



NATIONAL ASSEMBLY OF QUÉBEC

FIRST SESSION

FORTY-SECOND LEGISLATURE

Bill 51
(2020, chapter 23)

**An Act mainly to improve the
flexibility of the parental insurance
plan in order to promote family-work
balance**

**Introduced 28 November 2019
Passed in principle 29 September 2020
Passed 27 October 2020
Assented to 29 October 2020**

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EXPLANATORY NOTES

This Act proposes to amend the Act respecting parental insurance mainly to offer greater flexibility in using parental insurance plan benefits.

More specifically, the period during which maternity, paternity, parental or adoption benefits may be paid is extended. The work-income-related exemptions to which a recipient is entitled while receiving benefits are also increased.

Additional weeks of parental or adoption benefits are granted to the only parent of a child and to the parents in cases where they share a certain number of weeks of benefits.

Moreover, the number of weeks of benefits for the birth or adoption of more than one child is increased.

The Act grants weeks of exclusive adoption benefits to each adoptive parent as well as weeks of welcome and support benefits relating to an adoption.

In the event of a child's death, the parents are granted an additional period before benefits end.

Pilot projects may be implemented to study or test new measures relating to the conditions or eligibility requirements of the parental insurance plan.

Other amendments are made to the Act respecting parental insurance, in particular so that exceptions to the method for calculating benefits may be prescribed by regulation as regards establishing an employee's average weekly earnings.

Lastly, consequential amendments are made to other Acts, including the Act respecting labour standards, and amendments are made to the Regulation under the Act respecting parental insurance. Transitional and final provisions are also included.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting parental insurance (chapter A-29.011);
- Act respecting administrative justice (chapter J-3);
- Act respecting labour standards (chapter N-1.1).

REGULATION AMENDED BY THIS ACT:

- Regulation under the Act respecting parental insurance (chapter A-29.011, r. 2).

Bill 51

AN ACT MAINLY TO IMPROVE THE FLEXIBILITY OF THE PARENTAL INSURANCE PLAN IN ORDER TO PROMOTE FAMILY-WORK BALANCE

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING PARENTAL INSURANCE

1. Section 2 of the Act respecting parental insurance (chapter A-29.011) is amended

(1) by inserting “in connection with a pregnancy or the delivery of a child” after “benefits” in paragraph 1;

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

“(2) paternity benefits and exclusive or shareable parental benefits in connection with the birth of a child; and”;

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

“(3) exclusive and shareable adoption benefits.”;

(4) by adding the following paragraph at the end:

“(4) welcome and support benefits relating to an adoption.”

2. Section 3 of the Act is amended by striking out “gagné” in subparagraph 3 of the first paragraph in the French text.

3. Section 7 of the Act is amended by replacing the second and third paragraphs by the following paragraphs:

“Payment of maternity benefits shall begin not earlier than the 16th week preceding the expected week of delivery and end not later than 20 weeks after the week of delivery. However, payment may end after the expiry of the 20 weeks, but may not exceed the 52nd week after the week of delivery, if the child is hospitalized and if, on request, the maternity benefit period is extended for the duration of the child’s hospitalization.

Payment of maternity benefits may also end after the expiry of the 20-week period, but may not exceed the 52nd week after the week of delivery if, in the cases and for the time determined by regulation of the Conseil de gestion, the maternity benefit period is extended.”

4. Section 8 of the Act is amended

(1) by replacing “18” in the first paragraph by “20”;

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

“However, payment may end after the expiry of the 20-week period, but may not exceed the 52nd week after the week in which the termination of pregnancy occurs if, in the cases and for the time determined by regulation of the Conseil de gestion, the maternity benefit period is extended.”

5. Section 10 of the Act is replaced by the following sections:

“**10.** The number of weeks of shareable parental benefits to which the parents may be entitled is 32 or, in the case of an election pursuant to section 18, 25. Payment may begin the week of the birth of the child at the earliest, but may not exceed the benefit period.

“**10.1.** For the birth of more than one child as a result of a single pregnancy, five weeks of exclusive parental benefits shall be granted to each parent or, in the case of an election pursuant to section 18, three weeks.

“**10.2.** Where only one parent is mentioned in the act of birth, except in cases of death referred to in section 17, five weeks of exclusive parental benefits shall be granted to that parent or, in the case of an election pursuant to section 18, three weeks.

“**10.3.** Where each of the parents has received eight weeks of shareable parental benefits or, in the case of an election pursuant to section 18, six weeks, the number of weeks of shareable parental benefits is increased by four weeks or, in the case of an election, three weeks.”

