

NATIONAL ASSEMBLY
Thirty-fourth Legislature, second session

1993, chapter 54
**AN ACT RESPECTING ASSISTANCE AND COMPENSATION
FOR VICTIMS OF CRIME**

Bill 106

Introduced by Mr Gil Rémillard, Minister of Justice

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Passage 10 December 1993

Assented to 13 December 1993

Coming into force: on the date fixed by the Government

Acts amended:

Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001)

Act respecting financial assistance for students (R.S.Q., chapter A-13.3)

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

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

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

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

Act repealed:

Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2)



CHAPTER 54

An Act respecting assistance and compensation for victims of crime

[Assented to 13 December 1993]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

RIGHTS AND OBLIGATIONS

Victim

1. Every person who, directly or indirectly, sustains a physical or mental injury or material loss by reason of an indictable offence committed in Québec is a victim for the purposes of the provisions of this Title.

Victim's
right

2. Every victim has the right to be treated with courtesy, fairness and understanding and with respect for his dignity and privacy.

Victim's
rights

3. To the extent provided for by law, the victim has a right to

(1) reasonable compensation for expenses incurred in order to testify;

(2) prompt and fair redress or compensation for the injury sustained;

(3) the return of any seized property as soon as possible where its detention is no longer required for the purposes of justice;

(4) present and have due consideration given to his views and concerns at every appropriate stage of judicial proceedings, where his personal interests are affected.

Information **4.** The victim also has the right to be informed, as fully as possible,

(1) of his rights and the recourses available to him;

(2) of his role in the criminal justice process, his participation in criminal proceedings and, on request, of the progress and outcome of the case;

(3) of the availability of health services and social services or other appropriate support or prevention services through which he may obtain such medical, psychological and social care or assistance as he may require;

(4) of the existence of the compensation plan for victims of crime and, where applicable, on the processing of his claim under that plan.

Police investigation **5.** On request, the victim has the right to be informed, if not inconsistent with the public interest, of the progress and outcome of the police investigation.

Victim's rights **6.** The victim has a right, insofar as resources are available,

(1) to such medical, psychological and social care or assistance as may be required by his state and to such other support services as may be appropriate for his needs for shelter and assistance or for referral to other services better able to provide him with assistance;

(2) to such rehabilitation services as may be required by his state to facilitate his return to normal life or his reinsertion into society or the work market;

(3) to protection against acts of intimidation and retaliation.

Cooperation **7.** It is incumbent upon a victim of a crime to cooperate, as far as possible, with the law enforcement authorities in connection with the indictable offence of which he is the victim.

Applicability **8.** The provisions of this Title which give rise to rights and obligations apply whether or not the person who committed the offence is identified, prosecuted or convicted.

TITLE II

COMPENSATION

CHAPTER I

GENERAL PROVISIONS

Compensation
entitlement

9. The following persons are entitled to receive the indemnities, reimbursement of expenses and rehabilitation services referred to in this Title, in accordance with the prescribed conditions:

(1) a victim who sustains physical or mental injury

(a) resulting directly from the commission in Québec of an indictable offence listed in Schedule I;

(b) while arresting or attempting to arrest, in good faith, an offender or suspected offender, in Québec, or while assisting a peace officer making an arrest in Québec;

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

(d) resulting directly from an act or omission by a person acting in the circumstances described in subparagraph *b* or *c*;

(2) a person acting in the circumstances described in subparagraph *b* or *c* of paragraph 1 who sustains damage to his property;

(3) the victim's close relatives;

(4) where the victim dies, his spouse or dependants;

(5) the person who paid the funeral expenses or the expenses for transportation of the remains of the victim.

Pregnancy

10. A pregnancy which results from a sexual act mentioned in section 151, 152, 153 or 155 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46) or from sexual assault within the meaning of section 271, 272 or 273 of that Code constitutes an injury.

Presumption

11. A victim who is absent from work by reason of the physical or mental injury sustained is deemed, for the purposes of section 122.2

of the Act respecting labour standards (R.S.Q., chapter N-1.1), to be absent by reason of illness or accident.

Benefits

12. The benefits provided for in this Title may not be granted

(1) where the victim sustains an injury in circumstances in which the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), any other Act concerning compensation for victims of industrial accidents, the Automobile Insurance Act (R.S.Q., chapter A-25) or the Crime Victims Compensation Act (R.S.Q., chapter I-6) applies;

(2) where the victim was a party to the offence or, through gross fault, contributed to the realization of the injury;

(3) to a claimant who was a party to the offence or who, through gross fault, contributed to the realization of the injury;

(4) where the claimant did not, within a reasonable time, report the offence to the police authorities or the situation to the director of youth protection, unless the offence or situation had already been reported or unless he is exempt from the requirement to report pursuant to section 13;

(5) to a claimant who, before submitting a claim, did not cooperate with the competent legal authorities in respect of the inquiry or the proceedings, unless he is exempt from the requirement to cooperate pursuant to section 13.

Exemption

13. The Minister of Justice may exempt the claimant from the requirement to report an offence or to cooperate as described, respectively, in paragraphs 4 and 5 of section 12, where circumstances justify it.

Exemption

The Minister must exempt the claimant from the requirement where

(1) the claimant's physical or mental state prevents him from reporting the offence or cooperating;

(2) the claimant's participation in legal proceedings could compromise his physical or mental state.

Claim

14. Where a person instituted civil proceedings that he discontinued, or the amount awarded and collected as a result thereof is less than the amount of benefits he would have obtained under this Title, the person may invoke this Title to claim the difference by

notifying the Minister of Justice and filing his claim within one year from the date of discontinuance or of the final judgment where that date occurs two years after the date of the manifestation of the injury.

Agreement **15.** Where the person elects to avail himself of the provisions of this Title, any agreement reached between the parties respecting civil proceedings or the right to institute such proceedings is without effect until ratified by the Minister. The terms and conditions of payment of the amount agreed upon or awarded are determined by the Minister.

Claimant's right of recovery **16.** Nothing in this Title shall affect the right of a claimant to recover from the person responsible for the injury sustained the amounts required to make up, with the benefits, an amount equivalent to the loss actually sustained.

Subrogation **17.** Where the Minister decides to compensate the claimant, he is subrogated by operation of law to the rights of the claimant up to the amount he may be called upon to pay him and may, in his own name or in the name and stead of the claimant, continue or institute civil proceedings.

Benefits **18.** Benefits provided for in this Title may be awarded whether or not the person who committed the offence has been identified, prosecuted or convicted.

Presumption **19.** A person legally incapable of forming criminal intent is, for the purposes of this Title, deemed to be capable of forming such intent.

Proof **20.** If a person is convicted of an indictable offence listed in Schedule I, conviction or discharge under section 736 of the Criminal Code shall, once it has acquired the authority of a final judgment (*res judicata*), constitute conclusive proof of the commission of the offence.

Hypothec **21.** Any hypothec on or transfer of the right to any benefit under this Title is null by operation of law.

Claimant's right of recovery The claimant has a right of recovery against any person who receives all or part of an amount of the benefit under such a hypothec or transfer.

CHAPTER II

INCOME REPLACEMENT INDEMNITY AND INDEMNITY FOR
DEFERRED STUDIES

DIVISION I

PRELIMINARY PROVISION

Applicability **22.** The income replacement indemnity provided for in this chapter does not apply in the case of a victim who is ordinarily unable to hold employment for any reason whatsoever, other than a reason related to his age.

DIVISION II

ENTITLEMENT

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

Entitlement **23.** A victim other than a victim to whom section 35 or 43 applies who, on the date of the manifestation of the injury, ordinarily holds employment on a full-time basis is entitled to an income replacement indemnity if he becomes unable to hold such employment.

Employment The Government shall, by regulation, determine the cases in which and the conditions on which employment is considered to be full-time, part-time or temporary.

Computation **24.** The income replacement indemnity is computed on the basis of the gross income

(1) that the victim derives from the employment he holds as a salaried worker;

(2) that the Government determines by regulation for employment of the same class as that held by the victim as a self-employed worker, or on the basis of the gross income he derives as a self-employed worker, if it is higher.

Additional indemnity A victim who, although entitled thereto, is also deprived of unemployment insurance benefits paid under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) or allowances paid under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19) is entitled to an additional indemnity computed on the basis of the benefits or allowances that would have been paid to him. Such benefits or allowances are considered to form part of his gross income.

Entitlement **25.** A victim who ordinarily holds more than one employment, including at least one full-time employment, is entitled to an income replacement indemnity if he becomes unable to hold one of his employments.

Computation The indemnity is computed, in accordance with the provisions of section 24, on the basis of the gross income the victim derives from the employment or employments he becomes unable to hold.

Entitlement **26.** A victim who proves that he would have held more remunerative employment but for special circumstances is entitled, if he becomes unable to hold such employment, to an income replacement indemnity computed on the basis of the gross income, determined by regulation of the Government, that he would have derived from that employment.

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

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

Entitlement **27.** A victim other than a victim to whom section 35 or 43 applies and who, on the date of the manifestation of the injury, ordinarily holds employment on a temporary or part-time basis is entitled, if he becomes unable to hold that employment, to an income replacement indemnity for the first 180 days following that date.

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

Computation **28.** The income replacement indemnity is computed on the basis of the gross income

(1) that the victim derives from the employment he holds as a salaried worker;

(2) that the Government determines by regulation for employment of the same class as that held by the victim as a self-employed worker or on the basis of the gross income he derives as a self-employed worker, if it is higher;

(3) that the victim who holds more than one employment derives from the employment or employments he becomes unable to hold.

Entitlement A victim who, although entitled thereto, is also deprived of unemployment insurance benefits paid under the Unemployment

Insurance Act or allowances paid under the National Training Act is entitled to an additional indemnity computed on the basis of the benefits or allowances that would have been paid to him. Such benefits or allowances are considered to form part of his gross income.

Employment **29.** The Minister shall, from the one hundred and eighty-first day following the date of the manifestation of the injury, determine employment for the victim in accordance with the provisions of section 54.

Entitlement The victim is entitled to an income replacement indemnity if he is unable to hold the employment determined by the Minister.

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

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

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

(3) the gross income of the victim derived from employment held before the date of the manifestation of the injury.

Employment If the victim held more than one temporary or part-time employment, the Minister shall determine only one employment for him in accordance with the provisions of section 54.

Reduction of gross income The manner of reducing the gross income to take account of the fact that the victim holds part-time employment shall be established by regulation of the Government.

Minimum income replacement indemnity **30.** The income replacement indemnity computed in accordance with the provisions of section 29 shall not be less than any income replacement indemnity the victim was receiving at the end of the one hundred and eightieth day following the date of the manifestation of the injury.

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

Entitlement **31.** A victim other than a victim to whom section 35 or 43 applies and who, on the date of the manifestation of the injury, is ordinarily

unemployed even though able to work is entitled to an income replacement indemnity for the first 180 days following that date if

(1) he becomes unable to hold the employment he could have held had he not sustained the injury;

(2) he is, although entitled thereto, deprived of unemployment insurance benefits paid under the Unemployment Insurance Act or allowances paid under the National Training Act.

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

Indemnity If, however, both subparagraphs 1 and 2 of the first paragraph apply, the victim cannot receive the two indemnities to which the situations described therein give rise, but shall receive the greater of the two for as long as the situation prevails.

