worker falls between two income brackets, the computation of the deductions and of the weighted net income is made on the basis of the higher bracket.

The table takes effect on 1 January of the year for which it is made.

**60.** The Commission shall apply the table in force to determine the weighted net income resulting from a revision or revalorization of the gross income used as a basis for computing the income replacement indemnity according to the family situation of the worker existing when he became disabled.

**61.** For the purposes of computing the income replacement indemnity other than that contemplated in section 53, in no case may the gross annual employment income be less than the gross annual

income determined on the basis of the minimum wage then in force or greater than the maximum yearly insurable earnings.

**62.** The maximum yearly insurable earnings is equal to 150% of a yearly average computed on the basis of the average weekly earnings of the industrial composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year preceding the year for which the maximum yearly insurable earnings is computed.

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

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

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

**63.** The gross income of a worker is determined on the basis of the gross income set forth in his contract of employment, unless the worker proves to the Commission that he derived a higher gross income from his employment with the employer in the service of whom he was when his employment injury appeared or from the same employment with different employers during the 12 months preceding the date he became disabled.

To establish a higher gross income, the worker may include bonuses, premiums, gratuities, commissions, supplements for overtime, leaves, profit sharing, and the cash value of the use of an automobile or of a dwelling furnished by the employer where he has lost the enjoyment thereof by reason of his employment injury, and unemployment insurance benefits.

**64.** The gross income of a worker who is no longer employed when an employment injury appears is the income he derived from the employment out of or in the course of which he suffered the injury, determined pursuant to section 63.

The gross income is revalorized on 1 January each year from the date the worker ceased to hold his employment, in accordance with Division V of this chapter.

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

Where the relapse occurs more than one year after the worker became disabled, the gross income used for computing his former indemnity is revalorized pursuant to Division V of this chapter.

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

Where the worker becomes unable to carry on only one of his employments, his gross income is the income he derives from that employment; in such a case, section 61 does not apply in respect of the minimum employment income and the reduction of the indemnity provided for under sections 75 to 78 does not apply to the worker if he carries on one or several of the employments he held when his employment injury appeared.

**67.** The gross income of an independent operator contemplated in section 11 is the income of a worker of the same class holding a similar employment in the same region.

**68.** The income replacement indemnity of a student contemplated in section 13, of a child contemplated in paragraph 3 of section 14 or of a full-time student is

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

Notwithstanding subparagraphs 1 and 2 of the first paragraph, the child or student may prove to the Commission that he has earned, during the 12 months preceding the date he became disabled, a gross income entailing a higher indemnity and in this case section 61 does not apply in respect of the minimum employment income.

The review made under subparagraph 3 of the first paragraph replaces any review under section 74.

**69.** The gross income of a person contemplated in paragraph 1 or 2 of section 14 or in section 15 who is unemployed when an employment injury appears is determined on the basis of the minimum wage then in force.

**70.** The income replacement indemnity of a voluntary worker contemplated in section 18 is computed



(1) in accordance with section 68, if the worker is under 18 years of age when his employment injury appears;

(2) on the basis of the annual gross income determined on the basis of the minimum wage in force when the employment injury appears, if the worker holds no remunerated employment with any employer and is not a person registered with the Commission.

**71.** The gross income of a worker who is the victim of an employment injury while he is the beneficiary of a reduced income replacement indemnity under sections 75 to 80 is equal to the total of the amount of the indemnity and the gross income he derives from his new employment.

The reduced income replacement indemnity of the worker ceases then to be paid to him.

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

**73.** The Commission may, if it considers it more equitable in view of the particular type of work done by a worker, determine his gross income in a manner other than that provided under sections 63 to 72.

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

**74.** The Commission shall determine a gross income higher than that provided for under this subdivision where a worker

(1) is unable to carry on his employment for more than one year, and

(2) proves that he could have held a more remunerative employment when his employment injury appeared had it not been for special circumstances.

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

**75.** Where a worker who is unable to carry on his employment by reason of an employment injury holds a new employment, or returns to his employment on a part time basis, the income replacement indemnity ceases to be paid to him.

However, if the worker derives from his new or part time employment a lower income than the income used as a basis for

computing his indemnity, the indemnity is reduced annually by an amount equal to 50% of the first \$2 000 of the net income derived annually from his new or part time employment, 60% of the next \$2 000, 85% of the following \$2 000 and 100% of the remainder.

The first \$1 000 of gross income derived from the new or part time employment are not counted for the purposes of the reduction.

The reduction provided for under this section applies to the end of the third year following the date the worker became unable to carry on his employment or for two years, whichever is shorter.

**76.** If, before the lapse of the time prescribed in the fourth paragraph of section 75, a worker, without valid reason, refuses or abandons a new employment, his income replacement indemnity is reduced in accordance with the said section as if he held or continued to hold that employment.

**77.** If, at the end of the time prescribed in the fourth paragraph of section 75, the worker holds or, without valid reason, refuses or abandons a new employment, his indemnity is reduced annually by an amount equal to the weighted net income he derives or could derive from his new employment.

**78.** For the purposes of sections 76 and 77, in the case of refusal or abandonment of a new employment, the indemnity is reduced only in respect of an employment that the worker is reasonably able to hold and which entails no danger to his health, safety or physical well-being.

**79.** From the fourth year following the beginning of his disability, if the worker remains unable, by reason of employment injury, to carry on his employment but is able to carry on a new employment, his indemnity is reduced annually by an amount equal to the weighted net income that he derives or could derive from the new employment.

**80.** The Commission shall determine, on the basis of the qualification, work experience and physical and intellectual capacity of the worker,

- (1) the employment that he is able to carry on; and
- (2) the weighted net income that he could derive from the employment.

## DIVISION II

### COMPENSATION FOR BODILY INJURY

**81.** A worker who is the victim of an employment injury and who sustains permanent physical or mental impairment is entitled to a

compensation for bodily injury which takes into account any anatomophysiological deficit, disfigurement, suffering or loss of enjoyment of life resulting therefrom.

**82.** The amount of compensation for bodily injury is equal to a percentage, not exceeding 100%, of the amount prescribed in Schedule B at the time his employment injury appeared, in relation to the worker's age at that time.

The percentage is established in accordance with the tables of bodily injuries adopted by regulation.

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

**83.** A worker who sustains multiple permanent physical or mental impairments is, where the total of the percentages established under the tables of bodily injuries exceeds 100%, entitled to receive, in addition to the compensation determined under section 82, an amount equal to 25% of the amount of the compensation determined on the basis of the excess percentage.

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

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

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

**85.** The Commission shall pay to the worker interest on the amount of the compensation for bodily injury from the date the employment injury appeared.

Interest is determined under section 212 and forms part of the compensation.

**86.** The right to a compensation for bodily injury is extinguished on the death of the worker.

Notwithstanding the first paragraph, if the worker dies of a cause unrelated to his employment injury and if, on the date of his death it was possible to determine medically the sequelae of his injury, the Commission shall estimate the amount of compensation that it would

probably have awarded and pay one-third of that amount to the spouse of the worker and the remaining two-thirds in equal shares to the children who are deemed to be dependants.

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

### DIVISION III

#### COMPENSATION OWING TO DEATH

##### § 1.—*General provisions*

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

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

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

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

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

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

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

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

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

##### § 2.—*Lump sum indemnities*

**92.** The spouse of the deceased worker is entitled to a lump sum indemnity equal to the product obtained by multiplying the gross annual

employment income of the worker determined under sections 61 to 73 by the factor provided in Schedule C in relation to the age of the spouse at the date of death of the worker.

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

- (1) an indemnity determined under section 92; and
- (2) an indemnity equal to twice the amount provided in Schedule B in relation to the spouse's age at the date of death of the worker.

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

**95.** The child of a worker who is minor at the date of death of the worker, or the child of age but under 25 years of age who on that date is attending an educational institution on a full-time basis, is entitled to the lump sum indemnity set out in Schedule D in relation to his age at the date of the death.

Notwithstanding the first paragraph, a child under 25 years of age who is invalid at the date of death of the worker is entitled to a lump sum indemnity equal to twice the amount provided in Schedule B in relation to his age at that date, unless his invalidity entitles him to benefits under this Act, the Workmen's Compensation Act (R.S.Q., chapter A-3), the Automobile Insurance Act, the Act to promote good citizenship or the Crime Victims Compensation Act, in which case he is entitled to the indemnity provided for under the first paragraph.

**96.** A person, other than a dependant contemplated in sections 92 to 95, over half of whose needs were provided for by the worker, at the date of his death, is entitled to a lump sum indemnity

- (1) of \$ 8 000, if he is under 35 years of age at that date;
- (2) equal to 75% of the gross annual employment income of the worker determined under sections 61 to 73, if he is 35 years of age or over at that date.

However, if the person is invalid at the date of death of the worker he is entitled to a lump sum indemnity equal to the amount provided in Schedule B in relation to his age at that date, unless his invalidity entitles him to benefits under this Act, the Workmen's Compensation Act, the Automobile Insurance Act, the Act to promote good citizenship or the Crime Victims Compensation Act, in which case he is entitled to the indemnity provided for under the first paragraph.

§ 3.—*Other indemnities owing to death*

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

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

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

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

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

**99.** The father and mother of a worker who died without dependants and who are not entitled to the indemnity under section 98 are entitled to an indemnity of \$ 6 000, in equal shares.

The share of a dead parent or of a parent deprived of parental authority accrues to the other parent.

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

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

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

#### DIVISION IV

##### OTHER INDEMNITIES

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

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

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

**102.** A worker is entitled, on the production of vouchers, to an indemnity for the repair or replacement of a prosthesis or orthosis within the meaning of the Public Health Protection Act inadvertently damaged in the course of his work.

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

**103.** The indemnities contemplated in paragraph 1 of section 101 and in section 102 are subject to a deductible of \$ 25 each.

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

#### DIVISION V

#### REVALORIZATION

**105.** The amount of the gross income used as the basis for computing the income replacement indemnity is revalorized each year, on the anniversary of the day the worker became unable to carry on his employment.

**106.** The amounts contemplated in paragraph 1 of section 68 and in section 75, the amounts of the lump sum indemnities provided in Schedules B and D and this chapter and the amount of the deductible prescribed under section 103 are revalorized each year on 1 January.

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

**108.** The Consumer Price Index for a year is the yearly average computed on the basis of the monthly Consumer Price Index established by Statistics Canada for the 12 months preceding 1 November of the year preceding the year for which the index is computed.

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

The fourth paragraph of section 62 applies for the purposes of this section.

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

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

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

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

## DIVISION VI

### PAYMENT OF INDEMNITIES

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

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

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

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

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

**116.** Where a worker is entitled to a reduced income replacement indemnity under sections 75 and 76, the Commission shall pay to him in the year the amount to which he would be entitled if he carried on his new employment after the lapse of the period prescribed in the fourth paragraph of section 75.

The Commission shall pay to the worker the surplus to which he is entitled and shall every year make the required adjustments.

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



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

(1) obtained the amounts through fraud; or

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

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

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

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

**120.** The Commission may pay an income replacement indemnity in one or several instalments equivalent to the representative capital of the indemnity or at intervals other than those provided in section 112 where

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

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

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

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

**121.** Every beneficiary shall notify the Commission without delay of any change in his situation which may affect any right conferred on him by this Act or the amount of any indemnity.

**122.** The Commission may refuse, reduce or suspend the payment of an indemnity

(1) if the beneficiary

(a) produces false or inaccurate information;

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

(2) if the worker, without valid reason,

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

(b) does anything that prevents or delays a cure;

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

(d) neglects or refuses to avail himself of rehabilitation measures put at his disposal.

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

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

## CHAPTER V

### MEDICAL AID

#### DIVISION I

##### RIGHT TO MEDICAL AID

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

**126.** Medical aid includes

(1) the services of a health professional,

(2) hospital care,

(3) medicines and other pharmaceutical products,

(4) prostheses and orthoses within the meaning of the Public Health Protection Act,

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

**127.** An employer or, on a construction site, the principal contractor within the meaning of the Act respecting occupational health and safety, shall maintain at his own expense first-aid services including the staff and equipment determined by regulation, and provide premises for that purpose in the cases prescribed by regulation.

**128.** The employer or principal contractor contemplated in section 127 shall, at his own expense, immediately furnish to any worker who is the victim of an employment injury, first-aid services and conveyance and transportation to a health establishment, to a health professional or to the worker's residence, as required by his condition.

