

NATIONAL ASSEMBLY
Thirty-third Legislature, second session

1989, chapter 15
**AN ACT TO AMEND THE AUTOMOBILE INSURANCE ACT
AND OTHER LEGISLATION**

Bill 92

Introduced by Mr Marc-Yvan Côté, Minister of Transport

Introduced 15 November 1988

Passage in principle 29 November 1988

Passage 15 June 1989

Assented to 19 June 1989

Coming into force: 1 January 1990, except section 72 of the Automobile Insurance Act enacted by section 1, which comes into force on the date fixed by the Government, and section 83.22 enacted by section 1 and sections 16 and 17, which come into force on 19 June 1989

Acts amended:

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

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

Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4)

Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)





CHAPTER 15

An Act to amend the Automobile Insurance Act and other legislation

[Assented to 19 June 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-25,
Titles I, II,
replaced

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

“TITLE I

“DEFINITIONS

Interpreta-
tion

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

“accident”

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

“automobile”

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

“damage
caused
by an
automobile”

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

“load”

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

“owner”

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

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

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

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

“theft” refers to the offence described in section 322 of the Criminal Code (R.S.C., 1985, chapter C-46).

“TITLE II

“COMPENSATION FOR BODILY INJURY

“CHAPTER I

“GENERAL PROVISIONS

“DIVISION I

“DEFINITIONS AND INTERPRETATION

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

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

“dependant” means

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

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

“employ-
ment”

“employment” means any remunerative occupation;

“spouse”

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

Tutor
ex officio

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

Compensa-
tion

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

“DIVISION II

“GENERAL RULES

No-fault
system

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

Victim

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

Death
benefit

Unless the context indicates otherwise, every person who is entitled to a death benefit where the death of the victim results from the accident is also considered a victim for the purposes of this division.

Residency
in Québec

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

Residency
in Québec

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

Registration
in Québec

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

Non-residents

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

Responsibility

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

Competent court

Notwithstanding sections 83.45, 83.49 and 83.57, in case of disagreement between the Régie and the victim with regard to his responsibility, the remedy of the victim against the Régie in that respect is submitted to the competent court. The remedy must be exercised within 180 days of the decision as to responsibility rendered by the Régie.

Restrictions

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

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

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

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

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

Responsibility

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

Restrictions

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

Prescription

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

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

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

Assignment or transfer **“12.** Any assignment or any transfer in collateral guarantee or otherwise of the right to any indemnity contemplated in this title is null by operation of law.

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

“CHAPTER II

“INCOME REPLACEMENT INDEMNITY AND OTHER INDEMNITIES

“DIVISION I

“ENTITLEMENT TO AN INDEMNITY

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

Victim under 16 years of age **“13.** This subdivision does not apply to a victim under sixteen years of age or to a victim sixteen years of age or over attending a secondary or post-secondary educational institution on a full-time basis.

Income replacement **“14.** A victim who, at the time of the accident, holds a regular employment on a full-time basis is entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold his employment.

Indemnity **“15.** The income replacement indemnity is computed in the following manner:

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

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

Several
employments

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

Computation

The indemnity is computed, in accordance with the rules set out in section 15, on the basis of the gross income the victim derives from the employment he is unable to hold, or on the basis of the aggregate of the gross incomes he derives from the several employments he becomes unable to hold, where that is the case.

More
remunera-
tive
employment

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

Compatibili-
ty with
victim's
abilities
and
training

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

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

Victim
under 16
years of
age

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

Temporary
or
part-time
employment

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

Indemnity

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

Computation

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

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

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

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

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

Unemploy-
ment
insurance
benefits

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

Determina-
tion of
employment

“21. From the one hundred and eighty-first day after the accident, the Régie shall determine an employment for the victim in accordance with section 45.

Income
replacement

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

Indemnity

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

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

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

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

Several
employments

If the victim held more than one temporary or part-time employment at the time of the accident, the Régie shall determine only one employment for him in accordance with section 45.

Care
expenses

The first paragraph does not apply to a victim entitled to an indemnity for care expenses under section 80.

Minimum

“22. The income replacement indemnity computed in accordance with section 21 shall not be less than the income

replacement indemnity the victim was receiving, if such was the case, at the end of the one hundred and eightieth day after the accident.

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

Victim under 16 years of age

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

Unemployed victim

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

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

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

Indemnity

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

Single indemnity

However, where both subparagraphs 1 and 2 of the first paragraph apply, the victim cannot receive both indemnities, but shall, for such time as both of the said subparagraphs continue to apply, receive the greater of the indemnities.

Gross employment income

“25. The indemnity to which the victim described in subparagraph 1 of the first paragraph of section 24 is entitled is computed on the basis of the gross income he would have derived from the employment he would have held had the accident not occurred.

Unemployment insurance benefits

The indemnity to which the victim described in subparagraph 2 of the first paragraph of section 24 is entitled is computed on the basis of the unemployment insurance benefits that would have been paid to him had the accident not occurred.

Gross income

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

Determina-
tion
of an
employment

“26. From the one hundred and eighty-first day after the accident, the Régie shall determine an employment for the victim in accordance with section 45.

Income
replacement

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

Minimum

The indemnity is computed in accordance with the third paragraph of section 21 and shall not be less than the indemnity the victim was receiving, if such was the case, at the end of the one hundred and eightieth day after the accident.

Care
expenses

The first paragraph does not apply to a victim entitled to an indemnity for care expenses under section 80.

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

Interpreta-
tion

“27. 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 which, on the day of the accident, the victim has admission to begin or continue at an educational institution;

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

Victim
16 years
of age
or over

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

Indemnity

“29. The indemnity shall be in the amount of

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

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

Income replacement **“30.** A victim who, at the time of the accident, also holds an employment or, had the accident not occurred, would have held an employment is entitled, in addition, to an income replacement indemnity if, by reason of the accident, he is unable to hold that employment.

Entitlement 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 by reason of the accident.