Computation **32.** The indemnity to which a victim to whom subparagraph 1 of the first paragraph of section 31 applies is entitled shall be computed on the basis of the gross income derived from the employment he would have held.

Computation The indemnity to which a victim to whom subparagraph 2 of the first paragraph of section 31 applies is entitled shall be computed on the basis of the benefits or allowances that would have been paid to him. Such benefits or allowances are considered to be his gross income.

Employment **33.** The Minister shall, from the one hundred and eighty-first day following the date of the manifestation of the injury, determine employment for the victim in accordance with the provisions of section 54.

Entitlement The victim is entitled to an income replacement indemnity if he is unable to hold the employment determined by the Minister.

Computation The indemnity is computed in accordance with the provisions of the third paragraph of section 29 and shall not be less than any indemnity the victim was receiving at the end of the one hundred and eightieth day following the date of the manifestation of the injury.

§ 4.—Victim under 16 years of age

Interpreta-
tion**34.** For the purposes of this subdivision,

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

(2) the elementary level extends from kindergarten to the sixth grade;

(3) current studies are studies forming part of a program of studies at the secondary or post-secondary level to which, on the date of the manifestation of the injury, the victim has been admitted in order to begin or continue at an educational institution;

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

Entitlement

35. A victim who is under 16 years of age on the date of the manifestation of the injury is entitled to an indemnity for deferred studies if he becomes unable to begin or continue his studies.Entitlement
period

He remains entitled to the indemnity until the end of the school year or term in which he reaches 16 years of age, for such time as he remains unable to begin or continue his studies.

Amount of
indemnity**36.** The amount of the indemnity for deferred studies shall be

(1) \$3 386 for every school year missed at the elementary level;

(2) \$6 208 for every school year missed at the secondary level;

(3) \$6 208 for every term missed at the post-secondary level, up to \$12 416 per year.

Entitlement
period**37.** A victim is entitled to an income replacement indemnity for such time as he is, although entitled thereto, deprived of unemployment insurance benefits paid under the Unemployment Insurance Act.

Computation

The indemnity is computed on the basis of the benefits that would have been paid to him. Such benefits are considered to form part of his gross income.

Entitlement **38.** A victim who also holds or would have held employment is entitled to an income replacement indemnity if he becomes unable to hold that employment.

Entitlement period The victim is entitled to the indemnity for such time as the employment would have been available and for such time as he is unable to hold it.

Indemnity A victim entitled to an income replacement indemnity under this section and under section 40 or section 41 cannot receive both indemnities but shall receive the greater of the two for as long as the situation prevails.

Computation **39.** The income replacement indemnity is computed on the basis of the gross income

(1) that the victim derives or would have derived from the employment he holds or would have held as a salaried worker;

(2) that the Government determines by regulation for employment of the same class as that which the victim holds or would have held as a self-employed worker, or on the basis of the gross income he derives or would have derived as a self-employed worker, if it is higher;

(3) that the victim who holds or would have held more than one employment derives or would have derived from the employment or employments he becomes unable to hold.

Reduction of gross income The manner of reducing the gross income to take account of the fact that the victim holds part-time employment shall be established by regulation of the Government.

Entitlement period **40.** A victim who, from the end of the school year or term in which he reaches 16 years of age, remains unable to begin or continue his studies and to hold employment is entitled to an income replacement indemnity for such time as the situation prevails.

Computation The indemnity is computed on the basis of a gross income equal to a yearly average established on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year which precedes the end of the school year in which the victim reaches 16 years of age.

Entitlement period **41.** A victim who resumes his studies and who, after completing or ending them, is unable to hold any employment is entitled to an

indemnity from the date of the end of his studies and for such time as he remains unable to hold employment.

Entitlement If his studies end before the date envisaged for completion, the victim is entitled,

(1) until the date envisaged for completion of his studies, to an indemnity for deferred studies of

(a) \$3 386 for every school year not completed at the elementary level;

(b) \$6 208 for every school year not completed at the secondary level;

(c) \$6 208 for every term not completed at the post-secondary level, up to \$12 416 per year;

(2) from the date envisaged for completion of his studies, to the income replacement indemnity provided for in the third paragraph.

Entitlement If his studies end after that date, the victim is entitled to an income replacement indemnity computed on the basis of a gross income equal to a yearly average established on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year which precedes the date on which the studies end.

§ 5. — *Victim 16 years of age or over in full-time attendance at an educational institution*

Interpretation

42. For the purposes of this subdivision,

(1) current studies are studies forming part of a program of studies at the secondary or post-secondary level to which, on the date of the manifestation of the injury, the victim has been admitted in order to begin or continue at an educational institution;

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

Indemnity
for deferred
studies

43. A victim who, on the date of the manifestation of the injury, is 16 years of age or over and in full-time attendance at a secondary

or post-secondary educational institution is entitled to an indemnity for deferred studies if he becomes unable to begin or continue his studies.

Entitlement period He is entitled to the indemnity until the date envisaged for completion of his current studies, for such time as he remains unable to begin or continue his studies.

Amount of indemnity **44.** The amount of the indemnity for deferred studies shall be
 (1) \$6 208 for every school year missed at the secondary level;
 (2) \$6 208 for every term missed at the post-secondary level, up to \$12 416 per year.

Entitlement period **45.** A victim is entitled to an income replacement indemnity for such time as he is, although entitled thereto, deprived of unemployment insurance benefits paid under the Unemployment Insurance Act or allowances paid under the National Training Act.

Computation The indemnity is computed on the basis of the benefits or allowances that would have been paid to him. Such benefits or allowances are considered to be his gross income.

Entitlement **46.** A victim who also holds or would have held employment is entitled to an income replacement indemnity if he becomes unable to hold that employment.

Entitlement period The victim is entitled to the indemnity for such time as the employment would have been available and for such time as he remains unable to hold it.

Computation The indemnity is computed in accordance with the provisions of section 39.

Indemnity A victim entitled to an income replacement indemnity under this section and under section 47 or section 48 cannot receive both indemnities but shall receive the greater of the two for as long as the situation prevails.

Entitlement period **47.** A victim who, after the date envisaged for completion of his current studies, remains unable to begin or continue the studies and unable to hold employment is entitled to an income replacement indemnity for such time as the situation prevails.

Computation The indemnity is computed on the basis of a gross income equal to a yearly average computed on the basis of the average weekly

earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year which precedes the anticipated date for completion of the studies.

Entitlement
period

48. A victim who resumes his studies and who, after completing or ending them, is unable to hold employment is entitled to an indemnity from the date of the end of his studies and for such time as he remains unable to hold any employment.

Indemnities

If his studies end before the date envisaged for completion, the victim is entitled,

(1) until the date envisaged for completion of his studies, to an indemnity for deferred studies of

(a) \$6 208 for every school year not completed at the secondary level;

(b) \$6 208 for every term not completed at the post-secondary level, up to \$12 416 per year;

(2) from the date envisaged for completion of his studies, to the income replacement indemnity provided for in the third paragraph.

Computation

If his studies end after that date, the victim is entitled to an income replacement indemnity computed on the basis of a gross income equal to a yearly average established on the basis of the average weekly earnings of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year which precedes the date on which the studies end.

§ 6. — Victim 64 years of age or over

Reduction

49. Where a victim is 64 years of age or over on the date of the manifestation of the injury, the income replacement indemnity to which he is entitled is reduced by 25% on the date which occurs one year after that date, by 50% on the date which occurs two years after that date and by 75% on the date which occurs three years after that date.

Entitlement

The victim ceases to be entitled to the indemnity on the date which occurs four years after the date of the manifestation of the injury.

Entitlement

50. A victim who, on the date of the manifestation of the injury, is 65 years of age or over and does not hold employment is not entitled to an income replacement indemnity.

Entitlement
period

51. Notwithstanding section 50, a victim who, on the date of the manifestation of the injury, is 65 years of age or over is entitled to an income replacement indemnity for the first 180 days after that date if

(1) he becomes unable to hold employment that he could have held during that period;

(2) he is, although entitled thereto, deprived of unemployment insurance benefits paid under the Unemployment Insurance Act or allowances paid under the National Training Act.

Entitlement
period

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

Indemnity

If, however, both subparagraphs 1 and 2 of the first paragraph apply, the victim cannot receive the two indemnities to which the situations described therein give rise, but shall receive the greater of the two for as long as the situation prevails.

Computation

From the one hundred and eighty-first day after the date of the manifestation of the injury, the victim is entitled to an income replacement indemnity computed in accordance with the provisions of sections 29 and 30, subject to section 49.

Computation

52. The indemnity to which a victim to whom subparagraph 1 of the first paragraph of section 51 applies is entitled shall be computed on the basis of the gross income derived from the employment he would have held.

Computation

The indemnity to which a victim to whom subparagraph 2 of the first paragraph of section 51 applies is entitled shall be computed on the basis of the benefits or allowances that would have been paid to him. Such benefits or allowances are considered to be his gross income.

Reduction

53. The income replacement indemnity received by a victim is reduced by 25% when he reaches 65 years of age, by 50% when he reaches 66 years of age and by 75% when he reaches 67 years of age.

Age limit

The victim ceases to be entitled to such an indemnity when he reaches 68 years of age.

DIVISION III

DETERMINATION OF EMPLOYMENT FOR A VICTIM

Factors
considered

54. Where the Minister determines employment for a victim from the one hundred and eighty-first day following the date of the manifestation of the injury, he shall take into account, in addition to the standards, terms and conditions prescribed by regulation of the Government, the training, work experience and physical and intellectual abilities of the victim on the date of the manifestation of the injury.

Employment

The employment must be one which the victim could ordinarily have held on a full-time or, failing that, a part-time basis.

Employment

55. From the date which occurs two years after the date of the manifestation of the injury, the Minister may determine an employment for a victim able to work but who, because of his injury, has become unable to hold

- (1) employment referred to in section 23 or section 25;
- (2) employment referred to in section 26;

(3) employment determined for him by the Minister in accordance with the provisions of section 54.

Employment

56. The Minister may, from the date envisaged for completion of the current studies of a victim to whom subdivisions 4 and 5 of Division II apply, determine employment for that victim if he is able to work but, because of his injury, has become unable to hold employment for which the gross income is equal to or greater than the gross income that would have applied to him under section 40, 41, 47 or 48, as the case may be, if he had become unable to hold any employment.

Factors
considered

57. In determining employment for a victim in accordance with the provisions of section 55 or 56, the Minister shall, in addition to the standards, terms and conditions prescribed by regulation pursuant to section 54, take the following factors into account:

(1) the training, work experience and physical and intellectual abilities of the victim at the time the Minister determines employment for him;

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

Employment The employment, in accordance with the regulation of the Government, must be one that exists in the region in which the victim resides and that he is ordinarily able to hold on a full-time or, failing that, on a part-time basis.