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

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

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

The Commission may enter into an agreement with the Régie de l'assurance-maladie du Québec regarding the mode of reimbursement of the medical aid benefits paid by it for employment injuries resulting in disability for less than one full day.

In cases described in paragraphs 1 and 2 of section 126, the Commission shall fix the amount according to the cost of similar services under public health insurance and hospital insurance plans in force in Québec, taking into account the availability of the services and the circumstances of each case.

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

**132.** The Commission shall decide on the necessity, character, sufficiency or duration of the medical aid.

## DIVISION II

### EXAMINATION AND REPORT

**133.** A worker who claims a benefit shall, if so required by his employer or the Commission, submit himself for examination by a health professional chosen and paid for by the employer or the Commission, as the case may be, according to his employment injury.

No employer may require an employee to undergo more than one examination per month under this section.

**134.** A health professional or health establishment having treated a worker who was the victim of an employment injury, or the health professional consulted by the worker shall, within six days of the treatment or consultation, report to the Commission, free of charge, his or its findings, treatments and recommendations.

The professional or establishment shall also furnish to the Commission any report it may require on the health of the worker.

**135.** A health professional chosen by the Commission shall, within fifteen days of the examination, report to it on the health of the worker, the nature of the employment injury, the projected date of the consolidation or healing of the injury, the percentage of permanent of physical or mental impairment caused to the worker according to the tables of bodily injuries contemplated in section 82, and any other information the Commission may require according to the requests made to it.

**136.** A health professional or health establishment failing to make a report prescribed in this chapter loses the right to recover the cost of the services.

**137.** Any claim of a health professional against the Commission is prescribed by the lapse of the time limit determined in section 38 of the Health Insurance Act.

## CHAPTER VI

### SOCIAL AND PROFESSIONAL REINTEGRATION OF WORKERS

#### DIVISION I

#### REHABILITATION

**138.** Every worker is entitled to the rehabilitation required by his condition as a result of an employment injury in view of his social and professional reintegration.

**139.** In the exercise of the functions incumbent on it in matters of rehabilitation, the Commission may

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

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

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

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

**140.** The Commission shall, to ensure the worker's right to rehabilitation,

(1) provide or give access to physical and psycho-social rehabilitation services and vocational assistance,

(2) adopt a rehabilitation policy bearing on the payment of costs or the granting of subsidies to allow the adaptation of a residence, a position or a vehicle to the ability to work of a worker handicapped as a result of his employment injury, and to favour the employment of such a worker,

(3) adopt a subsidy policy to favour employment or the creation of employment for workers who are the victims of employment injuries,

(4) adopt a financial assistance policy to defray the cost of personal home assistance provided to any worker unable to take care of himself as a result of his employment injury.

**141.** The Commission shall, in deciding as to the eligibility of a worker for rehabilitation, take particular account of the gravity of his employment injury and of its effects on his social and professional reintegration.

**142.** The Commission shall prepare a rehabilitation program for every worker who is the victim of an employment injury and who is declared eligible by the Commission.

**143.** The rehabilitation program may include, in particular, according to the worker's needs,

(1) a functional, medical, social and professional rehabilitation program,

(2) a social and vocational reintegration program,

(3) a vocational training program,

(4) a return-to-work program.

The program may be amended to take account of new circumstances.

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

## DIVISION II

### RETURN TO WORK

**145.** This division applies to every worker who is the victim of an employment injury, whose contract of employment is for an indeterminate term and who has three months or over of uninterrupted service with the same establishment within the meaning of the Act respecting labour standards.

This division also applies, *mutatis mutandis*, to every worker who furnishes to the Commission the medical certificate contemplated in section 30 even if the claim is subsequently dismissed.

**146.** The right to return to work is exercised in the establishment in which the worker held employment when his employment injury or relapse occurred.

**147.** The rights and obligations conferred by this division are extinguished after an uninterrupted period of absence of the worker, by reason of his employment injury,

(1) of one year, if he held employment in an establishment numbering twenty workers or less at the beginning of the period of absence, or

(2) of two years, if he held employment in an establishment numbering more than twenty workers at the beginning of the period of absence.

**148.** No employer on whom this division imposes an obligation may defer its execution on the ground that the worker's right to a benefit is under administrative review or appeal.

**149.** A worker shall, while he is absent,

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

(2) cease to accumulate holidays and sick leave.

**150.** The worker is entitled to be reinstated in his employment at the wage and with the benefits he would have received had he continued to carry on the employment.

**151.** The Commission shall advise the worker and the employer of the worker's capacity to return to his employment on the date it indicates.

**152.** The employer shall reinstate the worker in his employment on the date indicated by the Commission, and grant him the wage and benefits he would have received had he continued to carry on his employment.

**153.** A worker who, for no valid reason, fails to return to his employment within five days of the date indicated by the Commission is deemed to waive his right to return to his employment.

**154.** A worker who remains unable to carry on his employment has a prior claim to any other employment available in the same establishment, at the wage and with the benefits connected with that other employment.

The worker is deemed to have accumulated seniority during his absence.

**155.** At the request of a worker or the Commission, an employer shall advise them of any employment available in the establishment in view of enabling the worker to exercise his right under section 154.

**156.** The Commission shall advise the worker and the employer of the worker's capacity to hold or adapt to an employment available in the establishment.

The employer shall assign the worker any available employment if the worker shows that he has the qualifications required to hold it, and give him the wage and benefits connected with the employment, taking into account the seniority accumulated by the worker.

The employer's obligation under this section ceases 14 days after the worker is assigned the employment, if he fails to occupy it.

**157.** The employer of a worker whose employment was abolished during his absence, or who would normally have been dismissed had he continued to carry on the employment, shall grant to the worker the rights and benefits he would have received had he been working at the time of the abolition or dismissal.

**158.** The new employer of an establishment that has been alienated or assigned otherwise than by a judicial sale, has the same obligations as the former employer in respect of the worker.

If the purchaser of an establishment assigned by judicial sale carries on the same activities therein as were carried on before the sale, he has the same obligations as the former employer in respect of the worker.

**159.** An employer who, at the request of the worker, assigns him duties until he can be reinstated in his employment or until he can hold any other employment available in the establishment, shall give the worker the wages and benefits connected with the employment he was carrying on when his injury occurred and to which he would have been entitled had he continued to carry on the employment.

The Commission may order the employer to assign the worker any other duties he can reasonably carry out, or it may order the employer not to assign him any if, in its opinion, the work assigned may endanger his health, safety or physical integrity.

**160.** A worker may file a complaint with the Commission if he believes that his employer has unlawfully

(1) failed to advise him of an employment,

(2) failed to reinstate him in his employment, to assign him to other available employment or to grant him the wage and benefits to which he is entitled, or

(3) taken action or failed to take action in order to avoid his obligations.

The complaint must be filed in writing with the Commission within thirty days of the date on which the worker became aware of the failure or action of which he complains.

**161.** If the Commission decides that the worker's complaint is well-founded, it may order the employer to reinstate the worker in his employment or to assign him another employment available in the establishment within 10 days of service of the decision, and to pay him an amount equivalent to the wages and other benefits of which he was deprived.

**162.** The final decision of the Commission may be filed within thirty days by the Commission or the worker concerned in the office of the prothonotary of the Superior Court of the district in which the employer's establishment is situated.

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



**163.** In no case may an employer dismiss, suspend or transfer a worker or practice discrimination or take reprisals against him, or impose any other sanction upon him because he exercised his right to return to work.

**164.** A worker who believes that he has unlawfully been the victim of a sanction or action contemplated in section 163 may present his complaint in writing to the labour commissioner-general appointed under the Labour Code (R.S.Q., chapter C-27) within thirty days of the sanction or action of which he complains, or mail it to him within the same time.

The labour commissioner-general shall appoint a labour commissioner to make an investigation and decide as to the complaint.

**165.** If it is shown to the satisfaction of the labour commissioner that the sanction or action of which the worker complains occurred within six months of his reinstatement or reassignment, there is a presumption in his favour that the sanction was imposed on him or the action was taken against him because he exercises his right to return to work unless the employer proves another good and sufficient reason.

If the presumption applies, the labour commissioner may order the employer to reinstate or maintain the worker in his employment with his rights and privileges, and to pay him his wages and the other benefits connected with his employment until he renders a final decision.

**166.** If the labour commissioner decides that the sanction has been imposed on the worker or the action taken against him because he exercises his right to return to work, he may order the employer to reinstate the worker in his employment with all his rights and privileges within 10 days of service of the decision, and to pay him an amount equivalent to the wages and other benefits of which he was deprived.

Sections 19 to 20, 118 to 137, 139, 140, 146.1 and 150 to 152 of the Labour Code apply, *mutatis mutandis*.

**167.** The amount described in sections 161 and 166 is payable for the period between the day the employer should have reinstated or maintained the worker in his employment or assigned him other employment, as the case may be, and the day the order is carried out or on which the worker fails to occupy the employment designated in the order.

If the worker held another employment during the period described, the wages he earned are deducted from the payable amount.

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

**168.** Decisions of the Commission or of the labour commissioner must be in writing, be substantiated and be rendered within 60 days of the end of the inquiry.

**169.** A worker or his representative may elect to resort to the grievance procedure described in the collective agreement binding him rather than file a complaint with the Commission or the labour commissioner-general.

The arbitration award binds the parties and is without appeal.

**170.** The arbitrator shall refuse to hear a grievance if a complaint has been filed with the Commission or the labour commissioner-general.

## CHAPTER VII

### CLAIMS PROCEDURE

**171.** A worker who is the victim of an employment injury or, if deceased or unable to act, his representative, shall immediately advise the employer of the injury or death.

**172.** An employer shall advise the Commission of every employment injury preventing one of his workers from carrying on his employment for at least one full day, by filling out the form prescribed by the Commission.

The form must indicate the following particulars:

- (1) the worker's surname and given name;
- (2) the worker's address;
- (3) the worker's social insurance and health insurance numbers;
- (4) the name and address of the employer and of his establishment as well as the number assigned to each of them by the Commission;
- (5) the name and address of the treating physician;
- (6) the date of the beginning of the disability or the date of the death;
- (7) the place and circumstances of industrial accident, where that is the case;
- (8) the nature of the employment injury;
- (9) the gross income described in the worker's contract of employment, and
- (10) the amount payable under the first paragraph of section 53.

The employer shall send the form to the persons mentioned therein within 20 days of the beginning of the worker's disability.

The form constitutes the employer's claim for reimbursement of the amount he is required to pay under the first paragraph of section 53.

**173.** A worker who is the victim of an employment injury preventing him from carrying on his employment for more than fourteen full days or, if he dies as a result of it, the beneficiary, shall file his claim with the Commission, by filling out the form prescribed by the Commission for that purpose, within 6 months of the beginning of the disability or the death, as the case may be.

The first paragraph also applies to a worker to whom no employer is bound to pay the indemnity described in section 53, whatever the duration of the disability.

**174.** An employer shall claim in writing from the Commission the amount repayable to him under the second paragraph of section 54 within 6 months of the date he made the payment.

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

A worker shall affix his signature in the space provided for that purpose in the register to attest to the accuracy of the entry made by the employer concerning his employment injury.

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

## CHAPTER VIII

### FINANCING

#### DIVISION I

##### GENERAL PROVISIONS

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

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

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

**179.** The Commission shall choose its manner of financing according to the method it considers appropriate to allow it to meet its expenses as they become payable and avoid unduly burdening employers in future years with payments to be made for employment injuries which have occurred previously.

However, for the years 1984 to 1988, the Commission shall collect a sum equal to 90% of the sum sufficient to allow the payment of benefits to which beneficiaries are entitled for employment injuries that have occurred during those years respectively, then to 2% more per year for each subsequent year up to an amount of 100%.

The Commission shall not increase the rate of assessment by reason of an experience loss respecting employment injuries that occurred before 1 January 1984, nor by reason of a loss resulting from the application of the second paragraph.

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

**181.** The valuation of the actuarial reserve and the actuarial valuation contemplated in section 196 shall be made by an actuary being a Fellow of the Canadian Institute of Actuaries or having equivalent status recognized by the Institute.

**182.** The Commission may create a reserve to support the costs caused by circumstances that, in its opinion, would bring about too great an increase in the rate of assessment of a unit of activity or unduly burden an employer.

