



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 30

(2001, chapter 44)

**An Act to amend the Act respecting
income support, employment assistance
and social solidarity and other legislative
provisions**

Introduced 15 May 2001

Passage in principle 5 June 2001

Passage 7 December 2001

Assented to 11 December 2001

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EXPLANATORY NOTES

This bill proposes modifications to the method of calculating a benefit under the Parental Wage Assistance Program.

The bill provides that the amount of the benefit is to be established on the basis of a maximum amount prescribed by regulation, which is then multiplied by quotients that take into account the total net income of the family and the number of months of eligibility under the program in the year of the eligible adult member of the family. It eliminates special calculation rules related to work income replacement indemnities.

Rules are introduced that will ensure that the benefits received by families eligible under the program are not reduced because of the new calculation method.

The Minister is authorized under the bill, in the cases and under the conditions prescribed by regulation, to make advance payments of the benefit, the amount established as the contribution payable pursuant to the Act respecting childcare centres and childcare services and the credit for child care expenses provided for in the Taxation Act.

The bill clarifies a point regarding the ineligibility of post-secondary level students for last resort financial assistance, without regard to the type of institution they attend.

The bill introduces the possibility of prescribing procedures other than the production of a form for the purposes of statements required to be filed by law.

The Act respecting industrial accidents and occupational diseases is amended to specify who the employer is when a person engages in work activities as part of a Individualized Integration, Training and Employment Plan.

The Act respecting administrative justice is amended to make it possible for the Minister to be represented by a person of the Minister's choice where proceedings are instituted before the Administrative Tribunal of Québec under the Act respecting income support, employment assistance and social solidarity.

Lastly, the bill introduces several amendments to reflect the change in the name of the department. It also contains various transitional and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Executive Power Act (R.S.Q., chapter E-18);
- Act respecting administrative justice (R.S.Q., chapter J-3);
- Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Government Departments Act (R.S.Q., chapter M-34);
- Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001).

Bill 30

AN ACT TO AMEND THE ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE AND SOCIAL SOLIDARITY AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 15 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended by replacing “college or university” in subparagraph 3 of the first paragraph by “postsecondary”.

2. Section 39 of the said Act is amended by adding “or according to any other procedure prescribed by regulation” at the end of subparagraph 2 of the first paragraph.

3. Section 68 of the said Act, as amended by section 144 of chapter 9 of the statutes of 2001, is again amended by replacing “dependent children” in subparagraph 3 of the second paragraph by “the designated dependent child”.

4. Section 72 of the said Act is amended by replacing “for the year,” in the second paragraph by “throughout the year,”.

5. The said Act is amended by inserting the following section after section 72 :

“72.1. Where a family includes more than one dependent child, the child designated as dependent by the adult who is eligible under the program is the designated dependent child for the purposes of this chapter.”

6. Section 73 of the said Act is replaced by the following section :

“73. The benefit granted to an adult for a year shall be established by

(1) determining the maximum amount of the benefit, in the cases and on the conditions prescribed by regulation ;

(2) multiplying the amount referred to in paragraph 1 by the quotient obtained, if not greater than 1, by dividing the net work income of the family by the family’s net total income ; and

(3) multiplying the amount determined under paragraph 2 by the quotient obtained by dividing the number of months of eligibility of the adult in the year by the number of months of work of that adult in that year.

For the purposes of subparagraph 3 of the first paragraph, a month of work is a month during which an adult meets the conditions of eligibility set out in subparagraph 4 of the second paragraph of section 68.”

7. Sections 74 to 76 of the said Act are repealed.

8. Section 77 of the said Act is replaced by the following section :

“77. Where an adult eligible under the program or the adult’s spouse is required to pay a contribution fixed under the Act respecting childcare centres and childcare services (chapter C-8.2), an amount determined according to the procedure provided for in the said regulation is also granted to that adult, in the cases and on the conditions determined by regulation. The amount thus obtained is deemed to be an increase in the annual benefit.”

