

1992, chapter 11

# AN ACT TO AMEND THE ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES, THE ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY AND THE HEALTH INSURANCE ACT

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## Bill 35

Introduced by Mr Normand Cherry, Minister of Labour

Introduced 14 May 1992

Passage in principle 3 June 1992

Passage 15 June 1992

**Assented to 17 June 1992**

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**Coming into force:** on the date or dates to be fixed by proclamation of the Government, except paragraph 2 of section 189 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 8 of this Act, and section 195 of the said Act, replaced by section 9 of this Act, which will come into force on the same date as section 620 of the Act respecting health services and social services and amending various legislation (1991, chapter 42)

- 23 September 1992: ss. 29, 30, 44 (par. 3), 45, 83  
G.O., 1992, Part 2, p. 4449
- 1 October 1992: ss. 4, 8 (par. 1 and 3), 32 (par. 1), 40, 43, 44 (par. 1), 48, 65 to 69, 71 (s. 176.7.1), 72 to 74, 75 (ss. 176.16, 176.16.1, 1<sup>st</sup> par.), 76, 84, 86  
G.O., 1992, Part 2, p. 4449
- 28 October 1992: ss. 49 to 64, 88, 89  
G.O., 1992, Part 2, p. 4861
- 1 November 1992: ss. 1 to 3, 5 to 7, 10 to 28, 31, 32 (par. 2), 33 to 39, 41, 42, 44 (par. 2), 46, 47, 70, 71 (ss. 176.7.2, 176.7.3, 176.7.4), 75 (s. 176.16.1, 2<sup>nd</sup> par.), 77, 78, 80 to 82, 85, 87  
G.O., 1992, Part 2, p. 4861

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## Acts amended:

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

Health Insurance Act (R.S.Q., chapter A-29)

Act respecting occupational health and safety (R.S.Q., chapter S-2.1)





## CHAPTER 11

### **An Act to amend the Act respecting industrial accidents and occupational diseases, the Act respecting occupational health and safety and the Health Insurance Act**

*[Assented to 17 June 1992]*

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

c. A-3.001,  
s. 38,  
replaced

**1.** Section 38 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is replaced by the following sections:

Access to  
record

**“38.** An employer has a right of access free of charge to the record in the possession of the Commission in respect of an employment injury suffered by a worker while he was employed by him.

Access to  
record

An employer to whom all or part of the cost of the benefits payable by reason of an employment injury is imputed pursuant to the first paragraph of section 326 or the first or second paragraph of section 328 as well as an employer personally liable for the payment of all or part of the benefits payable by reason of an employment injury also have a right of access free of charge to the record in the possession of the Commission in respect of the injury.

Authoriza-  
tion of  
employer

The employer may expressly authorize a person to exercise his right of access.

Access to  
medical  
record

However, only the health professional designated by the employer has a right of access free of charge to the medical record and the physical rehabilitation record in the possession of the Commission in respect of the employment injury suffered by the worker.

Notice to  
worker

The Commission shall notify the worker that the right provided by this section has been exercised.

Restriction  
on use of  
information

**“38.1** In no case may the employer or the person authorized by him use or communicate information obtained under section 38 for any other purpose than the exercise of the rights of the employer under this Act.”

c. A-3.001,  
s. 43, am.

**2.** Section 43 of the said Act is amended by replacing the word and figure “section 415” in the second line by the words and figures “sections 415 and 415.1”.

c. A-3.001,  
s. 53, am.

**3.** Section 53 of the said Act is amended

(1) by adding, at the end of the first paragraph, the words “or a suitable employment available with his employer”;

(2) by adding, at the end of the second paragraph, the following clause and paragraph: “and if he holds a suitable employment with his employer or refuses without valid reason to do so, he is entitled to an indemnity reduced by the amount of the weighted net income that he derives or could derive from the suitable employment, determined pursuant to section 50.

Termina-  
tion of  
employment

Where the worker holds a suitable employment with his employer and the latter terminates such employment within two years after the date on which the worker began to hold it, the worker shall recover his right to the income replacement indemnity provided for in section 45 and to the other benefits provided for in this Act.”

c. A-3.001,  
s. 84, am.

**4.** Section 84 of the English text of the said Act is amended by replacing the words “the Commission shall establish the corresponding percentage, using as guidelines” in the first and second lines of the third paragraph by the words “the corresponding percentage shall be established according to”.

c. A-3.001,  
s. 113,  
replaced

**5.** Section 113 of the said Act is replaced by the following section:

Prosthesis  
or orthosis

**“113.** A worker is entitled, on the production of vouchers, to an indemnity for the repair or replacement of a prosthesis or orthosis within the meaning of the Public Health Protection Act (R.S.Q., chapter P-35) unintentionally damaged during an unforeseen and sudden occurrence attributable to any cause, arising out of his work, to the extent that he is not entitled to such an indemnity under another plan.

Maximum  
indemnity

The maximum indemnity payable is \$125 for eyeglass frames and \$60 per contact lens; the maximum indemnity payable for any other prosthesis or orthosis is the amount determined under section 198.1."

c. A-3.001,  
s. 140, am.