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

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

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

**185.** For the purposes of this chapter, the gross wages of a worker are taken into consideration up to the maximum rate of annual earnings

## DIVISION II

## STATEMENTS TO BE FURNISHED BY EMPLOYERS AND THE REGISTER

**186.** An employer shall forward to the Commission a written notice of the name and address of his establishment within 14 days after the beginning of his activities.

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

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

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

- (1) the amount of the gross wages earned by his workers during the preceding calendar year;
- (2) an estimate of the gross wages he expects to pay to his workers during the current calendar year; and
- (3) any change in the nature of his activities, where such is the case.

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

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

- (1) the nature of the employment carried on by a person contemplated in section 14;
- (2) the number of persons who have carried on employment contemplated in section 14 or participated in a course or in emergency measures contemplated in section 15 during the preceding year and those likely to do so during the current year; and
- (3) the average duration of the employment, course or emergency measures contemplated in section 14 or 15.

**189.** An employer shall use the form prescribed by the Commission, where applicable, for the purposes of sections 186 to 188.

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

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

### DIVISION III

#### CLASSIFICATION

**191.** The Commission shall determine units according to the nature of activities carried on and the risks peculiar to such activities.

**192.** The Commission shall classify every establishment under a unit according to the nature of the activities carried on there.

If the nature of activities carried on in an establishment does not appear among the units determined by the Commission, it shall classify the establishment under the unit that best corresponds to those activities.

**193.** Where various kinds of activities are carried on in an establishment, the Commission may classify the establishment under several units if

(1) a unit exists for each of the separate activities that are carried on in the establishment;

(2) no unit exists which groups all of the separate activities carried on in the establishment; and

(3) the employer transmits the statements prescribed in Division II of this chapter for each of the activities.

Where one of the conditions listed in the first paragraph is not fulfilled, the Commission may classify the establishment under the unit with the highest rate of assessment.

**194.** The Commission may classify an establishment as if the employer carried on the same activities there as in another establishment, whether operated by the employer or not, if the work carried out in the establishment is principally to serve the other establishment.

**195.** The Commission shall notify the employer in writing of the classification of his establishment.

## DIVISION IV

## FIXING OF ASSESSMENT

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

**197.** The Commission shall assess every employer annually at the rate applicable to the unit under which his establishment is classified.

Where an employer operates several establishments, the Commission, for the purposes of fixing the rate of assessment, shall classify the employer under one or several units according to the criteria listed in Division III of this chapter, taking into account the nature of the activities of the establishments.

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

**199.** Where an employer fails to transmit the statement contemplated in section 187 or 188 within the prescribed time, the Commission shall evaluate the wages earned by the workers of the employer to be 200% of those declared in his last statement to the Commission, and the wage bill that he should have estimated to be 250% of that in the last statement.

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

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

**200.** When the estimate of wages furnished by the employer for his establishment is more than 25% less than the wages he paid for the same year, the Commission shall impose on him the interest on the difference between the amount of the assessment that he has paid and the amount he should have paid for the period in which the sufficient estimate should have been filed.

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

(1) a contractor or the employer of a self-employed worker according to the proportion of the price agreed upon for the work he carries out that corresponds to the cost of labour;

(2) the employer of a voluntary worker or student contemplated in section 13 or the government as employer of a person contemplated in section 14 or 15, according to the minimum wage in force for any period during the year of assessment.

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

**203.** The Commission may adopt by regulation a system of merit or demerit rating for assessing an employer.

## DIVISION V

### PAYMENT OF THE ASSESSMENT

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

Notwithstanding the first paragraph, the Commission may allow that part of the assessment that it computes on the basis of the estimate which the employer transmits to it in accordance with subparagraph 2 of section 187 to be paid in a maximum of 6 monthly payments, including the amount of interest due for the stogerring of payments.

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

**205.** In the case of an employer who is a contractor, the Commission may demand the payment of his assessment from the person who retains his services for the purposes of his establishment.

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

**206.** The Commission may impose, at any time, the assessment, penalties and interest payable by an employer under this chapter.

It may also redetermine the assessment, interest and penalties and make a new assessment

(1) within 4 years after the day of mailing of a notice of assessment;  
or

(2) at any time if an employer or his representative has falsely represented facts by wilful negligence or omission or has committed



a fraud in filing a statement or furnishing information required by this chapter.

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

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

**208.** If an employer fails to furnish the documents required by sections 186 to 188 in the prescribed time, he shall pay, as a penalty, a sum equal to the aggregate of

(1) 5% of the assessment that he should have paid; and

(2) the interest on the assessment for the period beginning on the day on which the documents are to be filed and ending on the day on which they are actually filed.

**209.** If an employer fails to pay his assessment within the prescribed time, he shall pay, as a penalty, 5% of the unpaid amount and the interest on that amount.

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

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

**211.** Where an employer fails to pay an assessment, penalty, interest on the amounts or the cost of benefits he is liable to pay under section 210, the Commission may, at the expiry of the period prescribed in Division VII of this chapter, in order to apply for an administrative review or bring an appeal or on the day of the definitive decision, issue a certificate attesting

(1) the name and address of the debtor;

(2) the amount due;

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

(4) the exigibility of the debt.

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

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

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

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

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

For the purposes of this section, the Commission shall convert the benefits that an employer is liable to pay under section 210 into a capital sum representing the payments to become due.

## DIVISION VI

### ASSIGNMENT OF COSTS

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

It may also impute the cost of benefits payable by reason of an industrial accident to the employers of one or more units if the imputation under the first paragraph would have the effect of unduly burdening an employer.

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

**216.** In the case of an occupational disease, the Commission may impute the cost of the benefits to all the employers for whom the worker carried on employment of a nature to develop the disease in proportion to the duration of his employment with each of the employers.

It may also impute the cost to the employers of one or more units if its imputation to one of the employers for whom the worker carried

on employment of a nature to develop the disease is not possible by reason, in particular, of the employer's having gone out of existence or having become insolvent or if it would result in unduly burdening an employer.

**217.** In the case of a worker already handicapped when his employment injury appears, the Commission may impute all or part of the cost of the benefits to the reserve provided for in section 182.

**218.** Where the Commission has imputed to an employer contemplated in the first paragraph of section 10 the cost of benefits payable to a worker of a contractor, it shall transfer the imputation to the record of the contractor as soon as he has filed the statements prescribed by this Act and been assessed by the Commission.

**219.** The Commission shall notify the employer in writing of the cost of benefits that have been imputed to him.

## DIVISION VII

### REVIEW AND APPEAL

**220.** An employer may apply to the Commission for administrative review of the classification of his establishment, the amount of his assessment, the penalties or interest imposed on him or the costs imputed to him within 30 days of the mailing of the notice received by him.

The Commission, within the same period, may also review such a notice of its own motion.

**221.** An employer who believes himself wronged by a decision rendered after administrative review may, within 30 days after being notified, appeal therefrom before the revision office established for that purpose under section 171 of the Act respecting occupational health and safety.

**222.** The notice of classification or the notice of assessment have effect notwithstanding any application for administrative review or an appeal.

**223.** If an employer is entitled to a refund following a decision rendered under this division, the Commission shall pay him interest on the amount of the refund from the date of overpayment.

**224.** Sections 238 to 242 apply for the purposes of this chapter and section 243 applies to a decision rendered under this division.

## CHAPTER IX

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

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

Chapter VIII does not apply to the employer, except to the extent indicated in section 231, and any other provisions of the said Act which are consistent with this chapter apply to that employer and his workers, *mutatis mutandis*.

**226.** An employer who is personally liable for the payment of benefits is required to insure his workers against employment injuries for benefits equal to those provided for in this Act and to provide to the Commission, within such time as the latter may specify, a copy of his insurance policy.

**227.** An employer who fails to comply with his obligations under section 226 ceases to be governed by this chapter and becomes subject to Chapter VIII.

**228.** Where a worker of an employer who is personally liable for the payment of benefits is a victim of an employment injury, the Commission may require the employer or his insurer to deposit at the Commission sums out of which it may pay the benefits it awards.

**229.** If the sums are not sufficient, the employer remains personally liable for the payment of benefits to become due; if the sums are in excess at the time of the extinction of the right to an indemnity, the Commission shall remit the balance to the insurer or the employer, as the case may be.

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

**231.** The assessment provided for in section 230 is equal to a percentage of the expenses incurred by each of the employers for employment injuries that occurred in their firms.

Division v of Chapter VIII applies to the payment of the assessment, except the second and third paragraphs of section 204 and sections 208 and 210.

**232.** An employer who is personally liable for the payment of benefits may enter into an agreement with the beneficiary concerning the mode of payment of the income replacement indemnity, but the agreement takes effect only with the Commission's approval.

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

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

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

(1) the surname and given names of the worker and the circumstances related to his employment injury;

(2) the date, nature and amount of benefits provided; and

(3) the employer's right to apply for administrative review of the decision.

The debt is exigible on the expiry of the period for applying for administrative review or on the day of the decision maintaining the Commission's claim.

Sections 256 and 257 apply, *mutatis mutandis*, in the case of this section.

**235.** A final decision awarding an indemnity to a worker in the employ of an employer who is personally liable for the payment of benefits may be filed in the office of the court of competent jurisdiction by the Commission or the worker concerned.

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

**236.** An employer who is personally liable for the payment of benefits may exercise the recourse in subrogation conferred on the Commission in section 264; section 265 applies to him in this case.

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

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

## CHAPTER X

### JURISDICTION OF THE COMMISSION AND APPEAL

**238.** The Commission has exclusive jurisdiction to decide any matter or question contemplated in this Act.

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

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

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

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

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

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

A decision does not need to be signed but the name of the person who rendered it must appear on it.

**244.** A decision of the Commission awarding an income replacement indemnity, the indemnity provided for in section 97, an indemnity for funeral expenses or an indemnity for the costs of transporting the body of a worker or a benefit for medical aid is executory

immediately, notwithstanding administrative review or appeal, subject to the second paragraph of section 246.

A decision of the Commission awarding other benefits is executory on the expiry of the period for applying for administrative review or of the time for appeal, if any, or on the day of the final decision confirming that decision.

**245.** Every person who believes he has been wronged by a decision rendered by the Commission under this Act, with the exception of a decision rendered under section 35, may, within 90 days of notification of the decision, apply to the Commission for an administrative review.

The Commission may also review a decision of its own motion.

**246.** A decision rendered following administrative review cancelling an income replacement indemnity or reducing the amount thereof is executory on the expiry of the time for appeal or, if an appeal is brought, on the day of the final decision confirming that decision.

If an appeal is brought, however, the Commission may, after notifying the interested parties, cancel the indemnity or reduce the amount thereof, as the case may be, if the Commission des affaires sociales did not render its decision on the expiry of a period of 6 months following the appeal.

**247.** A person who believes he has been wronged by a decision rendered following administrative review may, within 90 days of notification, bring an appeal before the Commission des affaires sociales if the decision concerns the right to an indemnity or the amount or the recovery of an indemnity.

In addition, every person who believes he has been wronged by a decision of the Commission rendered pursuant to section 35 may, within 30 days of notification of the decision, appeal therefrom to the Commission des affaires sociales. The appeal shall be heard and decided by preference.

**248.** Where a decision of the Commission rendered following administrative review or a decision of the Commission des affaires sociales cancels an income replacement indemnity or reduces the amount thereof, the sums already paid to a beneficiary are not recoverable unless they were obtained through fraud.

**249.** If a decision of the Commission rendered following administrative review or a decision by the Commission des affaires sociales acknowledges the right of a beneficiary to a benefit which he had been refused initially or increases the amount of a benefit, the

Commission shall pay to him the interest accrued from the date of the initial decision.

The interest is determined in accordance with section 212 and is part of the indemnity.

**250.** The Commission may, of its own initiative or at the request of a beneficiary or an employer, review a final decision even if the decision was rendered by the Commission des affaires sociales, and render the decision that should have been rendered, in the following cases:

(1) where the decision to be reviewed has been rendered upon documents or allegations whose falsity has only been discovered since;

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

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

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

(b) it was known to neither party; and

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

Sections 246, 248 and 249 apply to a decision rendered pursuant to the first paragraph and if the decision concerns the right to an indemnity or the amount of an indemnity, it is subject to the appeal provided for in the first paragraph of section 247.