DIVISION IV

END OF ENTITLEMENT TO INCOME REPLACEMENT INDEMNITY

End of entitlement **58.** A victim ceases to be entitled to an income replacement indemnity

(1) when he becomes able to hold the employment he ordinarily held;

(2) when he becomes able to hold the employment he would have held but for special circumstances;

(3) when he becomes able to hold the employment determined for him by the Minister in accordance with the provisions of section 54;

(4) one year after becoming able to hold the employment determined for him by the Minister in accordance with the provisions of section 55 or 56;

(5) when he holds employment from which he derives a gross income equal to or greater than the gross income on the basis of which the Minister has computed the income replacement indemnity;

(6) at any time fixed by a provision of Division II of this chapter which differs from the times provided for in paragraphs 1 to 4; or

(7) upon death.

Continued payment **59.** Where, following an examination required by the Minister pursuant to section 116, the victim is no longer entitled to the income replacement indemnity he was receiving on the date of the examination under sections 23, 25, 26, 27, 29, 31, 33, 38, 40, 41, 46, 47, 48, 51 and 67, the indemnity shall continue to be paid to him until the date of the Minister's decision.

Exception The first paragraph does not apply, however, where the victim, on the date of the examination, is entitled to an income replacement indemnity under paragraph 4 of section 58 or section 60.

Entitlement **60.** Notwithstanding paragraphs 1 to 3 of section 58, a victim who ordinarily held a full-time or part-time employment continues to

be entitled to the income replacement indemnity even when he again becomes able to hold his employment if he lost it by reason of the injury sustained.

Continued
payment

The indemnity shall continue to be paid to the victim after he again becomes able to hold his employment for a period of

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

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

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

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

DIVISION V

COMPUTATION OF INDEMNITY

Amount of
indemnity

61. The income replacement indemnity of a victim to whom this chapter applies is equal to 90% of his net income computed on a yearly basis.

Minimum
indemnity

However, subject to sections 49, 53, 65 and 66, the income replacement indemnity of a victim who ordinarily held full-time employment, or of a victim for whom the Minister determines employment from the one hundred and eighty-first day following the date of the manifestation of the injury, in accordance with the provisions of section 54, shall not be less than the indemnity that would be computed on the basis of a gross annual income determined on the basis of the minimum wage as defined in section 3 of the Regulation respecting labour standards (R.R.Q., 1981, chapter N-1.1, r.3) and, except in the case of a part-time employment, on the basis of the regular workweek as defined in section 52 of the Act respecting labour standards (R.S.Q., chapter N-1.1), as they read on the day on which they are applied.

Net income

62. The net income of the victim is equal to his gross yearly employment income up to the amount of the Maximum Yearly Insurable Earnings less an amount equivalent to the income tax determined under the Taxation Act (R.S.Q., chapter I-3) and the Income Tax Act (Statutes of Canada, 1970-71-72, chapter 63), the premium determined under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1) and the contribution determined under the Act respecting the Québec Pension Plan

(R.S.Q., chapter R-9), all of which are computed in accordance with the method determined by regulation of the Government.

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

Deductions **63.** For the purposes of the deductions under section 62, the Minister shall take into account whether or not the victim, on the date of the manifestation of the injury, has a spouse, and the number of his dependants within the meaning of section 76.

Maximum Yearly Insurable Earnings **64.** For the year 1993, the amount of the Maximum Yearly Insurable Earnings is \$46 500.

Computation For the year 1994 and each subsequent year, the amount of the Maximum Yearly Insurable Earnings is obtained by multiplying the Maximum for the year 1993 by the ratio between the sum of the average of weekly salaries and wages of the Industrial Composite in Québec as established by Statistics Canada for each of the 12 months preceding 1 July of the year preceding the year for which the amount of the Maximum Yearly Insurable Earnings is computed and the same sum for each of the 12 months preceding 1 July 1992.

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

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

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

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

Entitlement **65.** If the victim becomes able to hold employment determined for him by the Minister in accordance with section 55 or 56 and if, by reason of his injury, he can derive from that employment only a gross income that is less than the income used by the Minister as the basis

for computing the income replacement indemnity he was receiving before the determination of that employment, the victim is entitled, at the expiry of the year referred to in paragraph 4 of section 58, to an income replacement indemnity equal to the difference between the indemnity he was receiving at the time the Minister determined the employment for him and the net income he derives or could derive from the employment determined by the Minister.

Reduction **66.** Where a victim who is entitled to an income replacement indemnity holds employment from which he derives a gross income that is less than the income used by the Minister as the basis for computing the income replacement indemnity, such indemnity shall be reduced by 75% of the net income derived from the employment.

Applicability This section does not apply in the case of an indemnity reduced in accordance with the provisions of section 65.

Relapse **67.** If the victim suffers a relapse of his injury within two years after the end of the last period of incapacity for which he was entitled to an income replacement indemnity or, if he was not entitled to such an indemnity, within two years after the date of the manifestation of the injury, he shall receive compensation from the date of the relapse as though his incapacity had not been interrupted.

Indemnity If, however, the indemnity computed on the basis of the gross income actually earned by the victim at the time of the relapse is greater than the indemnity to which the victim would be entitled under the first paragraph, the victim shall receive the greater of the two.

Relapse If the victim suffers a relapse more than two years after the time indicated in the first paragraph, he shall receive compensation as if the relapse were another injury.

Exclusion **68.** The income replacement indemnity mentioned in the first paragraph of section 67 does not include the indemnity referred to in either section 65 or section 66.

Indemnity **69.** A victim receiving an income replacement indemnity other than an indemnity referred to in section 60, 65 or 66 and who claims another such indemnity following a relapse or another injury cannot receive both indemnities.

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

CHAPTER III

COMPENSATION FOR LOSS OF PHYSICAL OR MENTAL INTEGRITY

70. A victim who suffers permanent physical or mental impairment is entitled to a lump sum indemnity the amount of which is equal to the product obtained by multiplying the maximum amount referred to in section 75, that is applicable to the victim on the date of the Minister's decision on entitlement to the indemnity, by the percentage determined for the permanent injury sustained.

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

72. The lump sum indemnity is not payable if the victim dies.

If, however, the death of the victim does not result from the injury he has sustained and if, on the date of his death, a permanent impairment was medically discernable, the Minister shall estimate the amount of compensation that he would probably have awarded to the victim and pay that amount to the victim's succession.

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

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

74. Where the victim sustains more than one permanent impairment, the Minister shall evaluate each impairment in terms of a reduced percentage using the method of calculation determined by regulation of the Government.

If the permanent impairment affects symmetrical organs, or an organ symmetrical to one already impaired, the Minister shall grant an additional percentage determined in accordance with the regulation of the Government on the basis of the anatomical or functional nature of the impairment.

75. The lump sum indemnity shall not be less than \$564 or greater than \$127 250.

CHAPTER IV

DEATH BENEFIT

DIVISION I

INTERPRETATION AND APPLICATION

Interpreta-
tion

76. In this chapter, unless the context indicates otherwise,

“Spouse”

“Spouse” means the man or woman who, on the date of the victim’s death, is married to and living with the victim or who has been living in a *de facto* union with the victim and has been publicly represented as his spouse for at least three years or, in the following cases, for at least one year:

- a child has been born or is to be born of their union;
- they have adopted a child together; or
- one of them has adopted a child of the other;

“Dependant”

“Dependant” means

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

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

(3) a child of full age of the victim and a person of full age to whom the victim stands *in loco parentis*, provided more than 50 % of their basic needs and maintenance costs are borne by the victim;

(4) any other person related to the victim by blood or adoption and any other person standing *in loco parentis* to him, provided more than 50 % of their basic needs and maintenance costs are borne by the victim.

Disabled
person

77. For the purposes of this chapter, a person is disabled if he is suffering from severe and prolonged physical or mental disability.

Severe
disability

A disability is severe if the person is ordinarily incapable of pursuing any substantially gainful occupation. It is prolonged if it is likely to result in death or be of indefinite duration.

78. For the purposes of this chapter, a person who would have been a dependant of the victim if the victim had held employment at the time of his death is considered to be a dependant of the victim.

79. The death of a victim gives entitlement to the indemnities provided for in this chapter.

DIVISION II

INDEMNITIES TO THE SPOUSE AND DEPENDANTS

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

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

81. The amount of the lump sum indemnity payable under section 80 to the spouse of a deceased victim shall not be less than \$45 149.

82. The spouse of a deceased victim is entitled, where the victim would not have been entitled to an income replacement indemnity under section 80, to a lump sum indemnity of \$45 149.

83. A dependant of the victim on the date of his death is entitled to a lump sum indemnity in the amount listed in Schedule IV opposite his age on that date.

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

84. A dependant who is disabled on the date of death of the victim is entitled to an additional lump sum indemnity of \$18 624.

85. If the victim has no spouse on the date of his death but has a dependant within the meaning of paragraph 2 or 3 of section 76, the dependant is entitled, in addition to an indemnity under section 83 and, where applicable, in addition to an indemnity under section 84,

to a lump sum indemnity in an amount equal to the indemnity provided for in section 80, 81 or 82, as the case may be. If there is more than one dependant, the indemnity shall be divided equally among them.

Expenses **86.** The person who paid the funeral expenses or the expenses incurred for the transportation of the remains of the victim is entitled, on presentation of vouchers, to be reimbursed for such expenses up to an amount of \$3 386.

CHAPTER V

INDEMNITY FOR MAINTENANCE OF A CHILD BORN AS A RESULT OF AN INDICTABLE OFFENCE OF A SEXUAL NATURE

Indemnity **87.** A victim who gives birth to a child as a result of a sexual act mentioned in section 151, 152, 153 or 155 of the Criminal Code or sexual assault within the meaning of section 271, 272 or 273 of that Code is entitled, for as long as she provides for the maintenance of that child, to an indemnity therefor.

Payment **88.** The indemnity may be paid to a person who assumes the maintenance of the child gratuitously, because the mother has died or is unable to do so herself.

Entitlement period The person is entitled to the indemnity for as long as he assumes the maintenance of the child.

Payment period **89.** The indemnity shall be paid over a period not exceeding 20 years, in periodic instalments corresponding to the value of the lump sum indemnities provided for in sections 82 and 83 and, where applicable, section 84.

CHAPTER VI

REIMBURSEMENT OF CERTAIN EXPENSES AND REHABILITATION

DIVISION I

REIMBURSEMENT OF CERTAIN EXPENSES

§ 1.—*Personal assistance and care expenses*

Expenses **90.** Where, by reason of the injury sustained, the victim is in a physical or mental condition that requires the continual attendance

of another person or renders him unable to care for himself or perform, unaided, the essential activities of everyday life, he is entitled to be reimbursed for expenses incurred for personal home assistance.

Reimbursement

Expenses are reimbursed, on presentation of vouchers and according to the terms and conditions determined by regulation of the Government, up to the amount determined in the regulation. Such amount may not, however, exceed \$555 per week.

Allowance

In the cases determined by regulation of the Government, the Minister may replace the reimbursement of personal assistance expenses by an equivalent weekly allowance.

Allowance

91. Subject to section 92, a victim who holds part-time employment or is unemployed although able to work and whose main occupation, on the date of the manifestation of the injury, consists in taking care, for no remuneration, of a child under 16 years of age or of a person who, for any reason whatever, is ordinarily unable to hold employment is entitled to a weekly allowance for care expenses of

(1) \$282 where the victim takes care of one person referred to in the first paragraph;

(2) \$316 where the victim takes care of two persons referred to in the first paragraph;

(3) \$350 where the victim takes care of three persons referred to in the first paragraph;

(4) \$384 where the victim takes care of four or more persons referred to in the first paragraph.