Single indemnity If the victim is entitled to both the income replacement indemnity contemplated in this section and that contemplated in section 32 or section 33, he cannot receive both indemnities.

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

Computation **“31.** The income replacement indemnity is computed in the following manner:

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

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

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

Income replacement **“32.** A victim who, after the scheduled date at the time of the accident for completion of his current studies, is unable, by reason of the accident, to begin or to continue the studies and unable to hold any employment is entitled to an income replacement indemnity for as long as he remains incapacitated for that reason.

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 twelve months preceding 1 July of the year which precedes the scheduled date of completion of his studies.

Victim
unable
to hold
employment

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

End of
studies
before
scheduled
date

If his studies end before the scheduled date therefor at the time of the accident, the victim is entitled to an indemnity of

(1) \$5 500 for every school year not completed at the secondary level;

(2) \$5 500 for every term of studies not completed at the post-secondary level, up to \$11 000 per year.

End of
studies
after
scheduled
date

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

“§ 5.—Victim under sixteen years of age

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.

Victim
under
16 years
of age

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

End of
indemnity

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

Computation

“36. The indemnity shall be in the amount of

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

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

Income
replacement

“37. A victim who, at the time of the accident, also holds an employment or, had the accident not occurred, would have held an

employment is, in addition, entitled to an income replacement indemnity if, by reason of the accident, he is unable to hold that employment.

Duration of indemnity 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 by reason of the accident.

Computation The indemnity is computed in the manner set out in section 31.

Single indemnity If the victim is entitled to both the income replacement indemnity contemplated in this section and that contemplated in section 38 or section 39, he cannot receive both indemnities.

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

Income replacement after 16 years of age **“38.** A victim who, from the end of the school year in which he reaches sixteen years of age, is unable to begin or to continue his studies and to hold any employment by reason of the accident is entitled to an income replacement indemnity for such time as he remains incapacitated for that reason.

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 twelve months preceding 1 July of the year which precedes the end of the school year during which the victim reaches sixteen years of age.

Victim unable to hold employment **“39.** A victim who resumes his studies but who, by reason of the accident, is unable to hold any employment after finishing or ending his studies is entitled to an indemnity from the end of his studies and for such time as he remains incapacitated for that reason.

End of studies before scheduled date If his studies end before the scheduled date therefor at the time of the accident, the victim is entitled to an indemnity of

(1) \$3 000 for every school year not completed at the elementary level;

(2) \$5 500 for every school year not completed at the secondary level.

End of studies after scheduled date If his studies end after the scheduled date, the victim is entitled to an income replacement indemnity computed on the basis of a gross income equal to a yearly average established on the basis of the average weekly earnings of the Industrial Composite in Québec as

established by Statistics Canada for each of the twelve months preceding 1 July of the year which precedes the date on which the studies are interrupted.

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

Reduction
of
indemnity

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

Duration

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

Unemployed
victim
65 years
of age
or over

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

Income
replacement

“42. Notwithstanding section 41, a victim 65 years of age or over who, by reason of the accident, is unable to hold an employment that he would have held during the first 180 days following the accident, had it not occurred, is entitled to an income replacement indemnity for that period.

Computation
and
duration

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

Computation
after
180 days

Subject to section 40, the victim is entitled, from the one hundred and eighty-first day following the accident, to an income replacement indemnity computed in accordance with sections 21 and 22.

Reduction
of
indemnity

“43. When a victim receiving an income replacement indemnity under this chapter reaches his sixty-fifth birthday, the indemnity to which he is entitled is reduced by 25 % from that date; it is reduced by 50 % from the date of his sixty-sixth birthday and by 75 % from the date of his sixty-seventh birthday.

End of
indemnity

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

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

Prior
inability

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

"DIVISION II

"DETERMINATION OF AN EMPLOYMENT FOR A VICTIM

Factors
for
determina-
tion

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

Type of
employment

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

New
determina-
tion

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

(1) the employment he held at the time of the accident and which is contemplated in either section 14 or section 16;

(2) an employment referred to in section 17; or

(3) the employment determined for him by the Régie pursuant to section 45 from the one hundred and eighty-first day after the accident.

New
determina-
tion

"47. The Régie may determine an employment for a victim contemplated in subdivisions 4 and 5 of Division I at any time from the scheduled date of the end of his current studies if the victim is able to work but unable, by reason of the accident, to hold an employment from which the gross income is equal to or greater than the gross income that would have applied to him under section 32, 33, 38 or 39, as the case may be, if he had been unable to hold any employment by reason of the accident.

Factors
for
determina-
tion

"48. In determining an employment in any case described in section 46 or 47, the Régie shall take the following factors into account, in addition to the standards and terms and conditions prescribed by regulation:

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

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

Availability
of
employment

The employment must be an employment which is normally available in the region where the victim resides and which he is able to hold on a regular and full-time or, failing that, part-time basis.

“DIVISION III

“CESSATION OF ENTITLEMENT TO INCOME REPLACEMENT INDEMNITY

Cessation
of
entitlement

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

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

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

(3) when he becomes able to hold an employment determined for him by the Régie pursuant to section 45;

(4) one year after becoming able to hold an employment determined for him by the Régie pursuant to section 46 or 47;

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

(6) at his death.

Victim
who
regain
ability

“50. Notwithstanding section 49, a victim who, at the time of the accident, held a regular full-time or part-time employment continues to be entitled to the income replacement indemnity even when he regains the ability to hold his employment, if he lost such employment by reason of the accident.

Continuance
of
indemnity

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

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

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

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

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

"DIVISION IV

"COMPUTATION OF INDEMNITY

Computation of indemnities **"51.** The income replacement indemnity of a victim contemplated by this chapter is equal to 90% of his net income computed on a yearly basis.