**6.** Section 140 of the said Act is amended by adding, after the figure "139" in the second line the words ", if the decision awarding the benefit is final,".

c. A-3.001,  
s. 142, am.

**7.** Section 142 of the said Act is amended by replacing the words "the referee" in the second line of subparagraph *b* and the third line of subparagraph *c* of paragraph 2 by the words "a member of the Bureau d'évaluation médicale".

c. A-3.001,  
s. 189, am.

**8.** Section 189 of the said Act is amended

(1) by replacing the part preceding paragraph 1 by the following:

Medical aid

**"189.** Medical aid consists of the following:";

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

"(2) the care or treatment provided by an institution governed by the Act respecting health services and social services and amending various legislation (1991, chapter 42) or by the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5);";

(3) by replacing paragraph 5 by the following paragraph:

"(5) any care, treatment, technical aid or cost not referred to in subparagraphs 1 to 4 and determined by regulation by the Commission, which regulation may specify the cases where, the conditions on which and up to what amount payments may be made, as well as the prior authorizations to which such payments may be subject."

c. A-3.001,  
s. 195,  
replaced

**9.** Section 195 of the said Act is replaced by the following section:

Standard  
agreement

**"195.** The Commission and the Minister of Health and Social Services shall make a standard agreement concerning all or part of the care and treatment provided by the institutions referred to in paragraph 2 of section 189; the standard agreement shall pertain to the dispensing of such care and treatment and shall specify, in particular, the amounts payable by the Commission for such care or treatments, the time within which they must be provided by the institutions and the reports which must be filed with the Commission.

Specific  
agreement

The Commission shall make a specific agreement with each regional board established under the Act respecting health services and social services and amending various legislation (1991, chapter 42) and each regional council established under the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5), providing for the implementation of the standard agreement in the territory of the regional board. Every specific agreement must conform to the parameters of the standard agreement.

Presump-  
tion of  
compliance

An institution is presumed to accept to comply with the specific agreement unless it signifies its refusal to the Commission and to the regional board or regional council, as the case may be, within the time allowed by the agreement, by means of a resolution of its board of directors; in the latter case, the institution shall be remunerated according to the standard agreement."

c. A-3.001,  
s. 196, am.

**10.** Section 196 of the said Act is amended by replacing the words "referee or a member" in the fourth line by the words "member of the Bureau d'évaluation médicale or".

c. A-3.001,  
s. 198.1,  
added

**11.** The said Act is amended by inserting, after section 198, the following section:

Costs  
related to  
prosthesis  
or orthosis

**"198.1** The Commission shall pay the cost of the purchase, adjustment, repair and replacement of a prosthesis or orthosis referred to in paragraph 4 of section 189 as determined by regulation by the Commission, which regulation may specify the cases where, the conditions on which and up to what amount payments may be made, as well as the prior authorizations to which such payments may be subject.

Amount  
payable in  
specific  
cases

In the case of a prosthesis or orthosis with characteristics identical to those of a prosthesis or orthosis covered by a program administered by the Régie de l'assurance-maladie du Québec pursuant to the Health Insurance Act (R.S.Q., chapter A-29) or the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5), the amount payable by the Commission is the amount determined in that program."

c. A-3.001,  
s. 202, am.

**12.** Section 202 of the said Act is amended by replacing the words "the development of the worker's pathological condition and on the nature or the duration of the care or treatment prescribed or administered" in the fifth, sixth and seventh lines by the words "one or several matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212."

c. A-3.001,  
ss. 204-  
206, re-  
placed

**13.** Sections 204 to 206 of the said Act are replaced by the following sections:

Examination

**“204.** The Commission may require a worker who has suffered an employment injury to undergo an examination by the health professional it designates, in order to obtain a written report from the health professional on any matter relating to the injury. The worker must undergo the examination.

Payment of  
costs

The Commission shall assume the cost of the examination and the expenses incurred by the worker to go for the examination, according to the norms and amounts it determines under section 115.

List of  
health pro-  
fessionals

**“205.** The list of the health professionals the Commission may designate for the purposes of section 204 shall be submitted each year to the board of directors of the Commission for approval; the board may add or strike out names.

Failure to  
obtain ap-  
proval

Where the board fails to approve the list at the sitting following the sitting at which the list was submitted, the Commission shall use the list already submitted.

Additional  
names

The chairman and chief of operations may add names of health professionals, other than those struck off the list by the board of directors, to the list referred to in the first and second paragraphs, if he considers that the number on the list is insufficient. In such a case, he shall inform the board of directors.

Period of  
validity

The list of the health professionals the Commission may designate for the purposes of section 204 for one year remains in force until it is replaced.