6. Section 11 of the Act is replaced by the following sections:

“**11.** The number of weeks of adoption benefits to which adoptive parents may be entitled is

(1) 5 weeks of exclusive benefits for each adoptive parent or, in the case of an election pursuant to section 18, 3 weeks; and

(2) 32 weeks of shareable benefits or, in the case of an election pursuant to section 18, 25 weeks.

Payment may begin, at the earliest, the week of the child's arrival into the care of one of the parents for the purpose of the adoption. It may not exceed the benefit period.

In the case of an adoption outside Québec, the benefit period may begin five weeks before the week of the child's arrival into the care of one of the parents for the purpose of the adoption.

If the adoption outside Québec does not materialize, the adoption benefits paid during the weeks preceding the child's expected arrival are not recoverable, up to the number of weeks provided for in the third paragraph.

“11.1. For the adoption of more than one child at the same time, the number of weeks of exclusive benefits for each adoptive parent shall be increased by five weeks or, in the case of an election pursuant to section 18, three weeks.

“11.2. Where an adoptive parent welcomes a child for the purpose of an adoption, and that parent will be the only one mentioned in the birth certificate or the equivalent, except in cases of death referred to in section 17, five weeks of exclusive adoption benefits shall be granted to that parent or, in the case of an election pursuant to section 18, three weeks.

“11.3. Where each of the parents has received eight weeks of shareable adoption benefits or, in the case of an election pursuant to section 18, six weeks, the number of weeks of shareable adoption benefits is increased by four weeks or, in the case of an election, three weeks.”

7. The Act is amended by inserting the following subdivision after section 12:

“§4.1.—Welcome and support benefits relating to an adoption

“12.1. The number of weeks of welcome and support benefits relating to an adoption to which adoptive parents may be entitled is 13 weeks of shareable benefits or, in the case of an election pursuant to section 18, 12 weeks.

Payment may begin, at the earliest, the week of the child's arrival into the care of one of the parents for the purpose of the adoption. It may not exceed the benefit period.

In the case of an adoption outside Québec, the benefit period may begin five weeks before the week of the child's arrival into the care of one of the parents for the purpose of the adoption.”

8. Section 13 of the Act is amended

(1) by replacing “a claim for benefits” in the first paragraph by “an application”;

(2) by replacing “who files for benefits” in the second paragraph by “who files an application for benefits”.

9. Section 14 of the Act is amended

(1) by replacing “normally lives with the child” in the first paragraph by “ensures a regular presence to take care of the child”;

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

“If the parent no longer ensures a regular presence with the child, the child is deemed to be present with the parent until the end of the week in which the separation occurs or, if the child is deceased, until the end of the second week following the week of the child’s death.

However, when two or more weeks of maternity benefits are payable after the week of the child’s death, the presumption of presence provided for in the second paragraph does not apply to the mother. If only one week of maternity benefits remains payable after the week of the child’s death, the child shall be deemed to be present with the mother during the second week following the week of the child’s death.

In the case of the birth of more than one child as a result of a single pregnancy or in the case of the adoption of more than one child at the same time, entitlement to exclusive benefits under sections 10.1 and 11.1 ends as of the end of the week in which the parent ensures a regular presence with only one of those children. However, in the event of a child’s death, the child shall be deemed to be present with the parents until the end of the second week following the week of the child’s death.”

10. Section 15 of the Act is amended

(1) by replacing both occurrences of “delivery” in the first paragraph by “birth”;

(2) by replacing the portion before subparagraph 2 of the second paragraph by the following:

“In the case of a birth or an adoption occurring while at least one of the parents is eligible for shareable parental or adoption benefits for a previous event, the number of weeks of shareable parental or adoption benefits for that second event is equal to the lesser of the following:

(1) the total number of weeks of shareable parental or adoption benefits granted for that second event; and”.

11. Section 16 of the Act is amended

(1) in the first paragraph,

(a) by replacing “The total number of weeks of parental or adoption benefits may be allocated to one parent, divided between the parents” by “The weeks of shareable parental or adoption benefits and the weeks of welcome and support benefits relating to an adoption may be taken by either parent or shared between the parents;”;

(b) by replacing “or allocated concurrently to the parents” by “they may also be taken concurrently by the parents”;

(2) by replacing “divided” in the second paragraph by “shared”.

12. Section 17 of the Act is amended

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

“In the event of the death of a parent, whether the latter is eligible or not under this plan, the weeks of maternity or paternity benefits and the weeks of exclusive parental or adoption benefits that have not been paid as at the date of his or her death shall be added to the number of weeks of shareable parental or adoption benefits of the surviving parent.”;

(2) by inserting “shareable” before “parental” in the second paragraph;

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

“The same applies to the calculation of the shareable adoption benefits and of the welcome and support benefits relating to an adoption payable from the death of one of the adoptive parents.”