Minimum amount Subject to sections 40, 43 and 56, the income replacement indemnity of a victim who, at the time of the accident, held a regular full-time employment, or of a victim for whom the Régie determines an employment from the one hundred and eighty-first day following the accident, in accordance with section 45, shall not be less, however, than the indemnity that would be computed on the basis of a gross annual income determined on the basis of the minimum wage as defined in section 3 of the Regulation respecting labour standards (R.R.Q., 1981, chapter N-1.1, r. 3) and, except in the case of a part-time employment, of the regular workweek as defined in section 52 of the Act respecting labour standards (R.S.Q., chapter N-1.1), as they read on the day on which they are applied.

Computation of net income **"52.** 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 (S.C., 1970-71-72, chapter 63), the premium determined under the Unemployment Insurance Act, 1971 (R.S.C., 1985, chapter U-1) and the contribution determined under the Act respecting the Québec Pension Plan, all of which are computed in the manner prescribed by regulation.

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

Number of dependants **"53.** For the purposes of the deductions under section 52, the Régie shall take into account the number of dependants of the victim on the date of the accident.

Maximum Earnings for 1989 **"54.** For the year 1989, the amount of the Maximum Yearly Insurable Earnings is \$38 000.

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

amount of the Maximum Yearly Insurable Earnings is computed and the same sum for each of the twelve months preceding 1 July 1988.

Computation 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.

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

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

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

Over estimation of gross income **“55.** If the victim becomes able to hold an employment determined for him by the Régie pursuant to section 46 or 47 and if, by reason of his bodily injury, he can derive from his employment only a gross income that is less than the income used by the Régie as the basis for computing the income replacement indemnity he was receiving before the determination of that employment, the victim is entitled, at the expiry of the year referred to in paragraph 4 of section 49, to an income replacement indemnity equal to the difference between the indemnity he was receiving at the time the Régie determined the employment for him and the net income he could derive from the employment determined by the Régie.

Reduction of indemnity **“56.** Where a victim who is entitled to an income replacement indemnity holds an employment providing him with a gross income less than the income used by the Régie as the basis for computing his income replacement indemnity, such indemnity shall be reduced by 75% of the net income he derives from the employment.

Applicability This section does not apply in the case of an indemnity reduced pursuant to section 55.

Relapse **“57.** If a victim suffers a relapse of his bodily injury within two years from the end of his last period of disability in respect of which he was entitled to an income replacement indemnity or, if he was not entitled to such an indemnity, within two years of the accident, he

shall receive compensation from the date of the relapse as though his disability resulting from the accident had not been interrupted.

Computation of indemnity

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

Relapse after more than two years

If the victim suffers a relapse more than two years after the time referred to in the first paragraph, he shall receive compensation as if the relapse were a second accident.

Income replacement

“58. The income replacement indemnity referred to in the first paragraph of section 57 does not include the indemnity contemplated in either section 55 or section 56.

Second accident or relapse

“59. A victim receiving an income replacement indemnity, other than those under sections 50, 55 and 56, who claims such an indemnity following a second accident or a relapse cannot receive both indemnities.

Greater indemnity

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

“CHAPTER III

“DEATH BENEFIT

“DIVISION I

“INTERPRETATION AND APPLICATION

Interpretation

“60. For the purposes of this chapter,

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

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

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

Severe disability

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

Dependant **“61.** For the application of this chapter, a person who would have been a dependant of the victim if the victim had had an employment at the time of the accident is considered to be a dependant of the victim although the victim had no employment at that time.

Entitlement to compensation **“62.** The death of a victim by reason of an accident gives entitlement to compensation under this chapter.

“DIVISION II

“INDEMNITIES TO DEPENDANTS

Computation of indemnity to spouse **“63.** The spouse of a deceased victim is entitled to a lump sum indemnity equal to the product obtained by multiplying the gross income that would have been used as the basis for computing the income replacement indemnity to which the victim would have been entitled if, on the date of his death, he had survived but had been unable to hold any employment by reason of the accident, by the factor appearing in Schedule I opposite the age of the victim on the date of his death.

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

Minimum **“64.** The amount of the lump sum indemnity payable under section 63 to the spouse of a deceased victim shall not be less than \$40 000.

Indemnity to spouse **“65.** The spouse of a deceased victim is entitled, where the victim would not have been entitled to an income replacement indemnity under section 63, to a lump sum indemnity of \$40 000.

Other dependants **“66.** The dependant of a deceased victim, other than his spouse, is entitled to a lump sum indemnity in the amount listed in Schedule III opposite the age of the dependant on the date of his death.

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

Disabled dependant **“67.** If the dependant referred to in section 66 is disabled on the date of death of the victim, he is entitled to an additional lump sum indemnity of \$16 500.

Victim with a child and no spouse **“68.** If the victim has no spouse on the date of his death but has a child as defined in paragraph 3 of the definition of the word “dependant” in section 2, the child is entitled, in addition to an indemnity under section 66 and, as the case may be, in addition to an

indemnity under section 67, to a lump sum indemnity in an amount equal to the indemnity provided for by section 63, 64 or 65, as the case may be. If there is more than one child, the indemnity shall be divided equally among them.

Mother and father

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

Dead or ineligible parent

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

Funeral expenses

“70. The succession of a victim is entitled to a lump sum indemnity of \$3 000 for funeral expenses.

Periodic instalments

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

“DIVISION III

“SPECIAL PROVISION

Life annuity

“72. The surviving spouse or the dependants of a deceased victim who are entitled on 31 December 1989 to a death benefit in the form of a life annuity may apply for its replacement by an amount of equivalent value computed according to the method prescribed by regulation. The amount is payable in periodic instalments according to the terms and conditions prescribed by regulation or in one payment.

“CHAPTER IV

“COMPENSATION FOR NON-PECUNIARY DAMAGE

Physical or mental impairment

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

Increases

The maximum amount shall be increased to \$100 000 from 1 January 1991 and \$125 000 from 1 January 1992, and shall be revalorized on 1 January of each subsequent year in accordance with section 83.34.