Payment

The allowance shall be paid for as long as the victim is unable to care for a person referred to in the first paragraph.

Adjustment

It shall be adjusted, in the cases and on the conditions prescribed by regulation of the Government, at the end of the week during which a change occurs in the number of persons to be cared for.

Cessation of payment

Payment of the allowance shall cease at the end of the week during which the victim ceases to be unable to care for a person referred to in the first paragraph.

Indemnity

92. A victim who is entitled to both an allowance under section 91 and an income replacement indemnity under section 31 by reason of full-time or temporary employment that he could have held cannot receive both indemnities, but shall receive the income replacement indemnity for as long as the situation prevails.

Care expenses During that period, however, he is entitled to the reimbursement of the care expenses provided for in section 94.

Choice **93.** From the one hundred and eighty-first day following the date of the manifestation of the injury, a victim entitled to an allowance for care expenses under section 91 may elect either to continue to receive that allowance or to receive an income replacement indemnity determined under section 33.

Assistance and information The Minister, before the one hundred and eighty-first day following the date of the manifestation of the injury, shall provide the victim with the assistance and information he needs to make an enlightened choice.

Reimbursement **94.** A victim who becomes unable to care for a child under 16 years of age or for a person ordinarily unable, for any reason whatever, to hold employment is entitled to be reimbursed for the expenses incurred to pay the cost of such care if, on the date of the manifestation of the injury,

(1) he ordinarily holds full-time employment or temporary employment;

(2) he ordinarily holds more than one part-time employment for at least 28 hours a week;

(3) he is 16 years of age or over and is attending an educational institution on a full-time basis;

(4) he ordinarily holds part-time employment and subsequently elects to receive the income replacement indemnity provided for in the first paragraph of section 93;

(5) he holds no employment although he is able to work, and subsequently elects to receive the income replacement indemnity provided for in the first paragraph of section 93.

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

(1) \$86 where the victim incurs expenses to pay for the care of one person referred to in the first paragraph;

(2) \$113 where the victim incurs expenses to pay for the care of two persons referred to in the first paragraph;

(3) \$142 where the victim incurs expenses to pay for the care of three persons referred to in the first paragraph;

(4) \$169 where the victim incurs expenses to pay for the care of four or more persons referred to in the first paragraph.

Reimbursement These expenses shall be reimbursed for as long as the victim remains unable to care for a person referred to in the first paragraph.

Adjustment The expenses shall be adjusted, in the cases and on the conditions prescribed by regulation of the Government, at the end of the week during which a change occurs in the number of persons to be cared for.

Restriction A victim who has a spouse within the meaning of section 76 cannot receive a reimbursement of such expenses unless his spouse is unable to care for the person referred to in the first paragraph by reason of illness, deficiency, prohibition or absence for the purposes of work or studies or for a reason referred to in the first paragraph of section 149.

Reimbursement **95.** A victim working without pay in a family enterprise who becomes unable to perform his duties is entitled to be reimbursed for the expenses he incurs during the 180 days following the date of the manifestation of the injury to cover the cost of the manpower required to perform his duties.

Vouchers Such expenses, up to \$564 per week, shall be reimbursed on the presentation of vouchers.

§ 2.—*General expenses*

Reimbursement **96.** A victim is entitled, in the cases and on the conditions determined by regulation of the Government and to the extent that they are not already covered by a social security scheme, to be reimbursed for the expenses he incurs by reason of the injury sustained, up to the amount determined by regulation

(1) for medical and paramedical care;

(2) for travel or lodging for the purpose of receiving such care;

(3) for the purchase of prostheses or orthoses;

(4) for the cleaning, repair or replacement of clothing he was wearing and which was damaged.

Reimbursement The victim is also entitled, in the cases and on the conditions determined by regulation under the first paragraph, to be reimbursed for any other expenses determined by regulation.

Reimburse-ment **97.** A person who pays any of the expenses referred to in section 96 on behalf of a victim is entitled to be reimbursed therefor in accordance with the conditions set out in that section.

Exclusion **98.** No social security scheme may exclude expenses incurred by or on behalf of a victim from its coverage.

Damage to property **99.** A person to whom paragraph 2 of section 9 applies is entitled to a sum not exceeding \$2 700 for damage caused to his property.

Availability allowance **100.** The person who accompanies or escorts a victim whose physical or mental condition or age requires that he be accompanied or escorted when receiving medical or paramedical care is entitled, in the cases and on the conditions determined by regulation of the Government, to an availability allowance and to be reimbursed for the travel and lodging expenses he incurs, up to the amount determined by regulation.

Vouchers **101.** The expenses referred to in this subdivision shall be reimbursed on presentation of vouchers.

DIVISION II

REHABILITATION

Measures applicable to victim **102.** The Minister may take any necessary measures to contribute to the rehabilitation of a victim, to alleviate or correct any incapacity resulting from the injury sustained and to facilitate his return to a normal life or his reinsertion into society or the labour market.

Relative of victim The Minister may also take any necessary measures to contribute to the psychotherapeutical rehabilitation of a relative where required for the rehabilitation of the victim.

Homicide or kidnap victim **103.** The Minister may take any necessary measures to contribute to the psychotherapeutical rehabilitation of a relative of a homicide or kidnap victim who sustains mental injury as a result of the event.

CHAPTER VII

ADJUSTMENT

Gross annual income **104.** The amount of the gross annual income used as the basis for computing the income replacement indemnity of a victim shall be

adjusted each year on the anniversary of the date of the manifestation of the injury.

Gross
annual
income

Similarly, the amount of the gross annual income established by the Minister for the employment determined in accordance with the provisions of section 54, 55 or 56 shall be adjusted each year on that date.

Period of
adjustment

105. The amounts listed in Schedule IV or referred to in this Title shall be adjusted on 1 January each year from the year 1994.

Adjustment

106. Adjustment is carried out by multiplying the amount to be adjusted by the ratio between the Consumer Price Index for the current year and that for the preceding year.

Consumer
Price Index

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

Incomplete
data

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

Computation

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

Computation

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

Computation

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

Adjustment

110. The amount obtained through adjustment is rounded off to the nearest dollar.

CHAPTER VIII

CLAIMS

DIVISION I

CLAIMS PROCEDURE

Filing of
claims

111. The claimant shall file his claims for indemnities, reimbursement of expenses or rehabilitation services in accordance with the terms and conditions determined by regulation of the Government.

Information

The claimant is entitled to receive the required information on the processing of his claim in as complete a form as possible.

Presumption

112. Any application filed under the Act respecting industrial accidents and occupational diseases, the Automobile Insurance Act, the Act to promote good citizenship (R.S.Q., chapter C-20) or the Crime Victims Compensation Act which is refused on the ground that it should have been filed under this Title is, however, deemed to have been filed validly under this Title.

Time limit

113. Subject to section 14, a claim must be filed with the Minister within three years after the date of the manifestation of the injury. Where the victim dies, the claim must be filed within three years after his death.

Time limit

The Minister may allow the claimant to file his claim after the end of that period or of the period referred to in section 14 if it was impossible for him to act sooner, either by himself or through a representative.

Prescription

114. A claim filed in accordance with the provisions of section 113 interrupts the prescription provided for in the Civil Code of Québec in favour of the claimant or in favour of the Minister where he is subrogated to the rights of the claimant, until a final decision is rendered on the claim.

Examination

115. At the request of the Minister, a claimant shall undergo an examination by a health professional within the meaning of the Health Insurance Act (R.S.Q., chapter A-29). The examination shall be carried out, at the expense of the Minister, by the health professional chosen by the claimant.

Examination **116.** Where he considers it necessary, the Minister may, at his expense, require a claimant to undergo an examination by a health professional designated by the Minister.

Examination The examination shall be conducted in accordance with the rules determined by regulation of the Government.

Reimbursement of expenses **117.** A claimant who undergoes the examination referred to in section 115 or 116 is entitled, in the cases and on the conditions determined by regulation of the Government, to be reimbursed for the travel and lodging expenses incurred in connection with the examination, up to the amount determined by regulation.

Availability allowance The person who accompanies or escorts a claimant whose physical or mental condition or age requires that he be accompanied or escorted when undergoing such an examination is entitled, in the cases and on the conditions determined by regulation of the Government, to an availability allowance and to be reimbursed for the travel and lodging expenses he incurs, up to the amount determined by regulation.

Report **118.** The health professional who examines a claimant at the request of the Minister shall make a report to the Minister on the state of health of the claimant and on any other matter for which the examination was required.

Copy The Minister, on receiving the report, shall send a copy to the health professional designated by the claimant.

Change in situation **119.** The claimant must notify the Minister forthwith of any change in his situation affecting his right to a benefit or which may affect the amount of the benefit.

Information **120.** The claimant must provide the Minister with any relevant information required for the purposes of this Title or give the authorizations needed to obtain it.

Proof The claimant must provide the Minister with proof of any fact establishing that the injury sustained resulted from one of the circumstances described in paragraph 1 of section 9.

Refusal **121.** The Minister may refuse to grant a benefit in the following cases:

(1) where the victim, by participating in illegal activities, contributed to the realization of the injury;

(2) where a claimant, by participating in illegal activities, contributed to the realization of the injury.

Refusal

122. The Minister may refuse, reduce, suspend or cease payment of a benefit in the following cases:

- (1) where the claimant
 - (a) wilfully provides false or inaccurate information;
 - (b) refuses or omits to provide information required by the Minister or by a provision of this Act, or to give the authorization needed to obtain such information;
 - (c) after submitting a claim, does not cooperate or ceases to cooperate with the competent legal authorities in respect of the inquiry or the proceedings, unless he is exempt from the requirement to cooperate pursuant to section 13;
- (2) where the claimant, without valid reason,
 - (a) refuses new employment, refuses to return to his former employment or abandons an employment that he could continue to hold;
 - (b) hinders an examination requested by the Minister or fails or refuses to undergo such an examination;
 - (c) hinders the recommended medical or paramedical care or fails or refuses to undergo such care;
 - (d) engages in an act or practice which prevents or delays his recovery;
 - (e) hinders the rehabilitation measures made available to him by the Minister pursuant to section 102 or 103, or fails or refuses to avail himself of such measures.

DIVISION II

CLAIMS UNDER OTHER PLANS

Restriction

123. A person who receives an income replacement indemnity or a total disability benefit from the Minister under an Act administered by him and who, by reason of a new event, claims an income replacement indemnity or a total disability benefit under the Act respecting industrial accidents and occupational diseases, the Automobile Insurance Act or any other Act administered by the

Minister, other than the Act under which he already receives such an indemnity or benefit, cannot receive the indemnity and the benefit at the same time.

Continued
payment

The Minister shall continue to pay to that person the income replacement indemnity or total disability benefit he is already receiving, where that is the case, until his entitlement to and the amount of the benefits payable under each of the applicable Acts are determined.

Agreement

124. The Minister shall enter into an agreement with the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail to establish a procedure for the processing of claims filed, as the case may be, under the Act respecting industrial accidents and occupational diseases or the Automobile Insurance Act by any person referred to in section 123.