9. Section 78 of the said Act is replaced by the following section :

“78. The amount computed under sections 73 and 77 is nil if the result obtained under those sections is negative.”

10. Section 79 of the said Act is amended by striking out what follows the first paragraph.

11. The said Act is amended by inserting the following sections after section 79:

“79.1. For the purposes of paragraph 2 of section 79, where a person is a member of a partnership at the end of the fiscal period of a partnership, any amount deducted by the partnership under section 130 or 130.1 of the Taxation Act in computing its income from a business for that fiscal period is deemed to have been deducted by the person under that section, to the extent of the person’s share of that amount, in computing the person’s income from that business for the taxation year during which the fiscal period ended.

“79.2. The net work income of an adult’s family for a year is equal to the amount by which the aggregate of the work incomes of the adult and the adult’s spouse exceeds the amount of the work incomes excluded therefrom by regulation.

“79.3. The net total income of an adult’s family for a year is equal to the amount by which the aggregate of the total income of the adult, of the adult’s spouse and of the designated dependent child, computed under Part I of the Taxation Act with reference to the rules in Title II of Book V.2.1 of Part I of that Act, exceeds the aggregate of the following amounts :

(1) the total income of the designated dependent child, except income referred to in paragraph 2, up to the maximum amount prescribed by regulation ;

(2) the income of the adult's family that may be deducted in computing taxable income under paragraph *e* of section 725 of the Taxation Act ;

(3) the benefits granted under a last resort financial assistance program that are equal to the lesser of the following amounts :

(a) the amount by which the aggregate of such benefits received in the year by the adult and the adult's spouse that are required to be included, for the year, in computing their income under section 311.1 of the Taxation Act, exceeds the aggregate of such benefits reimbursed by the adult and the adult's spouse in the year, that are deductible, for that year, under paragraph *d* or *d.2* of section 336 of that Act ;

(b) the amount determined by regulation ;

(4) the amount of the work incomes excluded therefrom by regulation ;

(5) an amount that would be deductible, in computing the family's income under Part I of the Taxation Act, if

(a) section 336.0.3 of that Act read as follows :

"336.0.3. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the aggregate of all amounts each of which is a support amount paid in the year by the taxpayer to a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was paid."; and

(b) section 336.0.4 of that Act read as follows :

"336.0.4. A taxpayer may, in computing the income of the taxpayer for a taxation year, deduct the amount by which the amount referred to in the second paragraph, to the extent that the amount was not deducted in computing the taxpayer's income for a preceding taxation year or taken into account in computing the family's total income, within the meaning of section 79.3 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001), for a preceding taxation year, exceeded the portion of the amount in respect of which section 334.1 applied for a preceding taxation year, as that section read for that preceding year.

The amount to which the first paragraph refers is an amount paid by the taxpayer in the year or one of the two preceding taxation years under an order of a competent tribunal as a reimbursement of an amount

(a) included under any of paragraphs *a* to *b.1* of section 312, as it read for a preceding taxation year, in computing the taxpayer's income for that preceding year, or that should have been so included had the taxpayer not made the election provided for in section 309.1, as it read for that preceding year; or

(b) that would have been included under section 312.4 in computing the taxpayer's income for the year or a preceding taxation year had the version of that section, enacted by subparagraph 1 of the first paragraph of section 79.4 of the Act respecting income support, employment assistance and social solidarity, applied from the taxation year 1997.”;

(6) where scholarships are included in computing the total income of the adult, the adult's spouse or the dependent child under paragraph *g* of section 312 of the Taxation Act, the amount of the scholarships excluded therefrom by regulation.