Report

**“206.** The Commission may submit to the Bureau d'évaluation médicale the report it has obtained under section 204, even if the report concerns one or several matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212 in respect of which the physician in charge of the worker did not express his opinion.”

c. A-3.001,  
s. 209,  
replaced

**14.** Section 209 of the said Act is replaced by the following section:

Examination

**“209.** An employer who has a right of access to the record in the possession of the Commission in respect of an employment injury suffered by a worker may require that the worker undergo an examination by the health professional designated by the employer, every time the physician in charge of the worker furnishes a report to the Commission as required on one or several matters mentioned in subparagraphs 1 to 5 of the first paragraph of section 212.

Opinion of  
health pro-  
fessional

An employer who avails himself of the provisions of the first paragraph may ask the designated health professional for his opinion regarding the relationship between the worker's injury or illness and the industrial accident he suffered or the work he does or used to do."

c. A-3.001,  
s. 212, am.

**15.** Section 212 of the said Act is amended

(1) by replacing the part preceding subparagraph 1 of the first paragraph by the following:

Contesta-  
tion by  
employer

**"212.** An employer who has a right of access to the record in the possession of the Commission in respect of an employment injury suffered by a worker may contest the certificate or report of the physician in charge of the worker, if he obtains a report from a health professional who, after examining the worker, calls into question the findings of the physician regarding one or several of the following matters:";

(2) by replacing the word "of" in the third line of the second paragraph by the words "he receives";

(3) by replacing the words "arbitration under section 217" in the fourth line of the second paragraph by the words "the Bureau d'évaluation médicale established by section 216".

c. A-3.001,  
ss. 213,  
214, re-  
pealed

**16.** Sections 213 and 214 of the said Act are repealed.

c. A-3.001,  
s. 215, am.

**17.** Section 215 of the said Act is amended by striking out the word "medical" in the second line of the first paragraph.

c. A-3.001,  
s. 216,  
replaced

**18.** Section 216 of the said Act is replaced by the following section:

Bureau  
d'évalua-  
tion médi-  
cale

List of  
health pro-  
fessionals

**"216.** The Bureau d'évaluation médicale is hereby established.

On the recommendation of the professional orders concerned, the Conseil consultatif du travail et de la main-d'oeuvre shall, every year, before 15 March, submit to the Minister a list of the health professionals who have agreed to act as members of the Bureau.

Additional  
names

The Minister may add the names of other health professionals to that list.

Failure to  
submit list

Where the Conseil consultatif fails to submit such list, the Minister shall prepare it himself.

Period of  
validity

The list of the health professionals who have agreed to act as members of the Bureau for one year shall remain in force until it is replaced.”

c. A-3.001,  
s. 217, am.

**19.** Section 217 of the said Act is amended by replacing the words and figures “contemplated in sections 206, 212 and 214 to arbitration” in the second and third lines by the words and figures “provided for in sections 206 and 212 to the Bureau d’évaluation médicale”.

c. A-3.001,  
s. 218, am.

**20.** Section 218 of the said Act is amended

(1) by replacing the word “referee” in the first line of the first paragraph by the words “member of the Bureau d’évaluation médicale”;

(2) by replacing the word “referee” in the third line of the second paragraph by the words “member of the Bureau d’évaluation médicale”.

c. A-3.001,  
s. 219,  
replaced

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

Medical  
record

**“219.** The Commission shall without delay send to the member of the Bureau d’évaluation médicale the entire medical record in its possession in respect of the employment injury suffered by a worker which is the subject of the contestation.”

c. A-3.001,  
s. 220, am.

**22.** Section 220 of the said Act is amended by replacing the word “referee” in the first line of the first paragraph by the words “member of the Bureau d’évaluation médicale”.

c. A-3.001,  
s. 221, am.

**23.** Section 221 of the said Act is amended

(1) by replacing the word “referee” in the first line by the words “member of the Bureau d’évaluation médicale”;

(2) by inserting the words “and of the health professional designated by the Commission or by the employer” after the word “worker” in the third line;

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

Opinion

“The member of the Bureau d’évaluation médicale may also, if he considers it appropriate, state his opinion regarding any of those matters, even if the physician in charge of the worker or the health professional designated by the employer or by the Commission did not express his opinion on the matter.”

c. A-3.001,  
s. 222,  
replaced

**24.** Section 222 of the said Act is replaced by the following section:

Time  
limit

**“222.** The member of the Bureau d’évaluation médicale shall give his opinion within thirty days of the date on which the record was transmitted to him and shall send it to the Minister without delay, with copies to the Commission and the parties.”

c. A-3.001,  
s. 223, am.

**25.** Section 223 of the said Act is amended by replacing the word “Referees” in the first line by the words “Members of the Bureau d’évaluation médicale”.

c. A-3.001,  
s. 224,  
replaced

**26.** Section 224 of the said Act is replaced by the following section:

Diagnosis  
and  
findings

**“224.** For the purpose of rendering a decision under this Act, and subject to section 224.1, the Commission is bound by the diagnosis and the other findings established by the physician in charge of the worker, respecting matters set out in subparagraphs 1 to 5 of the first paragraph of section 212.”

c. A-3.001,  
s. 224.1,  
added

**27.** The said Act is amended by inserting, after section 224, the following section:

Binding  
opinion

**“224.1** Where a member of the Bureau d’évaluation médicale gives an opinion pursuant to section 221 within the time prescribed in section 222, the Commission is bound by that opinion and shall render a decision accordingly.