Notwithstanding anything in this section, the decision contemplated in section 35 may be reviewed only in the cases provided for in paragraph 1 or 2 of the first paragraph; the second paragraph of section 247 and sections 248 and 249 apply to a decision rendered pursuant to this paragraph.



## CHAPTER XI

## REDRESS

## DIVISION I

## RECOVERY OF BENEFITS

**251.** Subject to the second paragraph of section 31 and sections 117 and 248, a person who has received a benefit to which he is not entitled or the amount of which exceeds that to which he is entitled shall reimburse the amount received in excess to the Commission.

**252.** The Commission may recover the amount of the debt within 3 years of payment of the debt not owed or in the case of fraud, within one year following the date on which the Commission became aware of the fraud.

**253.** The Commission shall give a formal notice to the debtor stating the amount and reasons for the due date of the debt and the right of the debtor to apply for administrative review of the decision.

The formal notice interrupts the prescription provided for in section 252.

**254.** The debt is exigible on the expiry of the time for applying for administrative review or bringing an appeal, as the case may be, or on the day of the final decision confirming the decision of the Commission.

**255.** If the debtor is also the creditor of an income replacement indemnity, the Commission may deduct up to 25% from the amount of the indemnity if the debtor has no dependants, up to 20% if he has one dependant and up to 15% if he has more than one dependant.

**256.** If the debtor fails to reimburse the debt, the Commission may, 30 days after the due date of the debt or from that date if it is of the opinion that the debtor is attempting to evade payment, issue a certificate attesting

- (1) the surname and address of the debtor,
- (2) the amount of the debt, and
- (3) the date of the final decision fixing the due date of the debt.

**257.** Upon filing of the certificate in the office of the court of competent jurisdiction, the decision of the Commission or 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.

**258.** The Commission may, even after filing the certificate, remit the debt if it considers it fair to do so, in particular by reason of the debtor's good faith or his financial position.

## DIVISION II

### CIVIL LIABILITY

**259.** No beneficiary may institute a civil liability action against the employer of a wronged worker or the workers or mandataries of that employer by reason of an employment injury.

A person with whom a student is undergoing an unremunerated training period, that student and the workers or mandataries of that person benefit from the immunity granted by this section.

**260.** No beneficiary may bring a civil liability action, by reason of an employment injury, against another employer governed by this Act or against his workers or mandataries for a fault committed in the performance of their duties, except

(1) where the fault of the employer constitutes an offence or indictable offence within the meaning of the Criminal Code (R.S.C. 1970, chapter C-34);

(2) to recover the amount by which the loss sustained exceeds the benefit;

(3) in the case of a person responsible for an injury or a disease contemplated in section 27; or

(4) in the case of an employer who is personally liable for the payment of benefits.

A civil liability action for a fault contemplated in subparagraph 1 of the first paragraph may be instituted within 6 months of the admission of guilt or the final conviction.

**261.** A beneficiary who may bring a civil liability action must elect to do so and notify the Commission thereof within 6 months of the industrial accident of the date on which it was medically established and brought to the knowledge of the worker that he was suffering from an occupational disease or, as the case may be, of the death resulting from an employment injury.

Notwithstanding the first paragraph, a beneficiary who may bring a civil liability action for a fault contemplated in paragraph 1 of the

first paragraph of section 260 must elect to do so and notify the Commission thereof not later than 6 months after the date of the admission of guilt or the final conviction.

If the beneficiary fails to elect, he is presumed to have renounced the benefits provided in this Act.

**262.** If the beneficiary contemplated in section 261 elects to bring a civil liability action and collects a sum less than the amount provided for in this Act, he is entitled to a benefit for the difference.

**263.** If the beneficiary contemplated in section 261 elects to claim a benefit under this Act, he is entitled to recover from the person liable for it the amount by which the loss sustained exceeds the benefit.

**264.** A claim made by a beneficiary from the Commission subrogates it of right to the rights of the beneficiary against the person responsible for the employment injury up to the amount of benefits it has paid and the capital sum representing the benefits to become due.

No agreement having the effect of depriving the Commission of all or part of its recourse in subrogation may be set up against it unless it ratifies the agreement.

**265.** The action brought by the beneficiary against the person responsible for an employment injury interrupts, in favour of the Commission, the prescription enacted by articles 1056 and 2262 of the Civil Code in favour of the Commission.

## CHAPTER XII

### REGULATIONS

**266.** The Commission may make regulations

(1) amending Schedule A by adding thereto any disease it recognizes as characteristic of a particular type of work or directly related to the risks peculiar to that particular type of work;

(2) determining the activities a student carries out under the responsibility of an educational institution which qualify him as a worker in the employ of that institution;

(3) prescribing an impairment table and determining the criteria for and modalities of application of the table, for the purposes of calculating indemnities for bodily injuries;

(4) determining, according to the classes of establishments it designates, the staff and equipment a first-aid service must include and

the cases in which the employer or, on a construction site, the principal contractor within the meaning of the Act respecting occupational health and safety shall furnish premises for such purpose;

(5) establishing a system of merit or demerit rating for assessing employers;

(6) generally, prescribing any measure it considers necessary for the administration of this Act.

**267.** The Commission shall publish in the *Gazette officielle du Québec* any draft regulation it wishes to adopt with a notice that on the expiry of 30 days following the notice, the draft regulation will be adopted by the Commission with or without amendments and submitted to the Government for approval.

**268.** A regulation comes into force on the day of publication in the *Gazette officielle du Québec* of an order in council approving the regulation or, where amended by the Commission or the Government, of its final text, or on any later date fixed in the order in council or in the final text.

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

The Government shall subsequently publish in the *Gazette officielle du Québec* the draft regulation it wishes to adopt with a notice that on the expiry of 30 days following the notice, the draft regulation will be adopted by the Government, with or without amendments.

Publication is not required if the Commission has already caused the draft regulation to be published in the *Gazette officielle du Québec* and if no amendments have been made to it by the Government.

The regulation comes into force on the day of publication in the *Gazette officielle du Québec* of its final text together with the order in council that adopted it or on any later date fixed in the final text.

## CHAPTER XIII

### OFFENCES

**270.** Every employer or, as the case may be, the principal contractor within the meaning of the Act respecting occupational health and safety, who contravenes the first paragraph of sections 38, 53 or 54, the second paragraph of section 55, sections 127, 128, 148, paragraph 1 of section 149, section 152 or 155, the second paragraph of section 156, section 157, the first paragraph of section 159 or section 163, 172

or 226 is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**271.** Every employer or, as the case may be, association of independent operators or domestics who or which contravenes section 19, the first paragraph of section 25 or sections 175 or 186 to 190 or fails to pay all or part of an assessment one month after its due date is guilty of an offence and liable, in addition to costs, to a fine of not less than \$300.

**272.** A health professional or health establishment who or which refuses or neglects to make a report prescribed in the second paragraph of section 33, the third paragraph of section 34 or section 134 or 135 or a person who contravenes section 121 or 133 is guilty of an offence and is liable, in addition to costs, to a fine of not less than \$300.

**273.** Every person who acts or fails to act in view of obtaining an advantage to which he knows he is not entitled or of avoiding an obligation imposed on him by this Act is guilty of an offence and liable, in addition to costs, to a fine of not less than \$500.

**274.** Every person who makes a false declaration or, without reasonable cause, the proof of which lies on him, impedes an inquiry, an examination or a hearing of the Commission or refuses or fails to comply with an order or decision of the Commission is guilty of an offence and liable, in addition to costs, to a fine of not less than \$300.

**275.** Every person who contravenes a provision of this Act or any regulations thereunder for which a penalty has not been provided is guilty of an offence and liable, in addition to costs, to a fine of not less than \$300.

**276.** Every person who, knowingly, by an act or omission attempts to aid a person to commit an offence or advises a person to commit an offence, encourages or incites him thereto, is himself a party to the offence and liable to the same penalty as that provided for the person who committed it, whether or not such person has been prosecuted or convicted.

**277.** For the first subsequent offence within two years, the offender, in addition to costs, is liable to a fine of an amount that must not be less than double the fine provided for that offence.

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

**278.** Every worker prosecuted for an offence against this Act is released from all responsibility if he proves that the offence was

committed notwithstanding his disagreement and following formal instructions from his employer.

**279.** If a corporation commits an offence, the director, chief executive officer, employee or the representative of the corporation having prescribed or authorized the performance of the act or omission which constitutes the offence or who gave his consent is deemed to have participated in the offence and is liable to the penalty prescribed for the offence, whether or not the corporation has been prosecuted or convicted.

**280.** Penal proceedings brought pursuant to this Act are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15).

Notwithstanding the first paragraph, except in the case of a subsequent offence, the prosecutor shall serve notice of the offence on the offender by mail. The notice constitutes an accusation.

**281.** The notice of an offence must describe the offence, specify the minimum fine and the amount of the costs and notify the offender that he may pay the amount required within 30 days at the place specified.

The costs are \$5.

If the offender pays the amount required within the prescribed time and at the place specified, he is deemed to have pleaded guilty. The payment may not, however, be considered a confession of civil liability.

If the offender fails to make the payment, a summons shall be served on him.

**282.** In no case may failure to serve notice of an offence be invoked against the prosecutor and it is not necessary to allege that it was served nor to prove it.

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

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

No proceedings may be brought except by the Commission or by a person generally or specially designated by it for that purpose within one year after the Commission becomes aware of the offence.

**284.** The fines imposed belong to the Commission.

## CHAPTER XIV

## FINAL AND TRANSITIONAL PROVISIONS

**285.** The provisions of the Workmen's Compensation Act (R.S.Q., chapter A-3) are replaced by the corresponding provisions of this Act on the date of their coming into force and to the extent indicated by the proclamation made according to section 364.

**286.** Any reference in any Act, regulation, proclamation, order in council, order, contract or any other document to a provision of the Workmen's Compensation Act is deemed to be a reference to the corresponding provision of this Act.

**287.** Article 1056*a* of the Civil Code is replaced by the following article:

**"1056*a*.** No recourse provided for under the provisions of this chapter shall lie, in the case of an employment injury within the meaning of the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*), except to the extent permitted by such Act."

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

"Subject to section 18, where bodily injury was caused by an automobile, the benefits provided for the compensation of such injury by the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*), the Act to promote good citizenship (R.S.Q., chapter C-20) or by the Crime Victims Compensation Act (R.S.Q., chapter I-6) are in the place and stead of all rights, recourses and rights of action of any one by reason of such bodily injury and no action in that respect shall be admitted before any court of justice."

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

**"10.** In the cases contemplated in the second paragraph of section 7 and, notwithstanding section 4, in the cases contemplated in section 9, the following persons, when subrogated in the victim's rights under the Acts hereinafter mentioned, have the same recourses as the Régie to recover their claim against the person not resident in Québec who is responsible for the accident or against the person held liable for compensation for bodily injury caused in such accident by a non resident: the Commission de la santé et de la sécurité du travail under the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship and the Crime Victims Compensation Act,

the Régie de l'assurance-maladie du Québec under the Health Insurance Act (R.S.Q., chapter A-29), and the Government, under the Hospital Insurance Act (R.S.Q., chapter A-28) and under the Social Aid Act (R.S.Q., chapter A-16)."

**290.** Section 18 of the said Act, amended by section 6 of the Act to amend the Automobile Insurance Act and other legislation (1982, chapter 59), is replaced by the following sections:

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

If a person claims the compensation or pecuniary benefit provided by an Act relating to the compensation of persons who are victims of an industrial accident other than the Act respecting industrial accidents and occupational diseases, he may avail himself of the indemnity provided for in this title for the excess, if any.

**"18.1** If a person receives an income replacement indemnity under this title and claims, by reason of a new event, an income replacement indemnity under the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act, he is not entitled to receive both one and the other indemnity during the same period.

The Régie shall come to an understanding the Commission de la santé et de la sécurité du travail to settle a mode of processing claims described in the first paragraph which makes it possible to:

- (1) distinguish between the damages resulting from the new event and those damages that may be attributed to the accident;
- (2) determine the entitlement to and the amount of benefits payable under each of the Acts;
- (3) specify the modalities of payment of the income replacement indemnity while awaiting the determination of the entitlement to and the amount of the benefits payable under each of the Acts."