“79.4. For the purposes of section 79.3, the income computed under Part I of the Taxation Act, with reference to the rules in Title II of Book V.2.1 of Part I of that Act, is the income that would be thus computed if

(1) section 312.4 of that Act read as follows:

“312.4. A taxpayer shall also include the aggregate of all amounts each of which is a support amount received in the year from a particular person, where the taxpayer and the particular person were living separate and apart at the time the amount was received.”; and

(2) section 312.5 of that Act read as follows:

“312.5. A taxpayer shall also include any amount received under an order of a competent tribunal as a reimbursement of an amount deducted under any of paragraphs *a* to *b* of subsection 1 of section 336, as it read for that preceding year, in computing the taxpayer's income for a preceding taxation year, or that could have been so deducted were it not for section 334.1, as it read for that preceding year, or an amount that would have been deductible under section 336.0.3 in computing the taxpayer's income for the year or a preceding taxation year had the version of that section, enacted by subparagraph *a* of paragraph 5 of section 79.3 of the Act respecting income support, employment assistance and social solidarity, applied from the taxation year 1997.”

“79.5. The net total income of an adult's family may be reduced, in the cases, on the conditions and in the manner prescribed by regulation, by any amount not exceeding an amount specified in the regulation, where the family has incomes other than work incomes for the year.

The family's net total income may also be increased, in the cases, on the conditions and in the manner prescribed by regulation, where the family has deducted an amount for the year from the family's total income pursuant to section 776.70 of the Taxation Act.”

12. Section 80 of the said Act is amended by striking out paragraphs 3 and 4.

13. Section 81 of the said Act is amended by striking out “75 to” in the first paragraph.

14. Section 82 of the said Act is amended by striking out the second paragraph.

15. The said Act is amended by inserting the following sections after section 82:

“82.1. However, the Minister of Employment and Social Solidarity may, in the cases and on the conditions prescribed by regulation, pay the annual benefit by making advance monthly payments if, according to the estimation made on the basis of the information supplied by the adult, the amount thus estimated exceeds the minimum amount determined by regulation.

The benefit is estimated by making the computation provided for in section 73 and, for the purpose of computing the net total income of a family under section 79.3, the amount of the benefits granted under a last resort financial assistance program is the amount prescribed by regulation.

Such advance monthly payments constitute advances on the annual benefit.

“82.2. The Minister of Employment and Social Solidarity may also pay, by advance monthly payments, the amount determined pursuant to section 77 where an advance monthly payment of the annual benefit is paid pursuant to section 82.1.

“82.3. Where the adult or the adult’s spouse incurs, for the year, child care expenses that qualify for the child care expense credit provided for in sections 1029.8.67 to 1029.8.81 of the Taxation Act, and the adult or the adult’s spouse is, in respect of the expenses, deemed to have paid an amount for that year under section 1029.8.79 of that Act on account of the tax payable under Parts I and I.2 of that Act, the Minister of Employment and Social Solidarity may, in the cases, on the conditions and in the manner prescribed by regulation, pay an advance on that credit by means of advance monthly payments.”

16. Section 88 of the said Act is amended by adding “or according to any other procedure prescribed by regulation” at the end of subparagraph 2 of the first paragraph.

17. Section 91 of the said Act is amended

(1) by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“(2) whether the adult had a spouse during the year;”;

(2) by replacing subparagraphs 4 to 11 of the first paragraph by the following subparagraphs :

“(4) the maximum amount, determined by regulation, of the benefits granted under a last resort financial assistance program to be subtracted from the family’s total incomes under subparagraph *b* of paragraph 3 of section 79.3;

“(5) the amount that is excluded from the work incomes ;

“(6) the amount established pursuant to section 77;

“(7) for the purposes of section 80, any part of the year during which the adult had no spouse ;

“(8) whether the adult has a spouse who is eligible under the program ;

“(9) the total of the advance payments received by the adult or the adult’s spouse, distinguishing the portion attributable to the benefit from the portion attributable to the amount referred to in section 82.3 ;

“(10) the amount of increase in the benefit determined by the Minister under section 96.”