- Permanent impairment** **“74.** For the purposes of this chapter, a permanent anatomicophysiological deficit or permanent disfigurement constitutes a permanent impairment.
- Restriction** **“75.** Compensation for non-pecuniary damage is not payable if the victim dies by reason of the accident.
- Payment to succession** Notwithstanding the first paragraph, if the victim dies of a cause unrelated to the accident and if, on the date of his death, a permanent impairment was medically discernable, the Régie shall estimate the amount of compensation that it would probably have awarded to the victim and pay that amount to his succession.
- Schedule of impairments** **“76.** The Régie shall evaluate the impairment in terms of a percentage determined on the basis of the schedule of permanent impairments established by regulation. The percentage shall include the loss of enjoyment of life and other unfavourable consequences of the impairment and shall not exceed 100%.
- Similar impairments** If an impairment is not listed in the schedule, a percentage shall be determined for it, using as guidelines the impairments of the same kind that are listed.
- Computation of indemnity** **“77.** The lump sum indemnity is an amount equal to the product obtained by multiplying the maximum amount applicable pursuant to section 73 at the time of the accident by the percentage determined for the impairment.
- Minimum** **“78.** Compensation for non-pecuniary damage shall not be less than \$500.

“CHAPTER V

“REIMBURSEMENT OF CERTAIN EXPENSES AND REHABILITATION

“DIVISION I

“REIMBURSEMENT OF CERTAIN EXPENSES

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

- Home assistance** **“79.** In the cases and according to the standards prescribed by regulation, the actual expenses for personal home assistance may be reimbursed to any victim who by reason of the accident is unable to care for himself and to perform, without assistance, the essential activities of everyday life.

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

Child care expenses **“80.** A victim holding a part-time employment or an unemployed victim able to work who, on the date of the accident and for no remuneration, has the care of a child under sixteen years of age or of a person who, for any reason whatever, is ordinarily unable to hold any employment is entitled to an indemnity for care expenses.

Amount of indemnity The indemnity shall be a weekly payment in the amount of

- (1) \$250 where the victim has the care of a person contemplated in the first paragraph;
- (2) \$280 where the victim has the care of two persons contemplated in the first paragraph;
- (3) \$310 where the victim has the care of three persons contemplated in the first paragraph;
- (4) \$340 where the victim has the care of four or more persons contemplated in the first paragraph.

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

Adjustment of indemnity During such time as the victim is so unable, the indemnity shall be adjusted, in the cases and on the conditions prescribed by regulation, according to any variation in the number of persons contemplated in the first paragraph.

Effect The adjustment or cessation of payment of the indemnity shall take effect at the end of the week during which the number of persons varied or the victim ceased to be so unable, as the case may be.

Continual attendance **“81.** Where the physical or mental condition of a victim contemplated in section 79 warrants the continual attendance of another person, the amount of the reimbursed expenses may be increased to \$500 weekly in the cases and according to the standards prescribed by regulation. These additional expenses shall be reimbursed upon the presentation of vouchers.

Single indemnities **“82.** From the one hundred and eighty-first day following his accident, the victim contemplated in section 80 may, at any time he considers appropriate, elect one of the following indemnities:

- (1) the same indemnity as he is already receiving under section 80;

(2) an income replacement indemnity granted under section 26 to an unemployed victim who is able to work.

Assistance
and
information

The Régie shall, before the one hundred and eighty-first day following the accident, provide the victim with the assistance and information necessary to make an enlightened choice.

Reimburse-
ment
of care
expenses

“83. A victim who becomes unable to care for a child under sixteen years of age or for a person ordinarily unable, for any reason whatever, to hold any employment is entitled to the reimbursement of expenses incurred by reason of the accident in order to pay the cost of such care, provided that he also, on the date of the accident,

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

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

(3) holds a regular part-time employment and subsequently elects the income replacement indemnity provided for in subparagraph 2 of the first paragraph of section 82; or

(4) holds no employment, yet is able to work, and subsequently elects the income replacement indemnity provided for in subparagraph 2 of the first paragraph of section 82.

Vouchers
and
maximum

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

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

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

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

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

Duration

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

Adjustments
of
reimburse-
ment

For such time as the victim is so unable, the reimbursement of expenses shall be adjusted, in the cases and on the conditions

prescribed by regulation, according to any variation in the number of persons contemplated in the first paragraph.

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

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

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

“§ 2.—*General expenses*”

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

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

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

Reimbursement to other person
83.3 A person who pays any of the expenses referred to in section 83.2 on behalf of a victim is entitled to the reimbursement of the expenses as provided in that section.

Social security scheme
83.4 No social security scheme may exclude expenses incurred by or on behalf of a victim from its coverage.

Accompanying person
83.5 The person who accompanies or must constantly attend a victim whose physical or mental condition or age so requires when

the victim is receiving medical or paramedical care is entitled, in the cases and on the conditions prescribed by regulation, to an availability allowance and to the reimbursement of the transportation and lodging expenses he incurs.

Vouchers **“83.6** The expenses contemplated in this subdivision shall be reimbursed on the presentation of vouchers.

“DIVISION II

“REHABILITATION

**Rehabilita-
tion** **“83.7** The Régie may take any necessary measures to contribute to the rehabilitation of a victim, to lessen or cure any disability resulting from bodily injury and to facilitate his return to a normal life or his reintegration into society or the labour market.

“CHAPTER VI

“CLAIMS PROCEDURE

**Health
professional** **“83.8** For the purposes of this chapter, a person designated as a health professional within the meaning of the Health Insurance Act (R.S.Q., chapter A-29) is a health professional.

**Application
for
compensa-
tion** **“83.9** A person applying to the Régie for compensation must do so on a form provided by the Régie and in accordance with the rules it determines by regulation.

**Attestation
of
salary** **“83.10** Every employer shall, at the request of the Régie, furnish to it within the following six days an attestation of the salary of any of his employees who applies to the Régie for compensation.

**Medical
examination** **“83.11** A person who applies for compensation shall, at the request of the Régie and at its expense, undergo an examination to be administered by the health professional of his choice.