**291.** Sections 1 to 3 of the Act to promote good citizenship (R.S.Q., chapter C-20) are replaced by the following sections:

**"1.** In this Act, unless the context indicates a different meaning,



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

**“injury”** means bodily harm or property damage sustained by a person;

**“rescuer”** means a person who, having reasonable cause to believe another person to be in danger of his life or of bodily harm, voluntarily comes to his assistance.

**“1.1** This Act applies to a rescuer who sustains an injury in Québec and who

(a) is domiciled in Québec; or

(b) is not domiciled in Québec, if an equivalent compensation scheme is in force at the domicile of the rescuer and is applicable to a rescuer domiciled in Québec who sustains an injury at such place.

This Act also applies to a rescuer domiciled in Québec who sustains an injury outside Québec if no Act respecting the compensation of rescuers in force where he sustained his injury is applicable to him.

In a case where the benefits provided by the compensation scheme in force at the place where the person sustained his injury are less than the benefits he would receive under this Act, the person may claim the difference pursuant to this Act.

**“2.** If a rescuer sustains an injury, he is entitled to the benefits prescribed by the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*), except medical aid benefits to which he is entitled under another social security plan. However, where an indemnity is paid in money or financial assistance replaces income, the indemnity or assistance may not exceed 80% of the indemnity or financial assistance payable under the said Act.

A rescuer who sustains material injury is furthermore entitled to an amount not exceeding \$1 000.

**“2.1** If the rescuer who sustains an injury dies therefrom, his death gives entitlement to the indemnities prescribed in sections 2.2 to 2.16.

**“2.2** The spouse, separated spouse or former spouse of a rescuer entitled to an alimentary pension is considered a dependant until the age of 65 years if, at the time of the death of the rescuer,

(1) the spouse is not less than 35 years of age; or

(2) the spouse has a child born or to be born from the union with the rescuer.

In other cases, the spouse is considered a dependant for 5 years after the death of the rescuer, unless he is an invalid at the time of the death, in which case he remains a dependant for as long as his invalidity continues or until the expiry of five years after the death, whichever comes later.

Notwithstanding anything in this section, an invalid spouse ceases to be a dependant on reaching 65 years of age.

**“2.3** A child of the rescuer is considered a dependant

(1) until the age of 18 years, or

(2) until the age of 25 years provided he is in full-time attendance at a teaching institution.

Notwithstanding the first paragraph, a child who is a minor at the time of the death and an invalid when he becomes of full age, remains a dependant until the age of 65 years or for as long as his invalidity continues, whichever comes first, unless his invalidity entitles him to a benefit under this Act, the Act respecting industrial accidents and occupational diseases, the Automobile Insurance Act (R.S.Q., chapter A-25) or the Crime Victims Compensation Act (R.S.Q., chapter I-6).

**“2.4** Any person for whom the rescuer provides more than one-half of the needs at the time of the death of the rescuer and who is then 35 years of age or more is considered a dependant until the age of 65 years.

If the person is then under 35 years of age, he is considered a dependant for five years after the death of the rescuer, unless he is an invalid at the time of the death, in which case he remains a dependant for as long as his invalidity continues or until the expiry of five years after the death, whichever comes later.

Notwithstanding anything in this section, a dependant who is an invalid is no longer considered a dependant after reaching the age of 65 years.

**“2.5** The death benefit shall be equivalent annually to a percentage of the income replacement indemnity to which the rescuer unable to carry on his employment would have been entitled.

The percentage is 44% if there is one dependant, 52% if there are two and another 4% for each additional dependant up to 72%.

However, if there is a spouse among the dependants, the death benefit shall not be less than 72% of the weighted net income computed on the basis of the yearly gross income determined on the basis of the minimum wage in force at the time of the death.

**“2.6** For the purposes of establishing the amount of the death benefit, a dependant may demonstrate to the commission that the rescuer could have held more remunerative employment at the time of the injury, had it not been for special circumstances.

**“2.7** The commission shall pay the death benefit to the spouse, or if there is no spouse, to the other dependants, in equal shares.

However, if there are a spouse and a separated spouse or a former spouse entitled to an alimentary pension, the commission shall pay to the latter such part of the indemnity as it may determine.

The commission may also, in the interests of a dependant contemplated in section 2.3 or 2.4, pay to him a part of the death benefit.

**“2.8** A dependant’s right to a death benefit ceases with his death.

**“2.9** If a dependant ceases to be a dependant or dies, the death benefit is computed again on the basis of the number of remaining dependants.

**“2.10** The commission shall pay the death benefit in the form of monthly payments.

The benefit is cancelled or reduced from the month after which the dependant dies or ceases to be a dependant.

**“2.11** When the death of a rescuer is due to a cause unrelated to the injury and occurs while he is receiving an income replacement indemnity, his spouse is entitled to 44% of the indemnity for six months after the death.

**“2.12** The spouse, in addition, is entitled to an indemnity of \$800 to meet the expenses related to the death of the rescuer.

If there is no spouse, the commission shall pay the indemnity to the other dependants in equal shares.

**“2.13** A person other than a dependant under 65 years of age for whom the rescuer provides one-half or less of the needs on the date of his death is entitled to a lump sum of

(1) \$4 800 if the rescuer provided for 25% to 50% of his needs;

(2) \$2 400 if the rescuer provided for 10% to less than 25% of his needs.

**“2.14** If the mother and father of a deceased rescuer who had no dependants are not entitled to the indemnity prescribed in section 2.13, they are entitled to an indemnity of \$4 800 in equal shares.

The share of a parent deceased or deprived of his parental authority is added to the other.

**“2.15** The commission shall reimburse to the person who has paid the following costs, upon his producing vouchers,

(1) funeral costs up to \$1 200;

(2) the costs of transportation of the body of the rescuer to the funeral home nearest to the ordinary residence of the deceased person, if he resided in Québec, or to another place approved by the commission.

**“2.16** Sections 88 to 91, 119 and 120 of the Act respecting industrial accidents and occupational diseases, apply, *mutatis mutandis*, to the indemnities prescribed in sections 2.2 to 2.15.

**“3.** A person who claims a benefit shall apply to the commission in writing within one year after the injury or death resulting therefrom, as the case may be.

If he fails to do so, the claimant is presumed to have waived any benefit under this Act, subject to the third paragraph of section 14.”

**292.** Section 8 of the said Act is replaced by the following sections:

**“8.** If a rescuer is employed on the date of the injury, he is entitled to an income replacement indemnity from the eighth full day that he is unable to carry on his employment.

**“8.1** If a rescuer is not employed on the date of the injury, he is entitled to an income replacement indemnity from the second year after becoming unable to resume his regular activities.

Notwithstanding the first paragraph, the rescuer is entitled to the indemnity only from the age of 18 years and is not entitled to it if he is 65 years of age or over.

**“8.2** The income replacement indemnity of a rescuer who is not employed on the date of the injury is computed on the basis of the annual gross income determined on the basis of the minimum wage then in force.

The indemnity may be greater if the rescuer demonstrates to the commission that he earned, during the twelve months before he became disabled, a gross employment income justifying the greater indemnity; for such purpose, the rescuer may include unemployment insurance benefits he received.

**“8.3** From the second year after he has become unable to resume his regular activities, a rescuer who was not employed on the date of the injury, if he is then 21 years of age or over or upon reaching that

age, may demonstrate to the commission that he could earn a gross income justifying a greater indemnity were it not for the injury he sustained.

The commission shall revise his income replacement indemnity accordingly and the revision takes the place of the revision provided for in section 74 of the Act respecting industrial accidents and occupational diseases.

**“8.4** A rescuer who is a person at home on the date of the injury may claim, instead of the income replacement indemnity, the reimbursement of expenses incurred by his disability from the eighth full day of disability.

The expenses include expenses for care, domestic assistance, housekeeping and other expenses determined by the commission and they may not exceed \$200 per week.

**“8.5** The income replacement indemnity and the death benefit are reduced by the amount of the disability pension, disabled contributor’s child’s pension, surviving spouse’s pension or orphan’s pension payable under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or a similar plan of another jurisdiction.

**“8.6** The amounts contemplated in the second paragraph of section 2 and sections 2.12 to 2.15 and the second paragraph of section 8.4 are revalorized on 1 January of every year in accordance with Division V of Chapter IV of the Act respecting industrial accidents and occupational diseases.”

**293.** The said Act is amended by replacing the word “indemnity” by the word “benefit” in sections 9 and 12 and in the fourth line of section 22.

**294.** Section 11 of the said Act is replaced by the following section:

**“11.** The application of a claimant to the commission subrogates it *pleno jure* to the rights of the beneficiary against the person responsible for the injury or death up to the amount of benefits it has paid and the capital sum representing benefits to become due.

An amount recovered under the subrogation is paid into the consolidated revenue fund.

An agreement having the effect of depriving the commission of all or part of its recourse in subrogation may not be set up against it, unless the commission ratifies the agreement.”

**295.** Section 13 of the said Act is repealed.

**296.** Section 14 of the said Act is replaced by the following section:

**“14.** A person entitled to a benefit under this Act may elect to claim the benefit or bring a civil liability action against the person responsible for the injury or death.

If the person elects to bring civil liability action and collects a sum less than the amount of the benefit he would have obtained under this Act, he is entitled to a benefit for the difference.

The benefit may be claimed from the commission in the year of the decision or a transaction ratified by the commission.”

**297.** Section 20 of the said Act is replaced by the following section:

**“20.** The provisions of the Act respecting industrial accidents and occupational diseases not inconsistent with this Act apply, *mutatis mutandis*, with the exception of provisions conferring rights and obligations on an employer.”

**298.** The said Act is amended by adding, after section 21, the following section:

**“21.1** If by reason of an injury sustained by a rescuer or a death resulting therefrom, a person is entitled to a benefit under this Act and an indemnity under the Automobile Insurance Act (R.S.Q., chapter A-25), he is entitled to claim only the indemnity.

Compensation under the Automobile Insurance Act eliminates any right to a benefit under this Act.”

**299.** Section 26 of the said Act is repealed.

**300.** Section 6 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is amended by replacing subparagraph 5 of the second paragraph by the following subparagraph:

**“(5)** the industrial accidents and occupational diseases division;”.

**301.** Section 21 of the said Act is amended by replacing paragraphs *m*, *n* and *o* by the following paragraphs:

**“(m)** the appeals brought under the first paragraph of section 247 of the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*);

**“(n)** the appeals brought under the second paragraph of section 247 of the Act respecting industrial accidents and occupational diseases;”.

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

“§ 6.—*Industrial accidents and occupational diseases*

“**31.** The appeals contemplated in paragraph *m* of section 21 shall be heard by the industrial accidents and occupational diseases division.

The quorum is two members, and an assessor who is a physician.”

**303.** Section 32 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**32.** The appeals, applications or requests contemplated in paragraphs *a* to *m* and *p* to *y* of section 21 shall be brought by a written declaration filed with the Commission or mailed to its address within ninety days after the date of the event being the occasion thereof or after the date of notification of the decision appealed from; the appeals contemplated in paragraph *n* of section 21 shall be brought in the same manner within thirty days of the date of notification of the decision appealed from.”

**304.** Section 1 of the Crime Victims Compensation Act (R.S.Q., chapter I-6) is replaced by the following section:

“**1.** In this Act, unless the context indicates otherwise,

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

“**injury**” means bodily injury, pregnancy, or mental or nervous shock.”

**305.** Section 2 of the said Act is repealed.

**306.** Section 3 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**3.** A crime victim, for the purposes of this Act, is any person killed or injured

(*a*) by reason of an act or omission of any other person occurring in or resulting directly from the commission of an offence the description of which corresponds to the indictable offences mentioned in the schedule to this Act;

(*b*) while lawfully arresting or attempting to arrest an offender or suspected offender or assisting a peace officer making an arrest;

(c) while lawfully preventing or attempting to prevent the commission of an offence or suspected offence, or assisting a peace officer preventing or attempting to prevent the commission of an offence or suspected offence;

(d) by reason of an act or omission of any other person acting in the circumstances described in subparagraph *b* or *c* of the first paragraph of this section.”

**307.** The said Act is amended by adding, after section 3, the following section:

**“3.1** This Act applies to any person who is a crime victim in Québec and who

(a) is domiciled in Québec; or

(b) is not domiciled in Québec, if an equivalent compensation scheme is in force at the domicile of the person and is applicable to a person domiciled in Québec who is a crime victim at that place.