Binding  
report

Where the member of the Bureau d’évaluation médicale fails to give his opinion within the time prescribed in section 222, the Commission is bound by the report obtained from the health professional it designated, where that is the case.

Binding  
opinion  
or report

If the Commission has not obtained such a report, it may request, from the health professional it designates, a report on the matter mentioned in any of subparagraphs 1 to 5 of the first paragraph of section 212 which is the subject of the contestation; in that case, the Commission is bound by the opinion of the member of the Bureau d’évaluation médicale or the report of the health professional it has designated, whichever it receives first, and shall render a decision accordingly.

Filing of  
opinions  
and reports

The Commission shall file in the worker’s record any opinion or report it receives even though it is not bound thereby.”

c. A-3.001,  
s. 225, am.

**28.** Section 225 of the said Act is amended

(1) by replacing the word “referee” in the first line of the first paragraph by the words “member of the Bureau d’évaluation médicale”;

(2) by striking out the words “or the time extension granted by the parties” in the second line of the first paragraph;

(3) by striking out the second paragraph.

c. A-3.001,  
s. 312.1,  
added

**29.** The said Act is amended by inserting, after section 312, the following section:

Rate  
increase

**“312.1** The Commission, by regulation, may increase the rates of assessment applicable to employers belonging to a sector of activity for which a joint sector-based association has been established under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), to defray the cost of the subsidy granted to the association if the cost is not included in the rates fixed under section 304.”

c. A-3.001,  
s. 323, am.

**30.** Section 323 of the said Act is amended by inserting the words “the first paragraph of” after the words “according to” in the second line of the first paragraph.

c. A-3.001,  
s. 358, am.

**31.** Section 358 of the said Act is amended by replacing the second paragraph by the following paragraph:

Exceptions

“However, a person may not apply for the review of any matter of a medical nature in respect of which the Commission is bound under section 224 or of any decision of the Commission rendered under section 256 or the first paragraph of section 365.2, or for the review of a refusal by the Commission to reconsider its decision pursuant to the first paragraph of section 365.”

c. A-3.001,  
s. 359, am.

**32.** Section 359 of the said Act is amended

(1) by replacing the first two lines by the words “If a person or the Commission believes he or it has been wronged by a decision of a review office following an application made pursuant to section 358, he or it”;

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

Exceptions

“However, a person may not appeal from a decision referred to in section 176.7.4 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) or from a decision rendered by the employment injuries prevention and compensation division

concerning benefits not exceeding \$1 000, unless the contestation concerns the existence of an employment injury or the fact that a person is a worker or is considered a worker.

Determina-  
tion of  
value      To determine the value of the matter in dispute, interest accrued,  
if any, on the date of the review office's decision shall not be taken  
into account."

c. A-3.001,  
s. 360,  
repealed      **33.** Section 360 of the said Act is repealed.

c. A-3.001,  
s. 361,  
replaced      **34.** Section 361 of the said Act is replaced by the following  
section:

Effect of  
decision      **"361.** A decision of the Commission has effect immediately,  
notwithstanding any application for review, unless it is a decision  
awarding compensation for bodily injury or a lump sum death benefit  
under sections 98 to 100, the second paragraph of section 102 or  
sections 103 to 108 and 110, in which case the decision has effect when  
it becomes final."

c. A-3.001,  
s. 362,  
replaced      **35.** Section 362 of the said Act is replaced by the following  
section:

Effect of  
decision      **"362.** A decision of a review office shall have effect  
immediately, notwithstanding appeal, unless it is a decision pertaining  
to compensation for bodily injury, a lump sum death benefit under  
sections 98 to 100, the second paragraph of section 102 or sections 103  
to 108 and 110, or a decision rendered pursuant to Chapter IX or X,  
in which case the decision has effect when it becomes final."

c. A-3.001,  
s. 365,  
replaced      **36.** Section 365 of the said Act is replaced by the following  
sections:

Reconside-  
ration      **"365.** The Commission may, within ninety days, reconsider a  
decision it has rendered if the decision has not been the subject of a  
decision of a review office, in order to correct any error.

Reconside-  
ration      If a decision of the Commission was rendered before an essential  
fact became known, it may, of its own initiative or at the request of  
a party, reconsider the decision within ninety days of the fact  
becoming known.

Notifica-  
tion      **"365.1** Before reconsidering a decision, the Commission shall  
inform the persons who were given notice of the decision.

Concilia-  
tion      It may also attempt to conciliate those persons.

Ratifica-  
tion of  
agreement

**"365.2** If the persons referred to in the first paragraph of section 365.1 reach an agreement, the agreement shall be ratified by the Commission to the extent that it conforms with the law; the decision of the Commission is thereupon final and without appeal.