**Medical
examination** **“83.12** The Régie, where it considers it necessary, may, at its own expense, require a person to be examined by a health professional.

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

**Transporta-
tion and
lodging
expenses** **“83.13** A person who undergoes the examination referred to in section 83.11 or 83.12 is entitled to the reimbursement of the transportation and lodging expenses incurred in connection with the examination.

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

Report of examination **“83.14** The health professional who examines a victim at the request of the Régie shall make a report to the Régie on the condition of the victim and on any other matter for which the examination was required.

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

Report to the Régie **“83.15** Every establishment within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5) and every health professional having treated a person or having been consulted by a person following an accident shall, at the request of the Régie, make a report of its or his findings, treatment and recommendations to the Régie.

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

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

Change in situation **“83.16** Every person who applies for compensation must notify the Régie without delay of any change in his situation affecting his right to an indemnity or which may affect the amount of such indemnity.

Relevant information **“83.17** A person must furnish to the Régie any relevant information required for the purposes of this Act or give the authorizations that are necessary to obtain it.

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

Magnetic or electronic communication **“83.18** The Régie may, on the conditions it determines by regulation, authorize a person required to transmit a notice, report, statement or other document to send it by means of a magnetic medium or electronic system.

Certified transcription A written transcription of the data contemplated in the first paragraph must reproduce such data faithfully. The transcription,

where certified by an officer authorized in accordance with section 15 of the Act respecting the Régie de l'assurance automobile du Québec (R.S.Q., chapter R-4), is proof of its contents.

Proof
of
contents

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

“CHAPTER VII

“PAYMENT OF INDEMNITIES

Pension

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

Seventh
day

The indemnity is not due until the seventh day following the date of the accident, except in the case provided for in the third paragraph of section 57.

Payment

The indemnity granted to a person contemplated in section 80 shall be paid once every fourteen days.

Payment

The indemnity granted under section 28 or 35 shall be paid at the end of the term or school year that the student misses by reason of the accident.

Payment

Except for the income replacement indemnity, the indemnity granted to a person contemplated in section 33 or 39 shall be paid at the end of the uncompleted term or school year.

Application
for
compensation

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

Amount
not
recoverable

Notwithstanding section 83.50, if the Régie subsequently dismisses the application or grants it only in part, the amount already paid shall not be recoverable unless it was obtained through fraud.

Single
payment

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

(1) the amount to be paid once every fourteen days is less than \$100;

(2) the person entitled to the indemnity has not been resident in Québec for at least one year.

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

83.24 The expenses referred to in section 83.2 may, at the request of the victim, be paid directly to the suppliers.

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

83.26 An application for review or an appeal does not suspend the payment of an indemnity.

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

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

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

Every other indemnity paid under this title is unseizable.

The Régie shall, at the request of the Minister of Manpower and Income Security, deduct from the indemnities payable to a person under this Act the benefits which were paid to such person or to his family and of which reimbursement is exigible pursuant to section 35 of the Act respecting income security (1988, chapter 51).

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

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

(1) where the claimant

(a) deliberately produces false or inaccurate information;

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

(2) where the person, without valid reason,

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

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

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

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

(e) does not follow the rehabilitation program put at his disposal by the Régie under section 83.7 or is not available for or refuses such program.

Victim
imprisoned
or
detained

“83.30 Where a victim is committed to penitentiary or imprisoned in a house of detention or a reception centre by reason of an offence described in paragraph *a* of subsection 1 or in subsection 3 or 4 of section 249, subsection 1 of section 252, section 253, subsection 5 of section 254 or subsection 2 or 3 of section 255 of the Criminal Code or, if the offence is committed with an automobile, in section 220, 221 or 236 of that Code, the Régie shall reduce the income replacement indemnity to which the victim is entitled by reason of the accident, by an amount equivalent on a yearly basis to the following percentage thereof:

(1) 75% in the case of a victim with no dependants;

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

(3) 35% in the case of a victim with two dependants;

(4) 25% in the case of a victim with three dependants;

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

Reduction

This reduction remains in force until the end of the period of committal or imprisonment of the victim or, as the case may be, until the date of the judgment finding the victim not guilty of the offence contemplated in the first paragraph.

Adjustment

The reduction shall be adjusted during the committal or imprisonment of the victim, in the cases and on the conditions

prescribed by regulation, according to variations in the number of dependants.

Payment to dependants

For the purposes of this section, the income replacement indemnity to which a victim with one or several dependants is entitled shall be paid to the dependants in accordance with the terms and conditions prescribed by regulation.

Remittance to victim found not guilty

If the victim is found not guilty of the offence contemplated in the first paragraph, the Régie shall remit to the victim the amount that had been subtracted from the income replacement indemnity, with interest computed in accordance with section 83.32 from the start of the reduction.

Reimbursement of medical report cost

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

Payment of interest

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

Rate

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

“CHAPTER VIII

“REVALORIZATION

Gross annual income

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

Period of revalorization

The amount of the gross annual income fixed by the Régie for the employment determined pursuant to section 45 shall be revalorized each year on that date.

Revalorization of other amounts

“83.34 All amounts of money listed in Schedule III or referred to in this title shall be revalorized on 1 January each year.

Method	“83.35 The revalorization is made by multiplying the amount to be revalorized by the ratio between the Consumer Price Index for the current year and that for the preceding year.
Consumer Price Index	“83.36 The Consumer Price Index for a year is the yearly average computed on the basis of the monthly Consumer Price Index in Canada established by Statistics Canada for the twelve months preceding 1 November of the year preceding the year for which the Index is computed.
Incomplete data	If, on 1 December of a year, the data furnished by Statistics Canada are incomplete, the Régie may use the data available at that time to establish the Consumer Price Index.
New method of computation	If Statistics Canada uses a new method to compute the monthly Consumer Price Index, the Régie shall modify the computation of the revalorization according to the change in the monthly Consumer Price Index from 1 January of the year following the change of method.
Decimals in yearly average	“83.37 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.
Decimals in ratio	“83.38 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.
Rounding of amount	“83.39 The amount obtained through revalorization is rounded off to the nearest dollar.
Private insurance scheme	“83.40 The amount of a pension paid under a private insurance scheme shall in no way be diminished by reason of the revalorization of the gross annual income used as the basis for computing an income replacement indemnity.