Agreement

Such an agreement must enable

(1) a distinction to be made between the damages resulting from the new event and those attributable to a previous event governed by an Act administered by the Minister;

(2) the entitlement to and amount of the benefits payable under each of the applicable Acts to be determined;

(3) the benefits to be paid by each authority to be determined and the cases, amounts and reimbursement procedures between authorities to be specified.

Decision

125. Where a person referred to in section 123 claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or the Automobile Insurance Act, the Minister and the Commission de la santé et de la sécurité du travail or, as the case may be, the Société de l'assurance automobile du Québec shall, for the purposes of the agreement referred to in section 124, jointly render a decision that distinguishes between the damages attributable to each event and shall specify the resulting entitlement to the benefits payable under each of the applicable Acts.

Appeal

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

Appeal An appeal brought under either Act precludes an appeal under any other, and the decision rendered in appeal is binding on the authorities concerned.

Claim **126.** Where a person receiving an income replacement indemnity or a total disability benefit under an Act administered by the Minister claims, by reason of another event, an income replacement indemnity under another Act administered by him, the Minister shall distinguish between the damages attributable to each event and shall specify the resulting entitlement to and the amount of the benefits payable under each of the applicable Acts.

Appeal A person who believes he has been wronged by the decision may elect to bring an appeal under this Act or under the other Act administered by the Minister.

Appeal An appeal brought under either Act precludes an appeal under the other, and the decision rendered in appeal is binding on the Minister.

CHAPTER IX

DECISION, REVIEW AND APPEAL

DIVISION I

DECISION OF THE MINISTER

Jurisdiction **127.** The Minister of Justice has exclusive jurisdiction to determine the claimant's entitlement to a benefit under this Title and, if necessary, to determine the amount of that benefit.

Claim **128.** The Minister shall examine the claim and render his decision with diligence.

Decision **129.** The Minister may, before ruling on a claim, await the result of an inquiry or the decision of a judicial or administrative authority that may influence his decision.

Decision **130.** The decision of the Minister must include reasons and be sent in writing to the claimant. It shall mention the claimant's right to apply for a review and the time within which he may submit his application.

Decision **131.** So long as a decision has not been inscribed for review or appeal, the Minister may, on his own motion or at the request of an interested person, reconsider the decision

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

(2) where a substantive or procedural defect is likely to invalidate it;

(3) if it contains an error in writing or in calculation or any other clerical error.

Decision The new decision replaces the initial decision, which ceases to be effective, and the provisions concerning review and appeal apply to the new decision.

Decision **132.** The Minister may, at any time, render a new decision in the event of a change in circumstances affecting the right of the claimant or the amount of the indemnity.

DIVISION II

REVIEW AND APPEAL

Review **133.** The claimant may, within 60 days from the date on which he is informed of the decision of the Minister, apply in writing for a review. The application shall indicate the date, the main reasons and the subject of the decision to which it refers.

Application An application for review does not suspend execution of the Minister's decision.

Review **134.** The review is carried out by the person appointed for that purpose by the Minister.

Act of appointment The act of appointment shall specify the period for which the appointment is valid.

Application **135.** An application for review cannot be refused on the ground that it was received after the time prescribed where the applicant proves that he was unable to act earlier.

Person appointed **136.** The person appointed by the Minister, when seized of an application for review, may confirm, quash or amend the original decision after giving the claimant the opportunity to be heard.

Decision **137.** The decision in review must include reasons and be sent to the claimant in writing. It shall mention the claimant's right to appeal from the decision to the Commission des affaires sociales and the time within which he may do so.

Appeal **138.** A claimant who believes he has been wronged by a decision in review may appeal therefrom to the Commission des affaires sociales within the time and according to the procedure prescribed in the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34).

CHAPTER X

PAYMENT AND RECOVERY OF BENEFITS

DIVISION I

PAYMENT OF BENEFITS

Payment **139.** An income replacement indemnity shall be paid in the form of a pension once every 14 days.

Due date It is due as from the day following the date of the manifestation of the injury, except in the case provided for in the third paragraph of section 67.

Allowance The allowance referred to in section 91 shall be paid once every 14 days.

Deferred studies An indemnity for deferred studies granted to a victim referred to in section 35 or 43 shall be paid at the end of the term or school year that he misses by reason of the injury sustained.

Deferred studies An indemnity for deferred studies granted to a victim referred to in section 41 or 48 shall be paid at the end of the uncompleted term or school year.

Advance **140.** If he is of the opinion that an application appears to be well founded, the Minister may pay an advance to the claimant.

Advance Notwithstanding section 153, the Minister cannot, after making his decision, recover an advance made unless it was obtained fraudulently.

Payment **141.** The Minister may pay an income replacement indemnity in a single payment equivalent to the capital value of the indemnity where

(1) the amount to be paid once every 14 days is less than \$113;

(2) the claimant was not residing in Québec on the date of the manifestation of the injury and has not resided in Québec since;

(3) the claimant was residing in Québec on the date of the manifestation of the injury or has resided in Québec since that date but not for at least three years at the time of the application for capitalization.

Payment **142.** The expenses referred to in section 96 may, at the request of the claimant, be paid directly to the supplier.

Unpaid indemnity **143.** Any part of an indemnity unpaid on the date of death of the person entitled thereto shall be paid to his succession.

Minor or protected person of full age **144.** Where the claimant is a minor or a protected person of full age who does not have legal capacity as recognized by a provision of the Civil Code of Québec, the Minister shall pay the indemnity to which the claimant is entitled to his tutor or curator, as the case may be, and shall notify the Public Curator.

Presumption **145.** Income replacement indemnities are deemed to be the salary of the claimant and may be seized as a debt for support in accordance with the second paragraph of article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25), adapted as required. They are, however, exempt from seizure in respect of any other debt.

Exemption All other indemnities paid under this Title are exempt from seizure.

Deductions **146.** The Minister, at the request of the Minister of Manpower and Income Security, shall deduct from the benefits payable to the claimant under this Title any benefits that were paid directly to the claimant or to his family under the Act respecting income security (R.S.Q., chapter S-3.1.1) and which are subject to reimbursement under section 35 of that Act.

Deduction The Minister shall remit the deducted amount to the Minister of Manpower and Income Security.

Reduction **147.** Where, by reason of the injury sustained, a claimant is entitled to both an income replacement indemnity payable under this Title and a benefit payable under the Act respecting the conservation and development of wildlife (R.S.Q., chapter C-61.1), a disability benefit payable under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) or any other benefit of the same nature provided for under an Act other than an Act of the Parliament of Québec, the benefit payable under this Title is reduced by the amount to which the claimant is entitled under those Acts.

Reduction A benefit payable under this Title is also reduced by the amount of any compensation the claimant receives under the Criminal Code or the Young Offenders Act (L.R.C., 1985, chapter Y-1), or by the amount of any benefit he receives from the person responsible for the injury or from a third person subrogated to his rights.

Measures **148.** The Minister may take the measures he considers appropriate to ensure that the person having caused the injury does not profit from the benefits to which the claimant is entitled, including

(1) suspending or staggering payment of the benefits to which the claimant is entitled, or paying them to a third person for the claimant's benefit;

(2) suspending payment of the benefits to which the claimant is entitled until the replacement or appointment of the tutor or curator responsible for administration of the sums.

Reduction **149.** Where, by reason of an indictable offence, a victim is committed to a penitentiary or detained in a house of detention or in a facility maintained by an institution operating a rehabilitation centre governed by the Act respecting health services and social services and amending various legislative provisions or in a reception centre governed by the Act respecting health services and social services for Cree and Inuit Native persons, the Minister shall reduce the income replacement indemnity to which he is entitled by reason of the injury sustained, by an amount equivalent on a yearly basis to the following percentage thereof:

(1) 100% in the case of a victim with no spouse or dependants, unless he shows that, by reason of the injury sustained, he has become unable to hold the employment that he holds or would have held during his committal, imprisonment or detention, in which case the percentage is 75%;

(2) 45% in the case of a victim with a spouse or one dependant;

(3) 35% in the case of a victim with a spouse and one dependant, or with two dependants;

(4) 25% in the case of a victim with a spouse and two dependants, or with three dependants;

(5) 10% in the case of a victim with a spouse and three or more dependants, or with four or more dependants.

Reduction The reduction shall remain in force until the end of the period of committal, imprisonment or detention of the victim or, as the case may

be, until the date of a judgment finding the victim not guilty of the indictable offence.

Adjustment The reduction shall be adjusted during the committal, imprisonment or detention of the victim, in the cases and on the conditions prescribed by regulation of the Government, according to whether or not he has a spouse, and the number of dependants referred to in the first paragraph.

Payment For the purposes of this section, the income replacement indemnity to which a victim who, on the date of the manifestation of the injury, has a spouse or one or more dependants within the meaning of section 76 is entitled, shall be paid to the spouse or dependants in accordance with the terms and conditions prescribed by regulation of the Government.

Payment If the victim, by virtue of a judgment having acquired the authority of a final judgment (*res judicata*), is found not guilty of the offence for which he was committed, imprisoned or detained, the Minister shall pay to the victim the amount that had been subtracted from the income replacement indemnity, with interest determined in accordance with the provisions of section 151 and computed from the time the reduction began.

Reimbursement **150.** A person whose application for review or appeal is allowed and who has filed a medical expert's written report in support is entitled to be reimbursed for the cost of that report, on presentation of vouchers, up to the amount determined by regulation of the Government.

Interest **151.** Where, following an application for review or appeal, the Minister or the Commission des affaires sociales recognizes a person's entitlement to an indemnity that was formerly denied or increases the amount of an indemnity, he or it shall, in every case, order that interest be paid to that person.

Rate of interest The rate of interest is that determined under the second paragraph of section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) and shall be computed from the date of the decision refusing recognition of entitlement to an indemnity or refusing an increase in the amount of an indemnity.

Offence and penalty **152.** Any person who makes a declaration knowing that it contains false or misleading information or who sends a document containing false or misleading information with a view

(1) to obtaining or receiving a benefit to which he is not entitled;

- (2) to causing such a benefit to be granted to another person, or
- (3) to helping another person obtain a benefit to which he is not entitled,
- is liable to a fine of not less than \$325 and not more than \$2 800.

DIVISION II

RECOVERY OF BENEFITS

Reimbursement

153. A person who has received a benefit to which he is not entitled or which exceeds the amount to which he is entitled shall reimburse the excess amount received to the Minister.

Recovery

The Minister may recover the amount of the debt within three years of payment of the benefit or, in the case of fraud, within three years of becoming aware of the fraud.

Cancellation of debt

He may also cancel the debt if he considers that, in view of the circumstances, the amount is unrecoverable, or he may deduct the amount of the debt, in the manner prescribed by regulation of the Government, from any sum he owes to the debtor.

Fraud

The Minister may, in a case of fraud, make a deduction under the third paragraph notwithstanding a debtor's application for review or appeal.

Cancellation or reduction

154. Notwithstanding section 153, where, following an appeal or an application for review, the Minister or the Commission des affaires sociales renders a decision which cancels a benefit or reduces its amount, the sums already paid are not recoverable unless they were obtained fraudulently or unless the appeal or the application for review pertains to a decision rendered under section 153.