Reconside-  
ration

If no agreement is reached or if the Commission refuses to ratify the agreement, the Commission may reconsider its decision in accordance with section 365."

c. A-3.001,  
s. 366,  
replaced

**37.** Section 366 of the said Act is replaced by the following section:

Applicable  
provisions

**"366.** Sections 361, 363 and 364, adapted as required, apply to a decision rendered under section 365 or 365.2."

c. A-3.001,  
s. 398,  
repealed

**38.** Section 398 of the said Act is repealed.

c. A-3.001,  
s. 402, am.

**39.** Section 402 of the said Act is amended

(1) by replacing the words "Commission changing its initial decision pursuant to the second paragraph of section 224" in the first, second and third lines by the words "review office cancelling the amount of an income replacement indemnity awarded by the Commission";

(2) by inserting the words "in respect of that finding" after the words "appealed from" in the fourth line.

c. A-3.001,  
s. 411,  
replaced

**40.** Section 411 of the said Act is replaced by the following section:

Expenses  
and allow-  
ances of  
witnesses

**"411.** A commissioner may order a party to assume all or part of the expenses and allowances of the witnesses established according to the norms and amounts fixed by the president.

Costs and  
allowances  
of wit-  
nesses

Where the Commission is not a party to the appeal and the commissioner amends the decision rendered by the Commission, the commissioner may, if he considers it appropriate, order the Commission to assume all or part of the costs and allowances of the witnesses."

c. A-3.001,  
s. 415, am.

**41.** Section 415 of the said Act is amended

(1) by replacing the word "and" in the third line of the first paragraph by the words ", to the review office and to";

(2) by replacing the second and third paragraphs by the following paragraph:

Transmis-  
sion of  
record

“Within thirty days following receipt of the declaration, the review office shall transmit to the board of appeal and to every party a copy of the entire record in its possession respecting the decision appealed from.”

c. A-3.001,  
s. 415.1,  
added

**42.** The said Act is amended by inserting, after section 415, the following section:

Access to  
record

**“415.1** The board of appeal has access to the record in the possession of the Commission respecting the decision that is the subject of the appeal.”

c. A-3.001,  
s. 416, am.

**43.** Section 416 of the said Act is amended by adding, at the end, the following paragraph:

Handicap-  
ped worker

“The same applies to the worker concerned by an appeal relating to the application of section 329.”

c. A-3.001,  
s. 454, am.

**44.** Section 454 of the said Act is amended

(1) by inserting, after subparagraph 3 of the first paragraph, the following subparagraph:

“(3.1) determining the care, treatment, technical aid and costs forming part of the medical aid referred to in paragraph 5 of section 189 and specifying the cases in which, the conditions on which and up to what amount payments may be made as well as the prior authorizations to which such payments may be subject;”;

(2) by inserting, after subparagraph 4 of the first paragraph, the following subparagraph:

“(4.1) determining, subject to the second paragraph of section 198.1, the cost of the purchase, adjustment, repair and replacement of a prosthesis or orthosis referred to in the said section and specifying the cases in which, the conditions on which and up to what amount payments may be made as well as the prior authorizations to which such payments may be subject;”;

(3) by inserting, after subparagraph 8 of the first paragraph, the following subparagraph:

“(8.1) increasing the rates of assessment applicable to employers belonging to a sector of activity for which a joint sector-based association has been established under the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), to defray the cost of the subsidy granted to the association if the cost is not included in the rates fixed under section 304;”.

c. A-3.001,  
s. 455, am.

**45.** Section 455 of the said Act is amended by replacing the words and figures "paragraphs 1 to 4 and 7 to 13" in the fifth line by the words and figures "subparagraphs 1 to 4.1, 7, 8 and 9 to 13".

c. A-3.001,  
s. 462, am.

**46.** Section 462 of the said Act, amended by section 35 of chapter 4 of the statutes of 1990, is again amended by striking out the words and figure "the third paragraph of section 213," in the fifth line.

c. A-3.001,  
s. 570.1,  
am.

**47.** Section 570.1 of the said Act, amended by section 5 of chapter 35 of the statutes of 1991, is again amended

(1) by replacing the figures and words ", 360, 361, the first paragraph of section 362 and sections 363 to 366" at the end of the first paragraph by the words and figures "and 361 to 366";

(2) by adding, at the end of the second paragraph, the words ", until the final decision".

#### ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

c. S-2.1,  
s. 37.3, am.

**48.** Section 37.3 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by replacing the words "believes he has been wronged by a decision rendered by a review office following an application made under section 37.1, he" in the first, second and third lines by the words "or the Commission believes he or it has been wronged by a decision rendered by a review office following an application made under section 37.1, he or it".

c. S-2.1,  
s. 140, am.

**49.** Section 140 of the said Act is amended by replacing the words "who, in addition, holds the office of director general" in the third line by the words "of the board and chief executive officer".

c. S-2.1,  
s. 141, am.