18. Section 128 of the said Act is amended by replacing “the second paragraph of section 82” in the second paragraph by “sections 82.1 to 82.3”.

19. Section 155 of the said Act is amended by adding “or provide for other procedures for the filing of a statement or return” at the end of paragraph 6.

20. Section 156 of the said Act is amended by replacing “college or university” in paragraph 2 by “postsecondary”.

21. Section 158 of the said Act is amended

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

“(1) prescribing, for the purposes of subparagraph 3 of the second paragraph of section 68, a method for determining the value of the property of an adult, the adult’s spouse and the designated dependent child and prescribing, for the purposes of eligibility under the program, the maximum amount of the value of such property combined with the value of their liquid assets;” ;

(2) by replacing subparagraphs 4 to 13 of the first paragraph by the following subparagraphs :

“(4) determining, for the purposes of subparagraph 1 of the first paragraph of section 73, the cases in which and the conditions on which the maximum amount of the benefit is determined and fixing that amount ;

“(5) determining the cases in which and the conditions and methods according to which the amount granted under section 77 is determined;

“(6) determining, for the purposes of section 79.2 and paragraph 4 of section 79.3, the amount that is excluded from work incomes;

“(7) prescribing, for the purposes of paragraph 1 of section 79.3, the maximum amount of total income of the designated dependent child which may be subtracted from the net total income of the family;

“(8) prescribing, for the purposes of subparagraph *b* of paragraph 3 of section 79.3, the amount of benefits granted under a last resort financial assistance program;

“(8.1) determining, for the purposes of paragraph 6 of section 79.3, the amount that is excluded from scholarship income;

“(9) prescribing, for the purposes of the first paragraph of section 79.5, the cases in which, the conditions according to which and the manner in which the family’s net total income may be reduced, and determining the maximum amount of the reduction;

“(9.1) prescribing, for the purposes of the second paragraph of section 79.5, the cases in which, the conditions according to which and the manner in which the family’s net total income may be increased;

“(10) determining, for the purposes of the first paragraph of section 82.1, the cases in which and the conditions according to which the advance payments of the yearly benefit may be made and determining the minimum amount of the estimated benefit according to which such payments may be made;

“(11) prescribing, for the purposes of the second paragraph of section 82.1, the amount of benefits granted under a last resort financial assistance program;

“(12) determining, for the purposes of section 82.3, the cases, conditions and procedures according to which advance monthly payments may be made on the child care expense credit.”;

(3) by inserting the following paragraph after the first paragraph:

“The provisions of a regulation made pursuant to subparagraph 9 of the first paragraph may vary according to the nature of the incomes considered to determine the family’s net total income.”

22. The said Act is amended by inserting the following sections after section 225:

“225.1. For the year 2001, section 79 of this Act, as it read on 1 January 2001, is amended by inserting the following subparagraph after subparagraph 5 of the third paragraph:

“(6) where scholarships are included in computing the total income of the adult, the adult’s spouse or the dependent child under paragraph *g* of section 312 of the Taxation Act, the lesser of the amount of the scholarships and \$3,000.”

“2 2 5 . 2 . For each of the years 2002 and 2003, the amount of the benefit determined in respect of an adult eligible under the Parental Wage Assistance Program is the higher of the amounts obtained by applying the computation rules for such benefit in effect for the year 2001 and those in effect for the year 2002 or 2003, as the case may be.

For the year 2002, the first paragraph applies insofar as the adult or the adult’s spouse was, for the year 2001, eligible under the program or was the spouse of an eligible adult.

For the year 2003, the first paragraph applies insofar as the adult or the adult’s spouse was, for each of the years 2001 and 2002, eligible under the program or was the spouse of an eligible adult.

The Minister of Employment and Social Solidarity must inform the Minister of Revenue of the fact that an adult eligible under the program is subject to the application of this section. The amount shall be determined by the Minister of Revenue on the filing of the documents referred to in section 90.”