Reconsideration

155. Notwithstanding section 153, where a decision is reconsidered by the Minister because it was rendered before an essential fact became known, was based on an error pertaining to an essential fact or was vitiated by a substantive or procedural error likely to invalidate the decision, the sum already paid shall not be recoverable unless it was obtained fraudulently.

Reimbursement

156. A person who wilfully prevents the Minister from exercising his recourse as subrogee as provided for in section 17 is required to reimburse the benefit received from the Minister.

Recovery

The Minister may recover the debt within three years after the act preventing him from acting as subrogee.

Cancellation The Minister may also cancel the debt where he considers that, given the circumstances, the amount is unrecoverable.

Decision **157.** The Minister shall put the debtor on notice by the service of a decision stating the amount and the reasons for the exigibility of the debt. The decision shall mention the debtor's right to apply for a review and the time allowed to file his application.

Prescription The decision interrupts prescription as provided in section 153 or 156, as the case may be.

Certificate **158.** Where a debt referred to in this division is not recovered or cancelled, the Minister may issue a certificate

(1) attesting the failure of the debtor to appeal from the decision rendered under section 157 or confirming the final decision maintaining the decision, as the case may be;

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

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

Decision **159.** From the filing of the certificate in the office of the court of competent jurisdiction, the decision of the Minister or of the Commission des affaires sociales becomes executory as if it were a final judgment of that court, not subject to appeal, and has all the effects of such a judgment.

TITLE III

ADMINISTRATION AND FINANCING

CHAPTER I

THE BUREAU D'AIDE ET D'INDEMNISATION DES VICTIMES D'ACTES CRIMINELS

Change of name **160.** The Bureau d'aide aux victimes d'actes criminels, established at the Ministère de la Justice under section 8 of the Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2), shall continue its activities, under the name of the "Bureau d'aide et d'indemnisation des victimes d'actes criminels", in accordance with the provisions of this Act.

Mandate **161.** The mandate of the Bureau is to promote and support assistance to the victims of crime and to perform any function entrusted to it by the Minister concerning compensation.

Mandate In carrying out its mandate, the Bureau shall foster the provision of information to victims of crime and the establishment of appropriate programs and services. For these purposes, the Bureau may, within the scope of government policy and in relation to any matter relating to victims of crime

(1) take part in the development, assessment and review of programs and services;

(2) implement and administer the programs;

(3) foster the coordination of the programs and services and the cooperation of persons, departments, groups and organizations;

(4) produce and disseminate information material or informational, educational or awareness programs or activities dealing with the rights and needs of victims of crime and the services available to them, and encourage the production and dissemination of such information material and such programs or activities by third persons;

(5) identify priorities and needs in terms of research, study and analysis and carry out such activities or cause such activities to be carried out by others;

(6) promote and coordinate the establishment and development of assistance centres for victims of crime, in particular by offering community organizations the technical and professional support required to establish and operate such centres.

Functions The Bureau may also perform any other function entrusted to it by the Minister in a field related to assistance and compensation for the victims of crime.

CHAPTER II

THE MINISTER OF JUSTICE

Financial assistance **162.** The Minister may, in accordance with the eligibility and allocation criteria he determines in conformity with applicable budgetary rules, grant financial assistance

(1) for the promotion of the rights of victims of crime and the defense of their interests;

(2) for the development of assistance services for victims of crime, including support for the establishment and maintenance of assistance centres for victims of crime recognized in accordance with section 163;

(3) for the production and dissemination of studies and research on matters pertaining to victims of crime;

(4) for the production and dissemination of information material or for the devising and proposing of informational, educational or awareness programs or activities;

(5) for the providing of support to groups of community-based support organizations for victims of crime.

Assistance
centre

163. The Minister may, according to the eligibility criteria he determines, grant recognition as an assistance centre to a community-based organization which is taking part in the establishment of an assistance program for victims of crime.

Assistance
centre

A group or organization recognized as an assistance centre must abide by the terms, conditions and commitments which are evidenced in an agreement with the Minister.

Agreements

164. The Minister may, in accordance with law, enter into agreements relating to assistance and compensation for victims of crime with a government in Canada or abroad, with a department or body of such a government or with an international organization or a body of such an organization.

Delegation
of powers

165. The Minister may generally or specially delegate to a member of the personnel of his department or to a person he designates the exercise of the powers vested in him by this Act.

Contract or
agreement

166. The Commission de la santé et de la sécurité du travail and the Société de l'assurance automobile du Québec may make with the Minister any contract for services or any agreement relating to the application of this Act.

Investiga-
tion

167. The Minister may investigate any matter relating to compensation, reimbursement of expenses or rehabilitation and may designate investigators for this purpose.

Powers and
immunity

168. For the purposes of an investigation, the investigators are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

Investiga-
tors

169. The investigators must, if so requested, identify themselves and produce a certificate issued by the Minister which attests their authority.

CHAPTER III

FONDS D'AIDE ET D'INDEMNISATION DES VICTIMES D'ACTES
CRIMINELSSpecial
fund

170. A special fund, the "Fonds d'aide aux victimes d'actes criminels", established at the Ministère de la Justice under section 11 of the Act respecting assistance for victims of crime, shall continue its activities under the name of the "Fonds d'aide et d'indemnisation des victimes d'actes criminels" in accordance with the provisions of this Act.

Amounts

171. The Fonds is made up of the following amounts, except interest:

- (1) the victim fine surcharges collected under the Criminal Code;
- (2) the sums recovered by the Minister in exercising his recourse as subrogee;
- (3) the sums received for goods and services financed by the amounts;
- (4) the sums paid into it pursuant to an agreement referred to in section 164;
- (5) the gifts, legacies and other contributions paid into it;
- (6) the sums paid by the Minister of Finance under section 175 of this Act and section 69.6 of the Financial Administration Act;
- (7) the sums the Minister of Finance is authorized to pay into it under section 173.

Sums taken
out of fund

172. Sums shall be taken out of the Fonds, as required, to

- (1) administer the compensation scheme provided for in Title II and the compensation scheme provided for in the Crime Victims Compensation Act;
- (2) grant the financial assistance provided for in section 162;
- (3) pay the expenses necessary for the carrying out of the activities of the Bureau under the provisions of this Act or assigned

to it by the Minister, including payment of the remuneration and expenses relating to fringe benefits and other conditions of employment of members of the personnel of the Ministère de la Justice and of other persons designated by the Minister who are assigned to the Bureau.

Consolidated
revenue
fund

173. As the needs of the Fonds develop, the Minister of Finance shall periodically pay into the Fonds amounts totalling a sum equal to the difference, for a given fiscal year, between the amounts needed for the administration of this Act and the amounts referred to in paragraphs 1 to 6 of section 171. The amounts shall be paid out of the consolidated revenue fund.

Consolidated
revenue
fund

Where applicable, the surplus amounts accumulated by the Fonds are paid into the consolidated revenue fund, on the dates and to the extent determined by the Government.

Insufficient
fund

174. Notwithstanding any provision to the contrary, the Minister of Finance, where the consolidated revenue fund is insufficient, shall take from the Fonds the sums required to execute a decision that has acquired the authority of a final judgment (*res judicata*) against the Crown.

Advance

175. With the authorization of the Government and on the conditions it determines, the Minister of Finance may advance to the Fonds sums taken out of the consolidated revenue fund.

Short-term
advance

The Minister of Finance may also make a short-term advance to the consolidated revenue fund, on the conditions he determines, of any portion of the sums making up the Fonds which is not required for the operation of the Fonds.

Repayment

An advance granted by the Minister of Finance shall be repaid by the fund that received it.

Manage-
ment

176. The sums making up the Fonds shall be under the management of the Minister of Finance. Such sums shall be credited to the Minister of Finance and deposited with the financial institutions he designates.

Books of
account

The book of accounts and the recording of the financial commitments chargeable to the Fonds shall, notwithstanding section 13 of the Financial Administration Act (R.S.Q., chapter A-6), be kept by the Minister of Justice. The latter, in addition, shall certify that such commitments and the payments arising therefrom do not exceed the available balances and comply therewith.

Applicable provisions **177.** Sections 22, 24 to 27, 33, 35, 45, 47 to 49, 49.2, 49.6, 51, 57 and 70 to 72 of the Financial Administration Act, adapted as required, apply to the Fonds.

Applicable provisions Section 23 of the Financial Administration Act shall apply with respect to the budget estimates relating to the operating expenses of the Fonds and to the sums required for the granting of financial assistance under section 162.

Fiscal year **178.** The fiscal year of the Fonds shall end on 31 March.

TITLE IV

REGULATORY PROVISIONS

Regulations **179.** The Government may, by regulation, for the purposes of Title II,

(1) determine, on a weekly or annual basis, the gross income by class of employment and based on work experience for the purposes of Division II of Chapter II of this Title;

(2) determine the cases and conditions under which employment is considered to be full-time, part-time or temporary;

(3) establish the manner in which the gross income is reduced to take account of the fact that a victim holds employment on a part-time basis for the purposes of sections 29 and 39;

(4) establish, for the purposes of sections 54 and 57, the standards and procedure for determining employment for a victim;

(5) define, for the purposes of the second paragraph of section 57, the expressions "employment which exists" and "region in which the victim resides";

(6) determine, for the purposes of section 62, the method for computing the net income;

(7) establish a schedule of permanent impairments and attribute a percentage to each impairment for the purposes of the first and second paragraphs of section 73;

(8) provide, for the purposes of the first paragraph of section 74, a method of computation to allow the reduction of the percentages determined for permanent impairments where a victim sustains more than one impairment;

(9) establish, for the purposes of the second paragraph of section 74, an additional percentage, or prescribe a method enabling such a percentage to be determined, where the permanent impairment affects symmetrical organs or parts of the body, or an organ or part of the body symmetrical to one already impaired, on the basis of the anatomical or functional nature of the impairments;

(10) determine the procedures and conditions for the reimbursement of the expenses referred to in the first paragraph of section 90 and establish the maximum amount for each such expense;

(11) determine, for the purposes of the third paragraph of section 90, the cases in which the reimbursement of expenses may be replaced by an equivalent weekly allowance;

(12) determine the cases and conditions where the expenses referred to in sections 91 and 94 may be adjusted according to variations in the number of persons referred to therein;

(13) determine the cases and conditions giving entitlement to reimbursement of the expenses referred to in the first paragraph of section 96, establish the maximum amount which may be reimbursed for each such expense and prescribe, for the purposes of the second paragraph, the other expenses giving entitlement to reimbursement;

(14) determine the cases and conditions giving entitlement to the availability allowance and to the reimbursement of the expenses referred to in section 100 and establish the maximum amount which may be reimbursed for each such allowance or expense;

(15) determine, for the purposes of section 111, the procedure for filing a claim;

(16) determine the rules to be followed by a health professional in performing the examination that the Minister may require under section 116;

(17) determine the cases and conditions giving entitlement to the availability allowance or to the reimbursement of expenses referred to in section 117 and determine the maximum amount which may be reimbursed for each such allowance or expense;

(18) determine, for the purposes of section 149, the cases and conditions according to which the income replacement indemnity may be adjusted in relation to the presence of a spouse and the number of dependants referred to therein;

(19) determine the conditions and procedure for payment of the income replacement indemnity to the spouse or dependants referred to in section 149;

(20) determine, for the purposes of section 150, the maximum amount that may be reimbursed in respect of the cost of the medical expert's report;

(21) determine, for the purposes of the third paragraph of section 153, the manner in which the amount of a debt may be deducted from any sum the Minister owes to the debtor.