This Act also applies to a person domiciled in Québec who is the victim of a crime outside Québec if no Act respecting the compensation of crime victims in force where he was the victim of a crime is applicable to him.

In a case where the benefits provided by the compensation scheme in force at the place where the person was the victim of a crime are less than the benefits he would receive under this Act, the person may claim the difference pursuant to this Act.”

**308.** Sections 4 and 5 of the said Act are replaced by the following sections:

**“4.** A crime victim is entitled to benefits provided for in the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*), except for the medical aid benefits to which he is entitled under another social security plan. However, where an indemnity is paid in cash or financial assistance replaces income the indemnity or assistance may in no case exceed 80% of the indemnity or financial assistance payable under the said Act.

Any crime victim contemplated in subparagraph *b* or *c* of the first paragraph or in the second paragraph of section 3 is further entitled to receive a compensation of up to \$1 000 for material damage incurred by the victim.

**“4.1** If a crime victim dies therefrom, his death gives entitlement to the indemnities prescribed in sections 4.2 to 4.16.



**“4.2** The spouse, separated spouse or former spouse of a victim entitled to an alimentary pension is considered a dependant until the age of 65 years if, at the time of the death of the victim

(1) the spouse is not less than 35 years of age; or

(2) the spouse has a child born or to be born from the union with the victim.

In other cases, the spouse is considered a dependant during five years from the death of the victim, unless he is an invalid at the time of the death, in which case he remains a dependant for as long as his invalidity continues or until the expiry of five years after the death, whichever comes later.

Notwithstanding anything in this section, an invalid spouse ceases to be a dependant on reaching 65 years of age.

**“4.3** A child of the victim is considered a dependant

(1) until the age of 18 years; or

(2) until the age of 25 years provided he is in full-time attendance at an educational institution.

However, a child who is a minor at the time of the death and an invalid when he reaches full age, remains a dependant until the age of 65 years or as long as his invalidity continues, whichever comes first, unless his invalidity entitles him to a benefit under this Act, the Act respecting industrial accidents and occupational diseases, the Automobile Insurance Act (R.S.Q., chapter A-25) or the Act to promote good citizenship (R.S.Q., chapter C-20).

**“4.4** Any person for whom the victim provided more than one half of the needs at the time of the death of the victim and who was then at least 35 years of age is considered a dependant until he reaches 65 years of age.

If the person is then less than 35 years of age, he is considered a dependant for five years from the death of the victim, unless he is an invalid at the time of the death, in which case he remains a dependant as long as his invalidity continues or until the expiry of five years after the death, whichever comes later.

However, the dependant who is an invalid is no longer considered a dependant after reaching the age of 65 years.

**“4.5** The death benefit shall be equivalent annually to a percentage of the income replacement indemnity to which the victim unable to exercise his employment would have been entitled.

The percentage is 44% if there is one dependant, 52% if there are two and 4% for each additional dependant up to 72%.

However, if there is a spouse among the dependants, the death benefit shall not be less than 72% of the net weighted income computed on the basis of the annual gross income determined on the basis of the minimum wage in force at the time of the death.

**“4.6** For the purposes of establishing the amount of the death benefit, a dependant may demonstrate to the Commission that the victim could have held more remunerative employment at the time he was a crime victim, had it not been for special circumstances.

**“4.7** The Commission shall pay the death benefit to the spouse, or if there is no spouse, to the other dependants, in equal shares.

However, if there are a spouse and a separated spouse or a former spouse entitled to an alimentary pension, the Commission shall pay to the latter such part of the indemnity as it may determine.

The Commission may also, in the interests of a dependant contemplated in section 4.3 or 4.4, pay to him a part of the death benefit.

**“4.8** A dependant's right to a death benefit ceases with his death.

**“4.9** If a dependant ceases to be a dependant or dies, the death benefit is computed again on the basis of the number of remaining dependants.

**“4.10** The Commission shall pay the death benefit in the form of monthly payments.

The benefit is cancelled or reduced from the month after that in which the dependant dies or ceases to be a dependant.

**“4.11** Where the death of a victim is due to a cause unrelated to the crime and occurs while he is receiving an income replacement indemnity, his spouse is entitled to 44% of the indemnity during six months after the death.

**“4.12** The spouse, in addition, is entitled to an indemnity of \$800 to meet the expenses related to the death of the victim.

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

**“4.13** A person other than a dependant less than 65 years of age for whom the victim provides one-half or less of the needs on the date of his death is entitled to a lump sum of

(1) \$4 800 if the crime victim provided for 25% to 50% of his needs;

(2) \$2 400 if the victim provided for 10% to less than 25% of his needs.

**“4.14** If the mother and father of a deceased crime victim without dependants are not entitled to the indemnity prescribed in section 4.13, they are entitled to an indemnity of \$4 800 in equal shares.

The share of a parent deceased or deprived of his parental authority is added to the other.

**“4.15** The Commission shall reimburse to the person who has paid the following costs, upon his producing vouchers:

(1) funeral costs up to \$1 200;

(2) the costs of transportation of the body of the victim to the funeral home closest to the habitual residence of the deceased, if he resided in Québec, or to another place approved by the Commission.

**“4.16** Sections 88 to 91, 119 and 120 of the Act respecting industrial accidents and occupational diseases apply, *mutatis mutandis*, to the indemnities prescribed in sections 4.2 to 4.15.

**“5.** A mother who provides for the maintenance of a child born as the result of sexual assault contemplated in section 246.1, 246.2 or 246.3 of the Criminal Code or sexual intercourse contemplated in section 146 of the said Code is entitled to an indemnity equal to 65% of 90% of the net retained income computed on the basis of the annual gross income determined on the basis of the minimum wage in force at the time of the birth of the child and, for such purpose, the second paragraph of section 3 of the Act respecting industrial accidents and occupational diseases applies.

The said indemnity is paid to the mother in the form of a monthly payment until the child comes of age, then,

(1) for as long as the child is in full-time attendance at a teaching establishment until he reaches 25 years of age; or

(2) if the child is an invalid when he or she comes of age, for as long as his invalidity continues, unless his invalidity entitles him to a benefit under this Act, the Automobile Insurance Act, the Act to promote good citizenship or the Act respecting industrial accidents and occupational diseases.

The Commission may pay that indemnity to any other person who provides for the maintenance of the child.

The said indemnity shall be paid notwithstanding paragraph *a* of section 20.”

**309.** Sections 6 and 7 of the said Act are repealed.

**310.** Sections 8 to 10 of the said Act are replaced by the following sections:

**“8.** Any person entitled to a benefit under this Act may elect to claim the benefit or bring a civil liability action against the person responsible for the material damage, injury or death.

If the said person elects to bring a civil liability action and collects a sum less than the amount of the benefit he could have received under this Act, he is entitled to a benefit for the difference; the said benefit may be claimed from the Commission within one year of the judgment or a transaction ratified by the Commission.

**“9.** The application of any claimant to the Commission subrogates the latter of right to the rights of a beneficiary against the person responsible for the material damage, injury or death up to the amount of the benefits it has paid and the capital sum representative of the benefits to become due.

Any amount recovered by virtue of the said subrogation shall be paid into the consolidated revenue fund.

No agreement having the effect of depriving of all or part of its recourse in subrogation may be set up against the Commission unless the agreement is ratified by the latter.

**“10.** The claimant retains his right to recover from the person responsible for the material damage, injury or death the amounts required to make up, with the compensation, an amount equivalent to the losses sustained.”

**311.** Section 13 of the said Act is amended by inserting in the third line, after the word “death” the following: “, provided that the police were notified of the crime within a reasonable time period”.

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

**“15.** Every provision of the Act respecting industrial accidents and occupational diseases not inconsistent with this Act applies, *mutatis mutandis*, except the provisions giving the employer any right or subjecting him to any obligations.”

**313.** Sections 18 and 19 of the said Act are replaced by the following sections:

**“18.** A victim who holds employment on the date of the crime is entitled to an income replacement indemnity from the eighth complete day of being incapable of exercising his employment.

**“18.1** A victim who did not hold employment on the date of the crime is entitled to an income replacement indemnity from the second year following the beginning of his incapacity to resume his normal activities.

However, the victim is entitled to the said indemnity only from 18 years of age and is no longer entitled if he is 65 years of age or over.

**“18.2** The income replacement indemnity of a victim who held no employment on the date of the crime is computed on the basis of the gross annual income determined on the basis of the minimum wage that was in force at that time.

However, the victim may receive a higher indemnity if he proves to the Commission that he earned, during the 12 months preceding the beginning of his incapacity, a gross income justifying the higher indemnity; for such purpose, the victim may include the unemployment insurance benefits he received.

**“18.3** From the second year following his incapacity to resume normal activities, a victim not holding employment on the date of the crime may, if he was 21 years of age or over at that time or on reaching that age, prove to the Commission that he would have been capable of earning a gross income justifying a higher indemnity had it not been for the crime of which he was a victim.

The Commission shall revise the victim's income replacement indemnity accordingly and such revisions stand in lieu of that provided for in section 74 of the Act respecting industrial accidents and occupational diseases.

**“18.4** Any victim who was a homemaker on the date of the crime may claim, instead of an income replacement indemnity, the reimbursement of expenses incurred owing to his disability from the eighth complete day of disability.

Those expenses include babysitting, domestic help and house-cleaning expenses and any other expenses determined by the Commission and may in no case exceed \$200 per week.

**“18.5** The income replacement indemnity and the death benefit shall be deducted from the amount of the disability pension, the disabled contributor's child's pension, the surviving spouse's pension or the orphan's pension payable under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any equivalent plan of another jurisdiction.

**“18.6** The amounts contemplated in the second paragraph of sections 4, 4.12 to 4.15 and the second paragraph of section 18.4 shall be revalorized on 1 January each year in accordance with Division V of Chapter IV of the Act respecting industrial accidents and occupational diseases.

**“19.** If any person pleads or is found guilty of an offence or an indictable offence on which an application under this Act is based, the proof of such pleading or conviction constitutes after the expiry of the time for appealing, if there is an appeal, on the day of the final judgment finding the person guilty conclusive evidence that the offence was committed.”

**314.** Section 20 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) if the victim is killed or injured in circumstances giving recourse to the Act respecting industrial accidents and occupational diseases, either in his favour or in that of his dependants or, subject to the third paragraph of section 3.1, to an Act of another jurisdiction;”.

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

**“20.1** If, as a result of the injury sustained by a crime victim or of the death resulting therefrom, any person is entitled to a benefit under this Act and a benefit under the Automobile Insurance Act, he may claim only the said indemnity.

Persons receiving compensation under the Automobile Insurance Act are not entitled to benefits under this Act.”

**316.** Section 23 of the said Act is replaced by the following section:

**“23.** The Commission shall submit to the Minister a report on its activities for the last fiscal year not later than on 30 June each year.

The Minister shall table the report of the Commission in the National Assembly within the next thirty days if the Assembly is in session or, if it is not sitting, within thirty days after the opening of the next session or resumption of works.”

**317.** Sections 25 and 26 of the said Act are replaced by the following sections:

**“25.** The Minister of Finance may, at the request of the Commission, when it believes it necessary to ensure prompt payment of the benefits it grants under this Act, deposit with the Commission the sums out of which it shall pay the benefits.

**“26.** The moneys required for the purposes of sections 24 and 25 shall be taken out of the consolidated revenue fund.”

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

## “SCHEDULE

(Section 3)

<i>Section of Criminal Code</i>	<i>Description of offence</i>
66	taking part in a riot
76(1)	hijacking of an aircraft
76(2)	actions endangering the safety of an aircraft in flight or rendering the aircraft incapable of flight
76(3)	taking offensive weapons and explosive substances on board an aircraft
78	failure to take reasonable care in respect of explosives where death or bodily harm results
79	intentionally causing death or bodily harm by explosive substance
84	pointing a firearm or using a firearm in a dangerous manner
146	sexual intercourse with female under 14 or under 16 years of age
176	common nuisance causing harm
197	failure to provide necessities
200	abandoning child
203	causing death by criminal negligence
204	causing bodily harm by criminal negligence
212	murder
217	manslaughter
222	attempted murder
228	causing bodily harm with intent
229	administering poison
230	overcoming resistance to commission of offence
231	setting traps likely to cause death or bodily harm
232	interfering with transportation facilities
240(1)	dangerous operation of vessel or towed object
240(4)	impaired operation of vessel
241	impeding attempt to save life
244	assault by use of motor vehicle
245	assault
245.1	armed assault or causing bodily harm
245.2	aggravated assault
245.3	causing illegally bodily harm
246	assault interfering with lawful process
246.1	sexual assault
246.2	armed sexual assault
246.3	aggravated sexual assault
247(1)	kidnapping
247(2)	illegal confinement

302	robbery
381	intimidation by violence
387(2)	mischieff causing actual danger to life
389	arson
392	causing fire resulting in loss of life
393	false fire alarm”.