**50.** Section 141 of the said Act is amended

(1) by inserting the words "of the board of directors and chief executive officer" after the word "chairman" in the second line;

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

Chairman  
of board  
and CEO

"The chairman of the board of directors and chief executive officer shall be appointed after consultation with the most representative union associations and employers' associations."

c. S-2.1,  
s. 141.1,  
added

**51.** The said Act is amended by inserting, after section 141, the following section:

Chairman  
and chief  
of opera-  
tions

**“141.1** The Government shall appoint a chairman and chief of operations.”

c. S-2.1,  
s. 143, am.

**52.** Section 143 of the said Act is amended by inserting the words “of the board of directors and chief executive officer, the chairman and chief of operations” after the word “chairman” in the first line.

c. S-2.1,  
s. 144, am.

**53.** Section 144 of the said Act is amended by inserting the words “of the board of directors and chief executive officer” after the word “chairman” in the first line.

c. S-2.1,  
s. 146, am.

**54.** Section 146 of the said Act is amended by replacing the word “and” in the first line by the words “of the board of directors and chief executive officer, the chairman and chief of operations and the”.

c. S-2.1,  
s. 147, am.

**55.** Section 147 of the said Act is amended by replacing the word “and” in the second line by the words “, the chairman and chief of operations and”.

c. S-2.1,  
s. 148, am.

**56.** Section 148 of the said Act is amended

(1) by inserting the words “, of the chairman and chief of operations” after the word “Commission” in the second line;

(2) by replacing the figures and word “141, 143 and 144” in the third and fourth lines by the figures and word “141 to 144”.

c. S-2.1,  
s. 149, am.

**57.** Section 149 of the said Act is amended by inserting the words “, of the chairman and chief of operations” after the word “Commission” in the third line of the first paragraph.

c. S-2.1,  
s. 151, am.

**58.** Section 151 of the said Act is amended

(1) by inserting the words “of the board of directors and chief executive officer” after the word “chairman” in the first line of the first paragraph;

(2) by inserting the words “of the board of directors and chief executive officer” after the word “chairman” in the second paragraph.

c. S-2.1,  
s. 152, am.

**59.** Section 152 of the said Act is amended by replacing the words “Neither the chairman nor the vice-chairmen may” in the first line of the first paragraph by the words “The chairman of the board of directors and chief executive officer, the chairman and chief of operations and the vice-chairmen shall not”.

c. S-2.1,  
s. 154,  
replaced

**60.** Section 154 of the said Act is replaced by the following sections:

Duties of  
chairman  
of board

**“154.** The chairman of the board of directors and chief executive officer shall preside over the meetings of the board and see to the proper operation of the board. He shall be responsible for the administration and direction of the Commission and for the relations between the Commission and the Government.

Duties of  
chairman

**“154.1** The chairman and chief of operations shall act under the authority of the chairman of the board of directors and chief executive officer. He shall be responsible mainly for the operations of the Commission and assume the other responsibilities conferred on him by the chairman of the board and chief executive officer.

Vice-  
chairmen

**“154.2** The vice-chairmen shall act under the authority of the chairman of the board of directors and chief executive officer or that of the chairman and chief of operations, as provided in the internal management by-law of the Commission.”

c. S-2.1,  
s. 155, am.

**61.** Section 155 of the said Act is amended by inserting the words “of the board of directors and chief executive officer, the chairman and chief of operations” after the word “chairman” in the first line.

c. S-2.1,  
s. 156, am.

**62.** Section 156 of the said Act is amended by inserting the words “of the board of directors and chief executive officer” after the word “chairman” in paragraph 1.

c. S-2.1,  
s. 161, am.

**63.** Section 161 of the said Act is amended by inserting the words “its chairman and chief of operations,” after the word “directors,” in the second line.

c. S-2.1,  
s. 172, am.

**64.** Section 172 of the said Act is amended by replacing the words “chairman and director general, the executive committee” in the second line of the first paragraph by the words “chairman of the board of directors and chief executive officer, the executive committee, the chairman and chief of operations”.

c. S-2.1,  
ss. 176.1.1-  
176.1.4,  
added

**65.** The said Act is amended by inserting, after section 176.1, the following sections:

Divisions  
of review  
office

**“176.1.1** The review office shall sit in divisions. The divisions are as follows:

(1) the financing division;

(2) the employment injuries prevention and compensation division.

Simultaneous sittings  
Jurisdiction of financing division

The divisions may sit simultaneously.

**"176.1.2** Applications for review filed under section 358 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) in respect of a decision rendered pursuant to Chapter IX or X of the said Act shall be decided by the financing division.

Jurisdiction of financing division

The financing division shall also decide applications for review of decisions rendered under section 365 of the said Act in respect of the reconsideration of a decision rendered pursuant to Chapter IX or X of the said Act.

Jurisdiction of employment injuries prevention, compensation division

**"176.1.3** Applications for review filed under section 37.1 or 191.1, and applications for review filed under section 358 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), other than those concerning the review of a decision referred to in section 176.1.2, shall be decided by the employment injuries prevention and compensation division.

Review office chairman

**"176.1.4** In the financing division, the review office shall be composed of one member acting as chairman. The chairman shall be appointed by the Commission from among its officers for a term specified in the instrument of appointment."

c. S-2.1, s. 176.2, am.