TITLE V

AMENDING AND FINAL PROVISIONS

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

c. A-3.001,
s. 31, am.

180. Section 31 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting the words and figures "the Act respecting assistance and compensation for victims of crime (1993, chapter 54)," after the word "under" in the second line of the second paragraph.

c. A-3.001,
s. 103, am.

181. Section 103 of the said Act is amended by inserting the words and figures "the Act respecting assistance and compensation for victims of crime (1993, chapter 54)," after the word and figures "(chapter A-3)," in the third line of paragraph 1.

c. A-3.001,
s. 105, am.

182. Section 105 of the said Act is amended by inserting the words and figures "the Act respecting assistance and compensation for victims of crime (1993, chapter 54)," after the word and figures "(chapter A-3)," in the fifth line of paragraph 1.

c. A-3.001,
s. 107, am.

183. Section 107 of the said Act is amended by inserting the words and figures "the Act respecting assistance and compensation for victims of crime (1993, chapter 54)," after the word and figures "(chapter A-3)," in the fourth line of paragraph 1.

c. A-3.001,
s. 448, am.

184. Section 448 of the said Act is amended by replacing the first paragraph by the following paragraph:

Indemnity
or benefit
under other
Act

"448. A person to whom the Commission pays an income replacement indemnity or a total disability benefit under an Act administered by it and who, by reason of a new event, claims such indemnity or benefit under the Act respecting assistance and

compensation for victims of crime (1993, chapter 54), the Automobile Insurance Act (chapter A-25), the Act to promote good citizenship (chapter C-20) or the Crime Victims Compensation Act (chapter I-6), is not entitled to both indemnities for the same period.”

c. A-3.001,
s. 449, am.

185. Section 449 of the said Act is amended

(1) by inserting the words “the Minister of Justice or, as the case may be,” after the word “with” in the first line of the first paragraph;

(2) by replacing the words “Automobile Insurance Act (chapter A-25)” in the third line of the first paragraph by the words “Act respecting assistance and compensation for victims of crime (1993, chapter 54), the Automobile Insurance Act (chapter A-25), the Act to promote good citizenship (chapter C-20) or the Crime Victims Compensation Act (chapter I-6)”;

(3) by striking out the words “, to the injury sustained by the rescuer within the meaning of the Act to promote good citizenship (chapter C-20) or to the indictable offence sustained by the victim within the meaning of the Crime Victims Compensation Act (chapter I-6), as the case may be” in the second, third, fourth, fifth and sixth lines of paragraph 1 of the second paragraph;

(4) by inserting the words “and, where that is the case, the Minister of Justice” after the word “agency” in the first line of paragraph 3 of the second paragraph.

c. A-3.001,
s. 450, am.

186. Section 450 of the said Act is amended

(1) by replacing the words “under the Automobile Insurance Act (chapter A-25), the Commission and” in the second and third lines of the first paragraph by the words “or a total disability benefit, the Commission and, as the case may be, the Minister of Justice or”;

(2) by replacing the second paragraph by the following paragraph:

Appeal

“A person who believes he has been wronged by the decision may elect to bring an appeal under one of the applicable Acts.”;

(3) by replacing the words “both agencies” in the third line of the third paragraph by the words “the Commission and, as the case may be, the Minister of Justice or the Société de l’assurance automobile du Québec”.

c. A-3.001,
s. 451,
repealed

187. Section 451 of the said Act is repealed.

c. A-3.001,
s. 478, am. **188.** Section 478 of the said Act is amended by striking out the third paragraph.

c. A-3.001,
s. 578, am. **189.** Section 578 of the said Act is amended by adding the words and figures “but before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*)” at the end of the first paragraph.

ACT RESPECTING ASSISTANCE FOR VICTIMS OF CRIME

c. A-13.2,
repealed **190.** The Act respecting assistance for victims of crime (R.S.Q., chapter A-13.2) is repealed.

ACT RESPECTING FINANCIAL ASSISTANCE FOR STUDENTS

c. A-13.3,
s. 4, am. **191.** Section 4 of the Act respecting financial assistance for students (R.S.Q., chapter A-13.3) is amended by replacing the words and figures “or the Automobile Insurance Act (chapter A-25)” in the twelfth line of subparagraph 10 of the first paragraph by the words and figures “, the Automobile Insurance Act (R.S.Q., chapter A-25) or the Act respecting assistance and compensation for victims of crime (1993, chapter 54)”.

AUTOMOBILE INSURANCE ACT

c. A-25,
s. 83.62,
am. **192.** Section 83.62 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the words “the Commission de la santé et de la sécurité du travail by virtue of” in the first and second lines of paragraph 2 by the words “the Minister of Justice,”.

c. A-25,
s. 83.64,
am. **193.** Section 83.64 of the said Act is amended by inserting the words “that occurred before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*)” after the word “accident” in the first line of the first paragraph.

c. A-25,
s. 83.65,
am. **194.** Section 83.65 of the said Act is amended by inserting the words “the Act respecting assistance and compensation for victims of crime (1993, chapter 54) or, as the case may be, such an indemnity or” after the words and figure “diseases (chapter A-3.001) or” in the fourth line of the first paragraph.

c. A-25,
s. 83.66,
am. **195.** Section 83.66 of the said Act is amended
(1) by inserting the words “or the Minister of Justice, as the case may be,” after the word “travail” in the second line of the first paragraph;

(2) by inserting the words and figures “the Act respecting assistance and compensation for victims of crime (1993, chapter 54),” after the words and figure “diseases (chapter A-3.001),” in the fourth line of the first paragraph.

c. A-25,
s. 83.67,
am.

196. Section 83.67 of the said Act is amended

(1) by inserting the words and figures “the Act respecting assistance and compensation for victims of crime (1993, chapter 54) or, as the case may be, such an indemnity or” after the words and figure “diseases (chapter A-3.001) or” in the third line of the first paragraph;

(2) by inserting the words “or the Minister of Justice, as the case may be,” after the word “travail” in the sixth line of the first paragraph;

(3) by inserting the words “the Act respecting assistance and compensation for victims of crime,” after the word “diseases,” in the third line of the second paragraph;

(4) by adding, at the end of the third paragraph, the words “and, where applicable, on the Minister of Justice”.

ACT TO PROMOTE GOOD CITIZENSHIP

c. C-20,
s. 1, am.

197. Section 1 of the Act to promote good citizenship (R.S.Q., chapter C-20) is amended

(1) by striking out paragraph *a*;

(2) by replacing paragraph *c* by the following paragraphs:

“spouse”

“(c) “spouse” means the man or woman who, on the date of the victim’s death, is married to and living with the victim or who has been living in a *de facto* union with the victim and has been publicly represented as his spouse for at least three years or, in the following cases, for at least one year:

- a child has been born or is to be born of their union;
- they have adopted a child together; or
- one of them has adopted a child of the other;

“dependant”

“(c.1) “dependant” means

(1) the person who is separated from the rescuer *de facto* or legally, or whose marriage to the rescuer has been dissolved by a final

judgment of divorce or declared null by a declaration of nullity of marriage and who, on the date of the death, is entitled to receive support from the rescuer by virtue of a judgment or agreement;

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

(3) a child of full age of the victim and a person of full age to whom the victim stands *in loco parentis*, provided more than 50% of their basic needs and maintenance costs are borne by the victim;

(4) any other person related to the victim by blood or adoption and any other person standing *in loco parentis* to him, provided more than 50% of their basic needs and maintenance costs are borne by the victim;”;

(3) by inserting the words “or mental” after the word “bodily” in the first line of paragraph *d*;

(4) by replacing paragraph *e* by the following paragraph:

“benefit”

“(e) “benefit” means the indemnities, reimbursement of expenses, including reimbursement for damage to property, and rehabilitation services provided for in Title II of the Act respecting assistance and compensation for victims of crime (1993, chapter 54);”;

(5) by replacing paragraph *f* by the following paragraph:

“claimant”

“(f) “claimant” means the rescuer or, where the rescuer is deceased, his spouse or a dependant and the person referred to in the second paragraph of section 2;”.

c. C-20,
s. 2, am.

198. Section 2 of the said Act is amended

(1) by inserting the words “his spouse or” after the word “therefrom,” in the first line of the first paragraph;

(2) by replacing the word “commission” in the second line of the first paragraph by the words “Minister of Justice”;

(3) by replacing the second paragraph by the following paragraph:

Reimburse-
ment of
funeral
expenses

“The person who, being neither the spouse nor a dependant of the rescuer, has paid the funeral expenses or the expenses for transportation of the rescuer’s remains is entitled, on presentation of vouchers, to be reimbursed for such expenses up to the amount of \$3 386.”

c. C-20,
ss. 3-9,
repealed

199. Sections 3 to 9 of the said Act are repealed.

c. C-20,
ss. 11-14,
replaced

200. Sections 11 to 14 of the said Act are replaced by the following sections:

Discon-
tinued civil
proceedings

“11. If a person institutes civil proceedings that he discontinues, or if the amount awarded and collected as a result thereof is less than the amount of the benefits the person would have obtained under this Act, he may invoke this Act to claim the difference by notifying the Minister and filing his claim within one year from the date of discontinuance or of the final judgment.

Agreement

“12. If the person elects to avail himself of the provisions of this Act, any agreement reached between the parties respecting the civil proceedings or the right to institute such proceedings is null and void until ratified by the Minister. The terms and conditions of payment of the amount agreed upon or awarded shall be determined by the Minister.

Recovery

“13. Nothing in this Title shall affect the right of the claimant to recover from the person responsible for the injury sustained the amounts required to make up, with the benefits to which he is entitled, an amount equivalent to the loss actually sustained.

Subrogation

“14. Where the Minister decides to grant compensation to the claimant, he is subrogated by operation of law to the rights of the claimant up to the amount he may be called upon to pay him and may, in his own name or in the name and stead of the claimant, continue or institute civil proceedings.

Consolidated
revenue
fund

An amount so recovered shall be paid into the consolidated revenue fund.

Hypothec or
transfer

“14.1 Any hypothec on or any transfer of the right to any benefit provided for under this Act is null by operation of law.

Right of
recovery

The claimant has a right of recovery against any person who receives all or part of an amount of the benefit by virtue of such a hypothec or transfer.”

c. C-20,
s. 16, am.