**319.** The provisions of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries (R.S.Q., chapter I-7) are replaced by the corresponding provisions of this Act on the date of their coming into force and to the extent indicated in the proclamations under section 364.

**320.** Every reference in any Act, regulation, by-law, proclamation, order in council, decree, contract or other document to a provision of the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries is deemed a reference to the corresponding provision of this Act.

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

**322.** Section 19.6 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is repealed.

**323.** Sections 39 and 44 of the Act respecting the protection of persons and property in the event of disaster (R.S.Q., chapter P-38.1) are repealed.

**324.** Section 24 of the Act respecting the Régie de l’assurance automobile du Québec (R.S.Q., chapter R-4) is amended by replacing the fourth paragraph by the following paragraph:

“The second paragraph of section 172 of the Act respecting occupational health and safety applies to officers to whom the Commission has delegated its functions.”

**325.** The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by adding, after section 96, the following heading and sections:

#### “INDEMNITY

“**96.1** The expression “replacement indemnity” means the unreduced income replacement indemnity payable under any of the following Acts: the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*), the



Act to promote good citizenship (R.S.Q., chapter C-20) and the Crime Victims Compensation Act (R.S.Q., chapter I-6).

**“96.2** The expression “month of indemnity” means any whole calendar month for which a replacement indemnity is paid to a contributor.

**“96.3** The expression “period of indemnity” means a series of not less than 24 consecutive months of indemnity.

**“96.4** The expression “total period of indemnity” means the total number of months of all the periods of indemnity of a contributor, for which the first 24 months have been subtracted.”

**326.** The said Act is amended by adding, after section 99, the following section:

**“99.1** For the purposes of the second and third paragraphs of section 99, a contributor is deemed to have received a disability pension for any part of a year comprised in his total period of indemnity.”

**327.** Section 101 of the said Act, amended by section 7 of the Act to favour early retirement and improve the surviving spouse’s pension (1983, chapter 12), is again amended

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

“Furthermore, such period does not include any month of indemnity if the month is included in the total period of indemnity of the contributor.”;

(2) by replacing the word “fourth” in the first line of the last paragraph by the word “fifth”.

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

**“102.4** Partition shall not be effected in respect of a month during which one of the former spouses is less than 18 years of age, is 70 years of age or more or is the beneficiary of a retirement or disability pension under this act or under a similar plan nor in respect of any month included in the total period of indemnity of the contributor.”

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

**“165.1** Notwithstanding paragraph *b* of section 105 and notwithstanding section 165, no disability pension may be paid to a contributor in respect of a month for which a replacement indemnity is payable to him.

The first paragraph does not apply if the contributor is already entitled to a disability pension when he acquires a right to the replacement indemnity.”

**330.** The said Act is amended by inserting, after section 174, the following section:

“**174.1** Notwithstanding paragraph *e* of section 105 and notwithstanding section 172, no disabled contributor’s child’s pension may be paid to a child in respect of a month for which a replacement indemnity is payable to the contributor.

The first paragraph does not apply if the contributor is already entitled to a disability pension when he acquires the right to a replacement indemnity.”

**331.** The third paragraph of section 101 of the said Act does not apply in respect of a month included in a period of indemnity that began before 1 January 1984.

**332.** Sections 165.1 and 174.1 of the said Act have no application in respect of a month prior to 1 January 1984 nor in respect of a month included in a series of consecutive months of indemnity where the first month is prior to 1 January 1984.

**333.** Section 36 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is replaced by the following section:

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

At the end of that period, the worker is entitled to the income replacement indemnity to which he would be entitled under the Act respecting industrial accidents and occupational diseases if he then became unable to carry on his employment by reason of an employment injury within the meaning of that Act.

To decide a case under this section, the Commission shall apply the Act respecting industrial accidents and occupational diseases to the extent that it is consistent with this Act.”

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

“**45.** The funds required for payment of the indemnity are taken by the Commission out of the reserve fund established under section 182 of the Act respecting industrial accidents and occupational diseases.

**335.** Section 145 of the said Act is replaced by the following section:

**“145.** The Minister responsible for the application of this Act and the Minister of Social Affairs shall each appoint an observer to the board of directors of the Commission.

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

**336.** Section 158 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The Photographic Proof of Documents Act (R.S.Q., chapter P-22) applies to the documents emanating from the Commission or forming part of its records, except that, notwithstanding section 2 of that Act, the documents may be destroyed as soon as they have been reproduced.”

**337.** Sections 224 to 226 of the said Act are replaced by the following sections:

**“224.** The Commission shall publish in the *Gazette officielle du Québec* every draft regulation it wishes to adopt with a notice indicating that at the expiry of 30 days following the notice, it will be adopted by the Commission with or without amendment and submitted to the Government for approval.

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

The Government then publishes in the *Gazette officielle du Québec* the draft regulations that it wishes to adopt with a notice indicating that at the expiry of 30 days following the notice, they will be adopted by the Government with or without amendment.

The publication is not required if the Commission has already cause the draft regulation to be published in the *Gazette officielle du Québec* and no amendment is made thereto by the Government.

The regulations come into force on the day of the publication in the *Gazette officielle du Québec* of its final text together with the order under which they were made or on any later date fixed in the final text.

**“226.** Every regulation comes into force on the day of the publication in the *Gazette officielle du Québec* of the order approving the regulation or in case of amendment by the Commission or by the Government, of its final text, or on any later date fixed in the order or in the final text.”

**338.** Section 254 of the said Act is repealed.

**339.** Section 4 of the Act respecting income security for cree hunters and trappers who are beneficiaries under the Agreement

concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2) is replaced by the following section:

**“4.** Every beneficiary is entitled to receive, in addition to income security benefits, benefits paid under a transfer payment programme, under the Unemployment Insurance Act, 1971 (Statutes of Canada, 1970-71-72, chapter 48), under the Act respecting work income supplement (R.S.Q., chapter S-37.1) or under the Act respecting industrial accidents and occupational diseases (1983, chapter *insert here the chapter number of this Act*) and pensions paid under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any equivalent plan, if he otherwise has the right to such benefits, indemnities or pensions under the said programme or the said Acts.”

**340.** Every regulation made under the Workmen’s Compensation Act, to the extent that it is consistent with this Act, remains in force and is a regulation made under this Act until it is repealed or replaced.

**341.** The provisions of this Act apply to employment injuries and deaths which occur from the date of coming into force of the provisions.

**342.** The employer of a person who suffers an industrial accident within the five days preceding the date of the coming into force of Division I of Chapter IV, shall pay to that person the indemnity prescribed in section 44 of the Workmen’s Compensation Act until the end of the period mentioned therein.

**343.** A person who, on the date of the coming into force of Division I of Chapter IV, receives a temporary disability pension under the Workmen’s Compensation Act or a complementary indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries is deemed to receive, for the same amount, an income replacement indemnity under this Act.

For the purposes of subsequently revising, reducing and revalorizing the indemnity, the date of the coming into force of Division I of Chapter IV is deemed to be the date of the beginning of the worker’s incapacity to hold his employment.

**344.** Every person contemplated in the first paragraph of section 343 is entitled to the other benefits prescribed by this Act.

If, on the date of the coming into force of Division I of Chapter IV, the person received a fixed indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries, he is not entitled to receive the indemnity for physical injuries prescribed by this Act; if he is entitled to the fixed indemnity but has not received it on that date, he is entitled to the indemnity or the indemnity for physical injuries prescribed by this Act, whichever amount is the higher.

**345.** Sections 343 and 344 apply to every person who, on the coming into force of Division I of Chapter IV, is entitled to temporary disability benefits under the Workmen's Compensation Act or to a complementary indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries, even if he does not receive the benefits or indemnity at that time.

**346.** Any person under 65 years of age who, on the coming into force of Chapter IV, receives permanent disability benefits under the Workmen's Compensation Act may send to the Commission an application to convert his benefits into capital computed in accordance with Schedule E, according to his age on the date of the application, if his total regular income, except such benefits, is sufficient to meet his ordinary needs and those of his dependants.

**347.** Every person who does not exercise the rights he is granted under section 346 remains entitled to his benefits, and the Workmen's Compensation Act continues to apply for that purpose; however, if he has a relapse, section 349 applies.

**348.** The right granted under section 346 must be exercised within three years after the coming into force of Chapter IV.

**349.** A person who, before the date of the coming into force of chapter IV, was the victim of an industrial accident or occupational disease within the meaning of the Workmen's Compensation Act, or who received an indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries and who has a relapse after that date, is entitled to the benefits prescribed by this Act.

The amount of the income replacement indemnity is the amount the person receives under section 343 at the time of his relapse, where such is the case, and the amount of the indemnity for physical injuries is computed according to a rate equal to the difference between the percentage determined in accordance with the scale contemplated in section 82 and the rate of disability already determined.

Division II of Chapter VI applies to the person contemplated in the first paragraph who is holding an employment at the time of his relapse.

**350.** A person who, on the date of the coming into force of Division III of Chapter IV, is entitled to an indemnity under the Workmen's Compensation Act on account of the death of a worker which occurred before that date, remains entitled to the indemnity and the Workmen's Compensation Act continues to apply for that purpose, except subsection 2 of section 36 and section 49 of the said Act.

**351.** Any person who believes he has been wronged by a decision rendered under subsection 4 of section 63 of the Workmen's Compensation Act may apply for an administrative reconsideration in accordance with Chapter X if, on the coming into force of that chapter, the time limit to apply for a review of that decision has not yet expired and no application for review has been submitted.

The administrative reconsideration may be applied for within 90 days after the coming into force of Chapter X.

The Commission may also reconsider *ex officio* , within the same time limit, the decision referred to in the first paragraph.

**352.** The Commission may reconsider any decision rendered under subsection 4 of section 63 of the Workmen's Compensation Act even if the time limit for applying to have it reviewed has expired at the time of the coming into force of Chapter X, if it elects to extend the time limit for such reasons as it may deem reasonable.

**353.** Every application for review submitted under section 64 of the Workmen's Compensation Act at the time of the coming into force of Chapter X becomes a case or matter the Commission reconsiders, and the new decision of the Commission may be appealed from to the Commission in accordance with the first paragraph of section 247.

If the case was heard at the time of the coming into force of Chapter X, the review board to which the case was submitted shall render its decision which may be appealed from in accordance with the first paragraph of section 247.

**354.** Proceedings for an infringement of the Workmen's Compensation Act or any regulation thereunder are instituted or continued in accordance with the said Act.

**355.** The employer who was personally bound to pay benefits under the Workmen's Compensation Act and who is not contemplated in Chapter IX may elect to be subject to the said chapter if he informs the Commission thereof in writing within six months of the date of the coming into force of Chapter IX.

**356.** The Commission may pay benefits owing by an employer who was personally liable for the payment of benefits under the Workmen's Compensation Act and claim reimbursement from him for them where the amount for which the employer is insured or that he has deposited with the Commission under this Act is insufficient to cover the benefits he is required to pay.

**357.** Provisions of this Act which apply to rescuers within the meaning of the Act to promote good citizenship and to the crime victims within the meaning of the Crime Victims Compensation Act, apply to any injury contemplated in the said Acts occurring from the date of the coming into force of the provisions.

The Commission ceases to assume the cost of medical aid benefits provided to a rescuer or crime victim from the date of the coming into force of section 291 or 308 where the rescuer or victim is entitled to the benefits under another social security plan.

Section 350 applies, *mutatis mutandis*, to a person entitled to an indemnity by reason of the death of a rescuer or crime victim.

**358.** Notwithstanding sections 351 to 353, in no case may a decision of the Commission granting a worker the right to a complementary indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries be the object of any administrative reconsideration or appeal under Chapter X.