“CHAPTER IX

“JURISDICTION OF THE RÉGIE, REVIEW AND APPEAL

“DIVISION I

“JURISDICTION OF THE RÉGIE

Exclusive jurisdiction	“83.41 Subject to section 83.67, the Régie has exclusive jurisdiction, in first instance and in review, to examine, hear and decide any matter related to compensation under this title.
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Delegation of powers	For that purpose, the Régie may delegate its powers to one or several of its officers whom it designates.
Powers and immunity	The members of the Régie and the officers so designated are vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.
Rules of proof	“83.42 The Régie is not required to follow the ordinary rules of proof in civil matters.
Means of proof	It may admit any means of proof it considers expedient and may, by any legal means which it sees fit, inquire into the matters it is empowered to investigate.
Regulation	It may establish by regulation the rules of proof and procedure applicable to matters under its jurisdiction.
Decision	“83.43 A decision rendered in first instance must give reasons and be transmitted in writing to the interested person.
Review	If the decision is rendered by an officer, he shall, when transmitting his decision, inform the interested person of his right to apply for a review, except in the case of a decision granting a maximum indemnity or the full reimbursement of expenses to which such person is entitled.
Appeal	If the decision is rendered by the Régie, it shall, when transmitting its decision, inform the interested person of his right to appeal therefrom to the Commission des affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of expenses to which such person is entitled.
Reconsideration	“83.44 So long as a decision rendered in first instance has not been inscribed for review or appeal, the Régie or an officer may, on its or his own initiative or at the request of an interested person, reconsider the decision <ol style="list-style-type: none"> (1) if the decision was rendered before an essential fact became known or was based on an error pertaining to an essential fact; (2) if a new event affecting the right of the interested person to an indemnity or likely to have repercussions on the amount of an indemnity has occurred.
New decision	The new decision replaces the initial decision, which ceases to have effect, and the provisions of Division II apply.

"DIVISION II

"REVIEW AND APPEAL

Application for review	<p>"83.45 Except in the case of a decision granting a maximum indemnity or the full reimbursement of expenses to which he is entitled, a person who believes he has been wronged by a decision rendered in first instance by an officer may, within sixty days of notification of the decision, apply in writing to the Régie for a review of the decision.</p>
Grounds	<p>The application must mention the main grounds on which it is based.</p>
Application after prescribed time	<p>"83.46 The Régie may allow a person to act after the expiry of the time prescribed in section 83.45 if it was impossible <i>de facto</i> for him to act within that time.</p>
Powers of the Régie	<p>"83.47 The Régie may, where an application for review is submitted to it, confirm, quash or amend any decision rendered in first instance.</p>
Granting or refusal of indemnity Decision	<p>The Régie may also grant an indemnity and determine the amount thereof or decide that no indemnity is payable under this title.</p> <p>"83.48 A decision rendered in review by an officer must give reasons and be transmitted in writing to the interested person.</p>
Appeal	<p>The officer, when transmitting his decision, shall inform the person of his right to appeal therefrom to the Commission des affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of expenses to which such person is entitled.</p>
Commission des affaires sociales	<p>"83.49 A person who believes he has been wronged by a decision rendered by the Régie in first instance or by a decision rendered after a review may appeal therefrom to the Commission des affaires sociales, except in the case of a decision granting a maximum indemnity or the full reimbursement of expenses to which such person is entitled.</p>
Procedure	<p>The Commission des affaires sociales shall dispose of the appeal according to its rules of proof, procedure and practice.</p>

“CHAPTER X

“REMEDIES

“DIVISION I

“RECOVERY OF INDEMNITIES

- 83.50** A person who has received an indemnity to which he is not entitled or the amount of which exceeds that to which he is entitled shall reimburse the amount received in excess to the Régie.
- Amount received in excess**
- Recovery** The Régie may recover the amount of the debt within three years of payment of the indemnity.
- Cancellation of debt** The Régie may also cancel the debt if it considers that the amount is unrecoverable under the circumstances or deduct, in the manner determined by regulation, the amount of the debt from any sum due to the debtor by the Régie.
- Deduction** The Régie may make a deduction pursuant to the third paragraph notwithstanding a debtor’s application for review or appeal.
- Sums not recoverable** **83.51** Notwithstanding section 83.50, if, following an application for review or an appeal, the Régie or the Commission des affaires sociales renders a decision which cancels an indemnity or reduces its amount, the sums already paid are not recoverable unless they were obtained through fraud or unless the application for review or the appeal pertains to a decision rendered pursuant to section 83.50.
- Sum not recoverable** **83.52** Notwithstanding section 83.50, where a decision is reconsidered by the Régie or an officer because it was rendered before an essential fact became known or was based on an error pertaining to an essential fact, the sum already paid shall not be recoverable unless it was obtained through fraud.
- Reimbursement of indemnity** **83.53** A person who, contrary to the second paragraph of section 83.59, prevents the Régie from exercising its recourse as subrogee is required to reimburse the indemnity received from the Régie.
- Recovery** The Régie may recover the amount of the debt within three years of the action preventing the Régie from acting as subrogee.
- Cancellation of debt** The Régie may also cancel the debt if it considers that the amount is unrecoverable under the circumstances.
- Default** **83.54** The Régie shall put the debtor in default by a decision stating the amount and reasons for the exigibility of the debt.

Interruption of prescription The decision interrupts prescription as provided in section 83.50, 83.53 or 83.61, as the case may be.