**66.** Section 176.2 of the said Act is amended

(1) by replacing the word "A" in the first line of the first paragraph by the words "In the employment injuries prevention and compensation division, the";

(2) by replacing the words "second or third" in the first and second lines of the fifth paragraph by the words "third or fourth".

c. S-2.1, s. 176.2.1, added

**67.** The said Act is amended by inserting, after section 176.2, the following section:

Chairmen

**"176.2.1** The chairmen may serve on both divisions."

c. S-2.1, s. 176.3, am.

**68.** Section 176.3 of the said Act is amended by replacing the words "second, third or fourth" in the second line by the words "third, fourth or fifth".

c. S-2.1, s. 176.4, am.

**69.** Section 176.4 of the said Act is amended by inserting the words "in accordance with section 176.2," after the word "region," in the first line of the first paragraph.

c. S-2.1,  
ss. 176.5.1-  
176.5.3,  
added

**70.** The said Act is amended by inserting, after section 176.5, the following sections:

Assessors

**“176.5.1** The Commission may appoint assessors to advise the members of a review office on any matter of a medical nature and to attend the sittings of the review office.

Conciliators

**“176.5.2** The Commission may appoint conciliators to meet the parties to an application for review and to attempt to reach an agreement.

Disclosure

**“176.5.3** No conciliator may be compelled to disclose any information revealed to him or of which he has become aware in the performance of his duties, or to produce a document prepared or obtained in the performance of his duties, before a court or a body or person exercising judicial or quasi-judicial functions.

Restricted access

Notwithstanding section 9 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1), no person may have access to such a document unless the document is used to support the agreement and the decision of the review office ratifying it.”

c. S-2.1,  
ss. 176.7.1-  
176.7.4,  
added

**71.** The said Act is amended by inserting, after section 176.7, the following sections:

Intervention by Commission

**“176.7.1** The Commission may intervene at any time before a review office, until the end of the proof and hearing, if any.

Notice

Where the Commission wishes to intervene, it shall send notice to that effect to each party and to the review office; it becomes thereupon party to the review.

Handicapped worker

The same applies to the worker concerned by an application for review relating to the application of section 329 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001).

Referral to conciliator

**“176.7.2** Where a review office receives an application for review concerning a decision referred to in section 176.1.3, it shall, with the consent of the parties, send the application to a conciliator.

Agreement

**“176.7.3** Every agreement resulting from conciliation shall be recorded in writing and signed by the parties.

Ratification

**“176.7.4** The agreement shall be ratified by the review office to the extent that it complies with the law; the decision of the review office shall thereupon be final and without appeal.”

c. S-2.1,  
s. 176.8,  
replaced

**72.** Section 176.8 of the said Act is replaced by the following section:

Hearing

**“176.8** Where no agreement has been reached or the review office refuses to ratify the agreement, the review office shall, at the request of a party or where it considers it necessary, hold a hearing.”

c. S-2.1,  
ss. 176.9,  
176.10,  
replaced

**73.** Sections 176.9 and 176.10 of the said Act are replaced by the following sections:

Hearing

**“176.9** Where the review office holds a hearing, it must give the parties written notice to that effect at least 10 days before the date fixed for the hearing.

Application  
for review

**“176.10** Where the review office does not hold a hearing, it shall examine and decide the application for review according to the record.”

c. S-2.1,  
s. 176.15,  
repealed

**74.** Section 176.15 of the said Act is repealed.

c. S-2.1,  
s. 176.16,  
replaced

**75.** Section 176.16 of the said Act is replaced by the following sections:

Decisions

**“176.16** The decisions of the review office sitting in the employment injuries prevention and compensation division shall be made by a majority of the members.

Dissent

If there is a dissenting member, the reasons for his dissent shall be recorded in the decision.

Decision

**“176.16.1** Every decision of a review office shall be made in writing, give reasons and be signed and notified to the parties and to the Commission.

Accompanying  
documents

The decision ratifying an agreement reached following conciliation shall be accompanied with the document to which it refers, where that is the case.”

c. S-2.1,  
s. 193, am.

**76.** Section 193 of the said Act is amended by inserting the words “, including the Commission,” after the word “person” in the first line.

#### FINAL PROVISION

#### HEALTH INSURANCE ACT

c. A-29,  
s. 3, am.

**77.** Section 3 of the Health Insurance Act (R.S.Q., chapter A-29) is amended by replacing the word “referee” in the fifth line of

the tenth paragraph by the words “member of the Bureau d’évaluation médicale”.

#### TRANSITIONAL PROVISIONS

Applica-  
tion of  
s. 53 of  
c. A-3.001

**78.** Section 53 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), amended by section 3 of this Act, applies to any worker described in such provision from the date of coming into force of that section.