**359.** The review board or the Committee on Social Affairs before which an application for review of a decision or an appeal from a decision is submitted, granting a worker the right to a complementary indemnity under the Act respecting indemnities for victims of asbestosis and silicosis in mines and quarries, is disseized of the application or appeal, as the case may be, to the extent that it bears on the right to the indemnity.

**360.** A person recognized by the Commission or its review board as suffering from permanent disability resulting from asbestosis or silicosis and who, for that reason, received before 3 September 1983 benefits under the Workmen's Compensation Act or an indemnity under the Act respecting indemnities for victims of asbestosis or silicosis in mines and quarries, is entitled to keep the benefits or indemnity he received and to continue to receive it, as the case may be, notwithstanding any subsequent decision or judgment denying his right to the benefits or indemnity, unless it was obtained by fraud.

Sections 343, 344 and 346 to 348 apply to the person contemplated in the first paragraph.

**361.** For the years 1984, 1985 and 1986, the Commission may keep the classification system by employer for the group units it determines.

For that purpose, Chapter VIII applies, *mutatis mutandis*.

**362.** The Government shall appoint a Minister to be responsible for the administration of this Act.

**363.** This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

**364.** This Act will come into force on the date fixed by proclamation of the Government, with the exception of the sections excluded by that proclamation, which will come into force, in whole or in part, on any later dates fixed by proclamation of the Government.

The proclamation shall indicate the provisions of the Workmen's Compensation Act that are replaced by sections of this Act put into force by the proclamation.



## SCHEDULE A

## OCCUPATIONAL DISEASES

*(Section 22)*

## DIVISION I

## POISONING

DISEASE	TYPE OF WORK
(1) Poisoning by arsenic and its toxic compounds:	any work involving the utilization, handling or other form of exposure to arsenic or its toxic compounds;
(2) Poisoning by benzene and its toxic homologues:	any work involving the utilization, handling or other form of exposure to benzene or its toxic homologues;
(3) Poisoning by beryllium and its toxic compounds:	any work involving the utilization, handling or other form of exposure to beryllium or its toxic compounds;
(4) Poisoning by cadmium and its toxic compounds:	any work involving the utilization, handling or other form of exposure to cadmium or its toxic compounds;
(5) Poisoning by chlorine and its toxic compounds:	any work involving the utilization, handling or other form of exposure to chlorine or its toxic compounds;
(6) Poisoning by chrome and its toxic compounds:	any work involving the utilization, handling or other form of exposure to chrome or its toxic compounds;
(7) Poisoning by copper, nickel, zinc and their toxic compounds:	any work involving the utilization, handling or other form of exposure to copper, nickel, zinc or their toxic compounds;
(8) Poisoning by fluorine and its toxic compounds:	any work involving the utilization, handling or other form of exposure to fluorine or its toxic compounds;
(9) Poisoning by a halogen-derivative or an aliphatic-aromatic hydrocarbon:	any work involving the utilization, handling or other form of exposure to a halogen-derivative or an aliphatic-aromatic hydrocarbon;
(10) Poisoning by manganese and its toxic compounds:	any work involving the utilization, handling or other form of exposure to manganese or its toxic compounds;
(11) Poisoning by mercury and its toxic compounds:	any work involving the utilization, handling or other form of exposure to mercury or its toxic compounds;

DISEASE	TYPE OF WORK
(12) Poisoning by monochlorethylene (vinyl chloride) and its toxic derivatives:	any work involving the utilization, handling or other form of exposure to monochlorethylene (vinyl chloride) or its toxic derivatives;
(13) Poisoning by nitroglycerine or other nitric acid esters:	any work involving the utilization, handling or other form of exposure to nitroglycerine or another nitric acid ester;
(14) Poisoning by a toxic nitro-and amino-derivative of benzene and its homologues:	any work involving the utilization, handling or other form of exposure to a toxic nitro-and amino-derivative of benzene or its homologues;
(15) Poisoning by carbon dioxide, hydrogen cyanide and its toxic derivatives and hydrogen sulphide:	any work involving the utilization, handling or other form of exposure to carbon dioxide, hydrogen cyanide or its toxic derivatives or hydrogen sulphide;
(16) Poisoning by a pesticide (organic chlorates, organic phosphates, carbamates, methyl bromide, ethylene oxyde, acrylonitrile, copper salts and others):	any work involving the utilization, handling or other form of exposure to a pesticide;
(17) Poisoning by phosphorous and its toxic compounds:	any work involving the utilization, handling or other form of exposure to phosphorous or its toxic compounds;
(18) Poisoning by lead and its toxic compounds:	any work involving the utilization, handling or other form of exposure to lead or its toxic compounds;
(19) Poisoning by carbon disulphide:	any work involving exposure to the emanation of carbon sulphide;
(20) Poisoning by nitrous fumes:	any work involving exposure to the emanation of nitrous fumes;
(21) Poisoning by alcohol, glycol and a ketone:	any work involving the utilization, handling or other form of exposure to an alcohol, glycol or ketone;

DIVISION II  
INFECTIOUS DISEASES

DISEASE	TYPE OF WORK
(1) Anthrax:	any work involving the utilization, handling or other form of exposure to wool, hair, bristles, hides and skins;
(2) Brucellosis:	any work related to the care, slaughtering, cutting, transport of slaughterhouse animals or any work involving contact with brucella;
(3) Dermatophytosis of animal origin:	any work involving contact with animals or any work in places where animals live;
(4) Viral hepatitis:	any work involving contact with contaminated humans or animals, human or animal products or other contaminated substances;
(5) Tuberculosis:	any work involving contact with humans or animals, human or animal products or other contaminated substances;
(6) Multiple warts on the hands:	any work carried on in a slaughterhouse or involving the handling of animals or animal products under humid conditions (maceration).

## DIVISION III

## DERMATOSES

DISEASE	TYPE OF WORK
(1) Dermatoses caused by chemical action:	any work involving the utilization of an acid or base;
(2) Dermatoses caused by mechanical action:	any work involving friction or maceration;
(3) Dermatoses caused by chromium:	any work involving the utilization or handling of chromium, its compounds or other substances containing chrome;
(4) Dermatoses caused by cement:	any work involving the utilization or handling of cement or exposure to cement dust;
(5) Dermatoses caused by a detergent:	any work involving the utilization or handling of a detergent;
(6) Dermatoses caused by oil or grease:	any work involving the utilization or handling of oil or grease;
(7) Dermatoses caused by a solvent:	any work involving the utilization or handling of a solvent;
(8) Primitive epithelioma of the skin caused by tar, pitch, asphalt, mineral oils, anthracene and its compounds, products and residues of those substances:	any work involving the utilization or the handling of tar, pitch, asphalt, mineral oils, anthracene or their compounds, products and residues;
(9) Telangiectasia:	any work performed in aluminium plants, involving repeated exposure to ambient air in potrooms.

DIVISION IV  
PNEUMOCONIOSIS

DISEASE	TYPE OF WORK
(1) Asbestosis, lung cancer or mesothelioma caused by asbestos:	any work involving exposure to asbestos fibre;
(2) Bronchopneumopathy caused by dust from hard metals:	any work involving exposure to the dust of hard metals;
(3) Byssinosis:	any work involving exposure to cotton, flax, hemp or sisal dust;
(4) Siderosis:	any work involving exposure to iron oxide;
(5) Silicosis:	any work involving exposure to silica dust;
(6) Talcosis:	any work involving exposure to talc dust.

## DIVISION V

## DISEASES CAUSED BY PHYSICAL AGENTS

DISEASE	TYPE OF WORK
(1) Hearing impairment caused by noise:	any work involving exposure to excessive noise;
(2) Bursitis:	any work involving continuous rubbing, pressure, irritation or vibration of the parts affected;
(3) Muscular-skeletal lesions manifested by objective signs:	any work involving repeated movements or pressures over an extended period of time;
(4) Illnesses caused by working in compressed air:	any work carried on in compressed air;
(5) Diseases caused by heat:	any work performed at high temperatures;
(6) Disease caused by ionizing radiations:	any work involving exposure to ionizing radiations;
(7) Disease caused by the vibrations of a manual tool:	any work involving the utilization of a manual tool which creates vibrations;
(8) Retinitis:	any work involving electro-welding or acetylene welding;
(9) Tenosynovitis:	any work involving continuous rubbing, pressure, irritation or vibrations of the parts affected.

DIVISION VI  
RESPIRATORY IRRITATIONS AND ALLERGIES

DISEASE	TYPE OF WORK
(1) Extrinsic allergic alveolitis caused by the inhalation of organic dust:	any work involving exposure to organic dust;
(2) Professional asthma caused by a sensitizing agent or irritant recognized as such and inherent in the type of work:	any work involving exposure to an irritant to the respiratory tract or exposure to allergenics.

## SCHEDULE B

## INDEMNITY FOR PHYSICAL INJURIES

*(Section 82)*

AGE	INDEMNITY (\$)	AGE	INDEMNITY (\$)
under one year	30 000	33	42 021
1	31 111	34	41 489
2	32 222	35	40 957
3	33 333	36	40 426
4	34 444	37	39 894
5	35 556	38	39 362
6	36 667	39	38 830
7	37 778	40	38 298
8	38 889	41	37 766
9	40 000	42	37 234
10	41 111	43	36 702
11	42 222	44	36 170
12	43 333	45	35 638
13	44 444	46	35 106
14	45 556	47	34 754
15	46 667	48	34 043
16	47 778	49	33 511
17	48 889	50	32 979
18	50 000	51	32 447
19	49 468	52	31 915
20	48 936	53	31 383
21	48 404	54	30 851
22	47 872	55	30 319
23	47 340	56	29 787
24	46 809	57	29 255
25	46 277	58	28 723
26	45 745	59	28 191
27	45 213	60	27 660
28	44 681	61	27 128
29	44 149	62	26 596
30	43 617	63	26 064
31	43 085	64	25 532
32	42 553	65 or over	25 000



## SCHEDULE C

*(Section 92)*

## INDEMNITY TO THE SPOUSE OF A DECEASED WORKER

AGE	FACTOR
24 or under	2,00
25 to 29	2,25
30 to 34	2,50
35 to 39	2,75
40 to 44	3,00
45 to 49	2,75
50 to 54	2,50
55 to 59	2,25
60	2,00
61	1,80
62	1,60
63	1,40
64	1,20
65 or over	1,00

## SCHEDULE D

*(Section 95)*

## INDEMNITY TO THE CHILD OF A DECEASED WORKER

AGE	INDEMNITY (\$)
under one year	50 000
1	48 000
2	46 000
3	44 000
4	42 000
5	40 000
6	38 000
7	36 000
8	34 000
9	32 000
10	30 000
11	28 000
12	26 000
13	24 000
14	22 000
15	20 000
16	18 000
17	15 000
18	12 000
19 to 21	9 000
22 to 24	6 000

## SCHEDULE E

*(Section 346)*TABLE OF ACTUARIAL VALUES FOR CAPITALIZATION  
OF A MONTHLY AMOUNT OF \$ 1.00

AGE	VALUE (\$)	AGE	VALUE (\$)	AGE	VALUE (\$)
15	168,45	44	137,42	73	65,22
16	168,00	45	135,45	74	62,47
17	167,55	46	133,43	75	59,74
18	167,08	47	131,34	76	57,04
19	166,60	48	129,20	77	54,36
20	166,09	49	127,00	78	51,71
21	165,54	50	124,75	79	49,11
22	164,95	51	122,47	80	46,56
23	164,31	52	120,15	81	44,08
24	163,61	53	117,81	82	41,66
25	162,86	54	115,44	83	39,31
26	162,06	55	113,04	84	37,03
27	161,20	56	110,62	85	34,84
28	160,27	57	108,16	86	32,73
29	159,29	58	105,68	87	30,71
30	158,25	59	103,16	88	28,77
31	157,16	60	100,61	89	26,91
32	156,00	61	98,02	90	25,15
33	154,80	62	95,39	91	23,47
34	153,54	63	92,71	92	21,88
35	152,22	64	89,98	93	20,36
36	150,83	65	87,24	94	18,92
37	149,38	66	84,48	95	17,57
38	147,87	67	81,72	96	16,28
39	146,29	68	78,96	97	15,07
40	144,64	69	76,20	98	13,90
41	142,93	70	73,46	99	12,76
42	141,16	71	70,72	100 or over	
43	139,32	72	67,98		11,54