Certificate of exigibility **“83.55** Where a debt referred to in this division is not recovered or cancelled, the Régie may issue a certificate

(1) attesting the failure of the debtor to appeal from the decision rendered under section 83.54 or confirming the decision of the Commission des affaires sociales maintaining the decision, as the case may be;

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

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

Executory decision **“83.56** From the filing of the certificate in the office of the court of competent jurisdiction, the decision of the Régie or of the Commission des affaires sociales becomes executory as if it were a final decision without appeal of such court and has all the effects of such a decision.

“DIVISION II

“CIVIL LIABILITY

Action not admissible **“83.57** Compensation under this title stands in lieu of all rights and remedies by reason of bodily injury and no action in that respect shall be admitted before any court of justice.

Action not admissible Subject to sections 83.63 and 83.64, where bodily injury was caused by an automobile, the benefits or pecuniary benefits provided for the compensation of such injury by the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), the Act to promote good citizenship (R.S.Q., chapter C-20) or the Crime Victims Compensation Act (R.S.Q., chapter I-6) stand in lieu of all rights and remedies by reason of such bodily injury and no action in that respect shall be admitted before any court of justice.

Private insurance scheme **“83.58** Nothing in this division limits the right of a person to claim an indemnity under a private insurance scheme, regardless of who is at fault.

Accident outside Québec **“83.59** A person entitled to compensation under this title by reason of an accident that occurred outside Québec may benefit by the

compensation while retaining his remedy with regard to any compensation in excess thereof under the law of the place where the accident occurred.

Remedy
pursued
by the
Régie

No person who exercises such remedy may, unless authorized by the Régie, prevent the Régie from exercising its remedy as subrogee pursuant to section 83.60. The Régie is released from its obligation toward a person who prevents it from exercising that remedy.

Accident
outside
Québec

“83.60 Notwithstanding section 83.57, where the Régie compensates a person by reason of an accident that occurred outside Québec, it is subrogated to the person’s rights and is entitled to recover the indemnities and the capital representing the pensions that the Régie is required to pay from any person not resident in Québec who, under the law of the place where the accident occurred, is responsible for the accident and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

Subrogation

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

Accident
in
Québec

“83.61 Notwithstanding section 83.57, where the Régie compensates a person by reason of an accident that occurred in Québec, it is subrogated to the person’s rights and is entitled to recover the indemnities and the capital value of the pensions that the Régie is required to pay from any person not resident in Québec who is responsible for the accident to the extent that he is responsible therefor and from any person liable for compensation for bodily injury caused in the accident by such non-resident.

Subrogation

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

Prescription

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

Determina-
tion of
responsibility

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

Subrogated
bodies

“83.62 Notwithstanding section 83.57, where, following an accident, the following bodies are subrogated to the rights of a person under the Acts hereinafter mentioned, they shall have the same remedies as the Régie to recover their claim from the person not resident in Québec who is responsible for the accident or from the person liable for compensation for bodily injury caused in the accident by that person:

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

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

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

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

“DIVISION III

“REMEDIES UNDER OTHER PLANS

Indemnities
under
other
Acts

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

Election

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

Exclusive
choice

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

Single
indemnity

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

Payment
continued

The Régie shall continue to pay the income replacement indemnity, where that is the case, until the entitlement to and the

amount of the indemnity and the pension payable under each of the Acts applicable are determined.

Processing
of
claims

“83.66 The Régie shall reach an agreement with the Commission de la santé et de la sécurité du travail to establish a procedure for the processing of claims filed under the Act respecting industrial accidents and occupational diseases, the Act to promote good citizenship or the Crime Victims Compensation Act by any person contemplated in section 83.65.

Agreement

The agreement must make it possible to

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

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

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

Claims
under
several
Acts

“83.67 Where a person referred to in section 83.65 claims an income replacement indemnity under the Act respecting industrial accidents and occupational diseases or total disability benefits under the Act to promote good citizenship or the Crime Victims Compensation Act, the Régie and the Commission de la santé et de la sécurité du travail shall, in carrying out the agreement described in section 83.66, render a joint decision which distinguishes between the damage attributable to each event and determines the corresponding entitlement to and amount of the benefits, compensation or indemnities payable under each of the applicable Acts.

Appeal

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

Appeal
under
one Act

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

Reduction
of
indemnity

“83.68 Where, by reason of an accident, a victim is entitled to both an income replacement indemnity payable under this Act and a

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

c. A-25,
s. 84.1,
added

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

Property
damage

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

Victim

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

c. A-25,
s. 85, am.

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

c. A-25,
s. 97, am.

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

Garage
operator

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

c. A-25,
s. 97.1, am.

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

c. A-25,
s. 141.1,
added

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

Victim

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

c. A-25,
s. 142, am.

7. Section 142 of the said Act is amended

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

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

c. A-25,
s. 143, am. **8.** Section 143 of the said Act is amended by replacing the words and figure “paragraph *b* of section 17” in the first and second lines of the second paragraph by the words and figures “subparagraphs 2 and 3 of the first paragraph of section 10”.

c. A-25,
s. 148, am. **9.** Section 148 of the said Act is amended by replacing the second paragraph by the following paragraphs:

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

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

c. A-25,
s. 149, am. **10.** Section 149 of the said Act is amended by replacing paragraph 2 by the following paragraph:

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

c. A-25,
s. 149.7, am. **11.** Section 149.7 of the said Act is amended by replacing paragraph 3 by the following paragraph:

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

c. A-25,
s. 156, am. **12.** Section 156 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Authorized
insurer “An authorized insurer is an insurer authorized to transact automobile insurance under the Act respecting insurance (R.S.Q., chapter A-32), holding a permit issued by the Inspector General of Financial Institutions, except a person who transacts exclusively in reinsurance.”

c. A-25,
s. 180, am. **13.** Section 180 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Rate
manual

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

c. A-25,
s. 190, am.

14. Section 190 of the said Act is amended by replacing the figures “59, 62” in the first line by the figures “83.10, 83.15”.

c. A-25,
s. 195, am.