Costs of  
physiothe-  
rapy and  
ergotherapy  
treatments

**79.** Until the making of the first agreement with each regional board or regional council, in accordance with the second paragraph of section 195 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), replaced by section 9 of this Act, the Commission de la santé et de la sécurité du travail shall assume the cost of the physiotherapy and ergotherapy treatments provided by an institution carrying on its activities in the territory of that board or that council, as the case may be, and referred to in paragraph 2 of section 189 of the said Act, amended by section 8 of this Act, in accordance with the agreement in force between the institution and the Commission concerning out-patient physiotherapy and ergotherapy treatments.

Payment  
of costs

Failing such an agreement, the Commission shall pay the cost of physiotherapy and ergotherapy treatments provided by an institution referred to in the first paragraph in accordance with resolution A-178-90 dated 18 December 1990, adopted by its board of directors.

Tariffs

For the year 1993, the tariffs mentioned in an agreement concerning out-patient physiotherapy and ergotherapy services shall be fixed on the basis of the cost of a treatment established according to the direct and indirect costs shown in the latest audited financial statements of the institutions, to which shall be added the average percentage of budget increase granted to such institutions. The percentage that the difference between the new tariffs thus established and those mentioned in the agreement is of those mentioned in the agreement shall be applied, for 1993, to the tariffs mentioned in resolution A-178-90.

List of  
health pro-  
fessionals

**80.** The list of the health professionals the Commission may designate for the purposes of section 204 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 13 of this Act, shall be submitted to the board of directors of the Commission within three months of the coming into force of section 205 of the said Act, enacted by section 13 of this Act.

Designa-  
tion of  
health pro-  
fessionals

Until the first list of health professionals is approved by the board of directors of the Commission, the Commission may designate any health professional it wishes to designate.

List of  
health pro-  
fessionals

**81.** The list drawn up under section 216 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) becomes, from the date of coming into force of section 18 of this Act, the list of the health professionals submitted by the Conseil consultatif du travail et de la main-d'oeuvre, until the following 15 March.

Additional  
names

The Minister may add to such list the names of other health professionals.

Binding  
opinion

**82.** Notwithstanding section 224.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 27 of this Act, the Commission de la santé et de la sécurité du travail is bound by the opinion of a member of the Bureau d'évaluation médicale given from the date of coming into force of section 27 of this Act, regardless of the time taken to give such opinion, where contestation is based on a medical examination required by the Commission under section 213 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as it read before the date of coming into force of section 16 of this Act, or, in the case of contestation referred to the Commission by an employer under section 212 of the said Act, as it read before the date of coming into force of section 15 of this Act.

Application  
for review

However, the decision rendered by the Commission following such opinion may be the subject of an application for review in accordance with section 358 of the said Act, amended by section 31 of this Act.

Rate of  
interest

**83.** Notwithstanding any inconsistent provision, the rate of interest applicable for 1992 under section 323 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is the rate published in the *Gazette officielle du Québec* dated 22 June 1991, pursuant to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) as it read at that time.

Pending  
matters

**84.** Any matter pending before a review office on the date of coming into force of section 65 of this Act, whose object is a decision rendered pursuant to Chapter IX or X of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), shall be continued and decided by a review office established in accordance with section 176.1.4 of the Act respecting occupational health and

safety (R.S.Q., chapter S-2.1), enacted by section 65 of this Act, unless the hearing began before that date, in which case the matter shall be continued before the review office to which it was referred.

Pending  
matters

**85.** Any matter pending before a review office on the date of coming into force of section 65 of this Act, whose object is a decision other than the decisions rendered pursuant to Chapter IX or X of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), may be referred to conciliation, at the discretion of the review office.

Hearing

**86.** The review office shall hold a hearing for all matters pending on the date of coming into force of section 72 of this Act, unless the parties renounce it in writing or an agreement entered into after conciliation is ratified by the review office.

Jurisdic-  
tion

**87.** Notwithstanding section 33 of this Act, the Commission d'appel en matière de lésions professionnelles remains competent to hear and determine and to dispose of any appeal, before or after the date of coming into force of the said section, under section 360 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), as it read before that date, from a decision rendered by the Commission de la santé et de la sécurité du travail before that date.

Appeal

A person remains entitled to bring an appeal from such a decision to the board of appeal under section 360 of the said Act, as it read before the date of coming into force of section 33 of this Act.

Chairman  
and direc-  
tor general

**88.** The chairman and director general of the Commission de la santé et de la sécurité au travail becomes, on the date of coming into force of section 49 of this Act, the chairman of the board of directors and chief executive officer of the Commission and remains in office until the expiry of his term as chairman and director general; he remains governed by his conditions of employment as chairman and director general of the Commission.

Chairman  
and direc-  
tor general

**89.** Every reference to the chairman and director general of the Commission de la santé et de la sécurité du travail in any Act, regulation, order, contract, agreement or other document is a reference to the chairman of the board of directors and chief executive officer of the Commission.

Coming into  
force

**90.** This Act will come into force on the date or dates to be fixed by proclamation of the Government, except paragraph 2 of section 189

of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), enacted by section 8 of this Act, and section 195 of the said Act, replaced by section 9 of this Act, which will come into force on the same date as section 620 of the Act respecting health services and social services and amending various legislation (1991, chapter 42).