201. Section 16 of the said Act is amended by striking out the second paragraph.

c. C-20,
ss. 18 and
19, repealed
c. C-20,
s. 20,
replaced

202. Sections 18 and 19 of the said Act are repealed.

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

Applicable
provisions

“20. Chapters VII to X of Title II and sections 164 to 169 of the Act respecting assistance and compensation for victims of crime apply, with the necessary changes.”

c. C-20,
ss. 20.1 and
20.2, added

204. The said Act is amended by inserting, after section 20, the following sections:

Applicable
provisions

“20.1 Where the injury sustained by the rescuer or his death results from an event having occurred before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*), paragraphs c, e and f of section 1 and sections 2, 3, 8, 20, 21 and 21.1, as they read before being amended, replaced or repealed by sections 197 to 199, 203, 205 and 206 of the Act respecting assistance and compensation for victims of crime, continue to apply to the claimant, subject to the following amendments:

(1) section 2 is amended by replacing the word “commission” in the second line of the first paragraph by the words “Minister of Justice”;

(2) section 3 is amended

(a) by replacing the word “commission” in the first line of the first paragraph by the word “Minister”;

(b) by adding the words “, subject to section 14 of the Act respecting assistance and compensation for victims of crime” after the word “benefit” in the second line of the second paragraph;

(3) section 8 is amended by replacing the words “commission shall establish it according to the method it” in the second and third lines by the words “Minister shall establish it according to the method he”;

(4) section 20 is amended by adding, at the end, the following paragraphs:

Applicability

“Sections 14 to 17, section 21, Chapter VIII of Title II, with the exception of sections 113 and 121, Chapter IX of that title and sections 140, 143 to 146, 148, 150 to 159 and sections 164 to 169 of the Act respecting assistance and compensation for victims of crime also apply, with any necessary changes.

Applicability

The provisions of Chapter IX of Title II of that Act relating to decision, review and appeal do not apply to applications for review brought before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*). Such applications shall be heard, continued, decided and appealed from in accordance with the provisions applicable to them on the date on which they were made.

Relapse

“20.2 Where the rescuer suffers a relapse after (*insert here the date preceding the date of coming into force of chapter 54 of the statutes of 1993*) and more than two years after the end of the last period of incapacity for which he was entitled to an indemnity or, if he was not entitled to such an indemnity, more than two years after the date of the manifestation of his injury, he shall be subject, from the date of the relapse, to the provisions of the Act respecting assistance and compensation for victims of crime as if it were a new injury.”

c. C-20,
s. 21, am.

205. Section 21 of the said Act is amended

(1) by replacing the words and figures “the Crime Victims Compensation Act (chapter I-6) or an Act other than an Act of the Parliament of Québec are applicable” in the fourth and fifth lines of the first paragraph by the words and figures “any other Act relating to the compensation of persons who are victims of industrial accidents, the Act respecting assistance and compensation for victims of crime (1993, chapter 54), the Automobile Insurance Act (R.S.Q., chapter A-25) or the Crime Victims Compensation Act (R.S.Q., chapter I-6) are applicable”;

(2) by striking out the second paragraph.

c. C-20,
ss. 21.1
and 23-26,
repealed

206. Sections 21.1 and 23 to 26 of the said Act are repealed.

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

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

207. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), amended by section 137 of chapter 21 of the statutes of 1992, is again amended

(1) by inserting, after paragraph *l*, the following paragraph:

“(l.1) the appeals from a decision under review under section 132 or 135 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54) for the purposes of the application of that Act and of the Act to promote good citizenship (R.S.Q., chapter C-20);”;

(2) by adding the words and figures “in respect of an application for review brought before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*)” at the end of paragraph *m*;

(3) by adding the words and figures “in respect of an application for review brought before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*)” at the end of paragraph *n*.

c. C-34,
s. 31, am. **208.** Section 31 of the said Act is amended by inserting the letter and figure “l.1” after the word “paragraphs” in the first line of the first paragraph.

c. C-34,
s. 32, am. **209.** Section 32 of the said Act, amended by section 140 of chapter 21 of the statutes of 1992, is again amended by inserting the letter and figure “, l.1” after the letter “l” in the second line of the first paragraph.

CRIME VICTIMS COMPENSATION ACT

c. I-6, s. 1,
am. **210.** Section 1 of the Crime Victims Compensation Act (R.S.Q., chapter I-6) is amended by striking out paragraph *a*.

c. I-6, s. 2,
am. **211.** Section 2 of the said Act is amended

(1) by inserting the words and figures “where the event giving rise to the claim occurred before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*)” after the word “therein” in the third line;

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

Relapse “Where the victim suffers a relapse after (*insert here the date preceding the date of coming into force of chapter 54 of the statutes of 1993*) and more than two years after the end of the last period of temporary incapacity for which he was entitled to an indemnity or, if he was not entitled to such an indemnity, more than two years after the date of the manifestation of his injury, he shall be subject, from the date of the relapse, to the provisions of the Act respecting assistance and compensation for victims of crime as if it were a new injury.”

c. I-6, ss. 8-
10, repealed **212.** Sections 8 to 10 of the said Act are repealed.

c. I-6, s. 11,
replaced **213.** Section 11 of the said Act is replaced by the following section:

Application
for benefits “**11.** Every application for benefits under this Act must be made to the Minister of Justice within one year of the occurrence of the material damage or the injury sustained by the victim, or of his death.

Presumption If the claimant fails to apply within the prescribed time, he is presumed to have renounced the right to avail himself of this Act, subject to section 14 of the Act respecting assistance and compensation for victims of crime.”

c. I-6,
ss. 12-14,
repealed

214. Sections 12 to 14 of the said Act are repealed.

c. I-6, s. 15,
am.

215. Section 15 of the said Act is amended by adding, at the end, the following paragraphs:

Applicable
provisions

“Sections 14 to 21, Chapter VIII of Title II, with the exception of sections 113 and 121, Chapter IX of that title and sections 140, 143 to 146, 148, 150 to 159 and Title III of the Act respecting assistance and compensation for victims of crime also apply, with any necessary changes.

Exception

The provisions of Chapter IX of Title II of that Act relating to decision, review and appeal do not apply to applications for review brought before (*insert here the date of coming into force of chapter 54 of the statutes of 1993*). Such applications shall be heard, continued, decided and appealed from in accordance with the provisions applicable to them on the date on which they were made.”

c. I-6, ss. 16
and 17,
repealed

216. Sections 16 and 17 of the said Act are repealed.

c. I-6, s. 18,
am.

217. Section 18 of the said Act is amended by replacing the words “commission itself shall establish it according to the method it” in the third line by the words “Minister shall establish such indemnity according to the method he”.

c. I-6,
ss. 19, 22-
25, repealed

218. Sections 19 and 22 to 25 of the said Act are repealed.

c. I-6, s. 26,
replaced

219. Section 26 of the said Act is replaced by the following section:

Sums taken
out of fund

“26. The sums required for the carrying out of this Act shall be taken out of the Fonds d’aide et d’indemnisation des victimes d’actes criminels referred to in section 170 of the Act respecting assistance and compensation for victims of crime, and the provisions of that Act relating to the financing and administration of the fund apply.”

c. I-6, ss. 27
and 28,
repealed

220. Sections 27 and 28 of the said Act are repealed.

FINAL PROVISIONS

Regulations

221. The regulations made under the Workmen’s Compensation Act which are relevant to the application of the Act to promote good citizenship and the Crime Victims Compensation Act shall continue to apply for that purpose as if they were regulations of the Government. The Government may, for that purpose, amend, replace or repeal them.

Agreements **222.** Any agreements under section 10 of the Act respecting assistance for victims of crime remain in force and are deemed to have been entered into under section 163 of this Act.

Personnel **223.** The personnel of the Commission de la santé et de la sécurité du travail who are currently assigned to the administration of the Act to promote good citizenship and the Crime Victims Compensation Act shall be transferred to the Ministère de la Justice, in the proportion and in accordance with the conditions determined by the Government.

Files and records **224.** The files and records kept by the Commission de la santé et de la sécurité du travail for the purposes of administering the Act respecting assistance for victims of crime and the Act to promote good citizenship shall be transferred to the Minister of Justice.

Minister responsible **225.** The Minister of Justice is responsible for the administration of this Act.

Coming into force **226.** This Act comes into force on the date fixed by the Government.

SCHEDULE I

(Section 9)

Criminal Code

(Revised Statutes of Canada (1985), chapter C-46)

Sections	Brief description of the offence
65	taking part in a riot
76	hijacking of an aircraft
77	endangering the safety of an aircraft in flight or rendering the aircraft incapable of flight
78	taking offensive weapons and explosive substances on board an aircraft
80	failure to take reasonable care in respect of explosives where death or bodily harm results
81	intentionally causing death or bodily harm by explosive substance
86	pointing a firearm or using a firearm in a dangerous manner
151	sexual touching with a child under the age of 14 years
152	invitation to sexual touching to a child under the age of 14 years
153	sexual touching by a person in a position of authority towards a child 14 years of age or more but under 18
155	incest
160(2)	compelling another person to commit bestiality
160(3)	inciting a child under the age of 14 years to commit bestiality
180	common nuisance causing harm
215	failure to provide necessities
218	abandoning a child under the age of 10 years
220	causing death by criminal negligence
221	causing bodily harm by criminal negligence
229	murder
234	manslaughter
239	attempted murder

- 244 causing bodily harm with intent
- 245 administering poison
- 246 overcoming resistance to commission of offence
- 247 setting traps likely to cause death or bodily harm
- 248 interfering with transportation facilities
- 249(1)b dangerous operation of a vessel or a towed object
- 249(2)c dangerous operation of an aircraft
- 255(2)(3) operation of a vessel while impaired
- 262 impeding attempt to save life
- 264 criminal harassment
- 264.1(1)a threatening to cause death or serious bodily injury
- 266 assault
- 267 assault with a weapon or causing bodily harm
- 268 aggravated assault
- 269 unlawfully causing bodily harm
- 269.1 torture
- 270 assault interfering with lawful process
- 271 sexual assault
- 272 sexual assault with a weapon
- 273 aggravated sexual assault
- 279(1) kidnapping
- 279(2) unlawful confinement
- 279.1 hostage taking
- 280 abduction of a child who is under the age of 16 years
- 281 abduction of a child who is under the age of 14 years
- 282 abduction of a child who is under the age of 14 years in contravention of a custody order
- 283 abduction of a child who is under the age of 14 years where there is no custody order

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- 343 robbery
- 423 intimidation by violence
- 430(2) mischief causing actual danger to life
- 433 arson
- 436 causing fire resulting in loss of life
- 437 false fire alarm

SCHEDULE II

Lump sum indemnity for the spouse of a deceased victim
(Section 80)

Age of the victim	Factor
25 years or less	1.0
26	1.2
27	1.4
28	1.6
29	1.8
30	2.0
31	2.2
32	2.4
33	2.6
34	2.8
35	3.0
36	3.2
37	3.4
38	3.6
39	3.8
40	4.0
41	4.2
42	4.4
43	4.6
44	4.8
45	5.0
46	4.8
47	4.6
48	4.4
49	4.2
50	4.0
51	3.8
52	3.6
53	3.4
54	3.2
55	3.0
56	2.8
57	2.6
58	2.4
59	2.2
60	2.0
61	1.8
62	1.6
63	1.4
64	1.2
65 years or older	1.0

SCHEDULE III

Lump sum indemnity for the disabled spouse of a deceased victim
(Section 80)

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

SCHEDULE IV

*Lump sum indemnity for the dependant of a deceased victim
(Section 83)*

Age of the dependant	Amount of the indemnity
Less than 1 year	\$39 506
1	\$38 578
2	\$37 249
3	\$36 120
4	\$34 991
5	\$33 864
6	\$32 734
7	\$31 605
8	\$30 476
9	\$29 347
10	\$28 219
11	\$27 090
12	\$25 961
13	\$24 832
14	\$23 703
15	\$22 575
16 years and older	\$21 446

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