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

Regulations
of the
Régie

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

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

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

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

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

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

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

(7) to establish the manner of determining the gross income for the purposes of section 17;

(8) to establish the manner of determining the gross income for the purposes of section 21;

(9) to identify classes of employments, determine gross incomes on a weekly or yearly basis corresponding to each class according to work experience and establish the manner of reducing such incomes to take into account the fact that the victim holds a part-time employment, for the purposes of sections 15, 20 and 31;

(10) to establish the standards and procedures for determining an employment for a victim for the purposes of sections 45 and 48, identifying classes of employments, determining gross incomes on a yearly or weekly basis corresponding to each class according to work experience, and to establish the manner of reducing such incomes to take into account the fact that a victim holds a part-time employment;

(11) to establish the method for computing the net income of a victim and the amount equivalent to the income tax, the premium and the contribution referred to in section 52;

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

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

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

(15) to determine the cases and conditions entitling a person to the reimbursement of the expenses referred to in section 83.2 and to fix the maximum amount thereof;

(16) to determine what expenses may be reimbursed to a victim under the second paragraph of section 83.2;

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

(18) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the availability allowance referred to in section 83.5 and to fix the maximum amount of such expenses and allowance;

(19) to prescribe in what cases and according to what standards the expenses contemplated in sections 79 and 81 are reimbursable to a victim;

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

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

(22) to determine the cases and conditions entitling a person to the reimbursement of the expenses or to the availability allowance referred to in section 83.13 and to fix the maximum amount of such expenses and allowance;

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

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

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

(26) to prescribe the method by which the amount contemplated in section 72 is computed and establish the terms and conditions of payment of such amount by periodic instalments;

(27) to prescribe in what cases and on what conditions the indemnity described in section 80 and the reimbursement of expenses described in section 83 may be adjusted according to the variation in the number of persons contemplated therein;

(28) to define, for the purposes of the second paragraph of section 48, the expressions "employment normally available" and "region where the victim resides";

(29) to prescribe the cases and conditions in which and on which the income replacement indemnity contemplated in section 83.30 may be adjusted according to variations in the number of dependants;

(30) to prescribe the terms and conditions of payment to dependants of the indemnity contemplated in section 83.30.

Regulations
of the
Régie

"195.1 The Régie may, for the purposes of Titles II and V, make regulations

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

(2) to determine the cases and circumstances which give a right to the reimbursement of the amounts recovered by the Régie pursuant

to the second paragraph of section 150 and establish a method for computing, or the exact amount of, the sums that may be reimbursed and the sum exigible as administrative expenses in connection with such a reimbursement.”

c. R-4,
s. 15,
replaced

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

Authenticity

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

Signature

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

Automatic
device

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

c. R-4,
s. 17.1,
replaced

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

Delegation
of
powers

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

Subdelega-
tion

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

c. R-9,
s. 105.1,
added

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

Disability
pension
added
to
indemnity

“105.1 Notwithstanding section 105, the payment of the disability pension is included in the payment due from the Régie de

l'assurance automobile du Québec where the beneficiary is entitled to both the pension and the income replacement indemnity payable under the Automobile Insurance Act (R.S.Q., chapter A-25). The Régie de l'assurance automobile du Québec shall pay the total amount of the pension and the indemnity to the beneficiary.

Monthly
payment

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

Applicability

This section does not apply to a beneficiary who became disabled by reason of an accident occurring before 1 January 1990.

Definition
of
accident

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

c. R-9,
s. 139, am.

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

Presumed
application

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

c. R-9,
s. 139.2,
replaced

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

Application
for
benefit

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

Prior
date

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

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

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

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

21. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is amended by replacing the figure "56" in the first line of paragraph *q* by the figure "83.49".

Jurisdiction
in appeal

22. Notwithstanding section 21, the Commission des affaires sociales shall retain its jurisdiction to hear any appeal brought, before or from the coming into force of this Act, under section 56 of the Automobile Insurance Act as it reads on 31 December 1989.

Existing
provision

23. Titles I and II of the Automobile Insurance Act in force on 31 December 1989, except section 45, remain in force and continue to apply to persons who suffer bodily injury before 1 January 1990.

Relapse

However, a person contemplated in the first paragraph who, from 1 January 1990, suffers a relapse more than two years after the end of the last period of disability in respect of which he was entitled to an income replacement indemnity or, if he was not entitled to such an indemnity, more than two years after the date of his accident, is subject to the provisions of the Automobile Insurance Act enacted by this Act and shall receive compensation as if the relapse were a second accident.

c. A-25,
ss. 13
and 13.1,
repealed

24. Sections 13 and 13.1 of the Automobile Insurance Act are repealed from 19 June 1989.

Single
indemnity

25. No person receiving an income replacement indemnity under the Automobile Insurance Act as it reads on 31 December 1989 who, after a second accident, claims such an indemnity under the provisions of the said Act enacted by this Act shall collect both indemnities.

Greater
indemnity

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

Applicable
provisions

26. This Act applies to persons who suffer bodily injury from 1 January 1990; however, sections 79, 81, 83.2 to 83.6 and 83.22 of the Automobile Insurance Act enacted by this Act apply as well to persons who suffer bodily injury before that date.

Coming
into
force

27. This Act comes into force on 1 January 1990, with the exception of section 72 of the Automobile Insurance Act enacted by section 1, which comes into force on the date fixed by the Government, and of section 83.22 enacted by section 1 and sections 16 and 17, which come into force on 19 June 1989.

SCHEDULE I

LUMP SUM INDEMNITY TO SPOUSE OF DECEASED VICTIM

(Section 63, first paragraph)

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

63	1.4
64	1.2
65 or over	1.0

SCHEDULE II

LUMP SUM INDEMNITY TO DISABLED SPOUSE OF DECEASED VICTIM

(Section 63, second paragraph)

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

SCHEDULE III

LUMP SUM INDEMNITY TO DEPENDANT OF DECEASED VICTIM

(Section 66)

Age of dependant (years)	Amount of indemnity (\$)
Less than 1	\$35 000
1	\$34 000
2	\$33 000
3	\$32 000

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