2 3 . The said Act is amended

(1) by replacing “Minister of Employment and Solidarity” in sections 2, 82, 92 and 229 by “Minister of Employment and Social Solidarity”;

(2) by replacing “Ministère de l’Emploi et de la Solidarité” in sections 99, 119 and 129 by “Ministère de l’Emploi et de la Solidarité sociale”;

(3) by replacing “Act respecting the Ministère de l’Emploi et de la Solidarité” in sections 12, 18 and 127 by “Act respecting the Ministère de l’Emploi et de la Solidarité sociale”.

AMENDING, TRANSITIONAL AND FINAL PROVISIONS

2 4 . Section 10 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing “A student” in the first line by “Subject to paragraph 4 of section 11, a student”.

2 5 . Section 11 of the said Act is amended by adding “, unless the work is performed within the scope of a measure or wage subsidy program under the responsibility of the Minister of Employment and Social Solidarity” at the end of paragraph 4.

2 6 . Section 4 of the Executive Power Act (R.S.Q., chapter E-18) is amended by adding “Social” before “Solidarity” in subparagraph 12 of the first paragraph.

27. Section 102 of the Act respecting administrative justice (R.S.Q., chapter J-3) is amended by replacing the second paragraph by the following paragraph:

“The Minister of Employment and Social Solidarity or a body which is the Minister’s delegatee for the purposes of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001) may be represented by the person of his or its choice before the social affairs division in the case of a proceeding brought under that Act.”

28. The Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing “Solidarité” wherever it appears in the title, section 1, the first paragraph of section 58 and section 131 by “Solidarité sociale”, and by replacing “Solidarity” wherever it appears in the second paragraph of section 21, the second paragraph of section 33, section 47, the second paragraph of section 61, amended by section 112 of chapter 15 of the statutes of 2000, and section 63 by “Social Solidarity”.

29. Section 1 of the Government Departments Act (R.S.Q., chapter M-34) is amended by replacing paragraph 11 by the following paragraph:

“(11) The Ministère de l’Emploi et de la Solidarité sociale, presided over by the Minister of Employment and Social Solidarity;”.

30. In any other Act and in any regulation, order in council, ministerial order, agreement, contract or other document, unless the context indicates otherwise and with the necessary modifications:

(1) a reference to the Minister of Employment and Solidarity is a reference to the Minister of Employment and Social Solidarity;

(2) a reference to the Deputy Minister of Employment and Solidarity is a reference to the Deputy Minister of Employment and Social Solidarity, and a reference to the Ministère de l’Emploi et de la Solidarité is a reference to the Ministère de l’Emploi et de la Solidarité sociale;

(3) a reference to the Act respecting the Ministère de l’Emploi et de la Solidarité and establishing the Commission des partenaires du marché du travail is a reference to the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail.

31. In any other Act and in any regulation, order in council, ministerial order, agreement, contract or other document, unless the context indicates otherwise and with the necessary modifications, a reference to a provision of Chapter III of Title II of the Act respecting income support, employment assistance and social solidarity, as it read on 31 December 2001, is a reference to the corresponding provision of this Act.

32. The first regulation made pursuant to the provisions of this Act and of sections 335 to 338 of the Act to amend the Taxation Act and other legislative provisions (1999, chapter 83) is not subject to the publication requirement set out in section 11 of the Regulations Act (R.S.Q., chapter R-18.1). The regulation shall come into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein, notwithstanding section 17 of that Act.

The provisions of the regulation that are made pursuant to sections 335 to 338 of the Act to amend the Taxation Act and other legislative provisions (1999, chapter 83) may have effect from 1 October 1999.

33. The provisions of this Act come into force on 1 January 2002, except section 22 where it enacts section 225.1 of the Act respecting income support, employment assistance and social solidarity, and sections 20, 21, 26 to 30 and 32, which come into force on 11 December 2001.