13. Section 17.1 of the Act is amended by replacing the second paragraph by the following paragraph:

“The Conseil de gestion may, by regulation, determine the conditions governing how the parental insurance plan is to be applied when one of the parents is not resident in Québec at the time an application for benefits under that plan or a plan mentioned in the first paragraph is filed. It may, to that end, take into account the applicant’s place of residence at the beginning of the benefit period or at any other time according to the terms and conditions it determines.”

14. Section 18 of the Act is replaced by the following section:

“**18.** The amount of the weekly benefits shall be equal to the following percentage of the average weekly earnings, calculated in accordance with this division:

(1) 70% for the weeks of maternity and paternity benefits, the first seven weeks of shareable parental benefits provided for in section 10, the weeks of exclusive parental benefits for each parent provided for in section 10.1 and the weeks of shareable parental benefits added under the first paragraph of section 17;

(2) 70% for the weeks of exclusive adoption benefits for each parent, the first seven weeks of shareable adoption benefits provided for in section 11, the weeks of exclusive adoption benefits for each parent provided for in section 11.1 and the weeks of shareable adoption benefits added under the first paragraph of section 17;

(3) 70% for the weeks of exclusive parental or adoption benefits provided for in sections 10.2 and 11.2;

(4) 70% for the weeks of welcome and support benefits relating to an adoption provided for in section 12.1;

(5) 55% for the additional weeks of shareable parental or adoption benefits provided for in sections 10.3 and 11.3; and

(6) 55% for the other weeks of shareable parental or adoption benefits provided for in sections 10 and 11.

Despite the first paragraph, a person may, subject to the terms and conditions prescribed by regulation of the Conseil de gestion, elect to receive weekly benefits equal to 75% of the person’s average weekly earnings for a lesser number of weeks of benefits.

The election made by the parent whose application for benefits is received first in respect of a birth or adoption shall apply to the other parent’s application. Except in exceptional circumstances, an election is irrevocable.”

15. Section 19 of the Act is amended

(1) by replacing “family income of the recipient” in the first sentence by “income”;

(2) by replacing “a recipient’s family income and a” in the last sentence by “the income taken into account and its”.

16. Section 21 of the Act is amended by inserting “, subject to exceptions for the benefit of recipients prescribed by regulation of the Conseil de gestion” at the end of the first sentence of the second paragraph.

17. Section 23 of the Act is amended by replacing “fifty-second” in the second paragraph by “78th”.

18. Section 24 of the Act is amended

(1) in paragraph 2,

(a) by replacing “third” and “that it was impossible to act” by “sixth” and “that a valid reason prevented him or her from acting”, respectively;

(b) by replacing “a claim” and “claimant” by “an application” and “applicant”, respectively;

(2) by replacing “sections 7 to 11” in paragraph 3 by “sections 7 to 12.1”;

(3) by replacing “claimant” in paragraph 4 by “applicant”.

19. Section 26 of the Act is amended by adding the following paragraph at the end:

“The Conseil de gestion may, by regulation, determine the terms and conditions according to which the benefits paid may be assigned to another period as well as the moment from which they are presumed paid.”

20. Section 37 of the Act is amended by replacing “a claim” by “an application”.

21. Section 88 of the Act is amended, in the first paragraph,

(1) by inserting “, in particular,” after “to take account” in subparagraph 3;

(2) by replacing “a claim is made” in subparagraph 4 by “an application is filed”.

22. The Act is amended by inserting the following sections after section 88 and before the heading of Chapter V.1:

“88.0.1. At the Minister’s request, the Conseil de gestion must, by regulation, implement a pilot project to study or test new measures.

To that end, it may amend certain of the plan’s conditions or eligibility requirements for classes of workers, namely employees, self-employed workers or intermediate or family-type resources, in order to do such things as

(1) establish different qualifying or benefit periods;

(2) calculate average weekly earnings differently; or

(3) establish different election schemes.

The regulation of the Conseil de gestion may prescribe the terms and conditions according to which and the extent to which this Act and the regulations apply to a pilot project. The regulation may also prescribe any other measure necessary for the pilot project's implementation.

“88.0.2. A pilot project shall be established for a three-year period.

The Conseil de gestion may, at any time, extend, modify or terminate it by regulation.

“88.0.3. In the year following the third year of the pilot project's implementation, the Conseil de gestion shall evaluate the pilot project and send its report and any recommendations to the Minister.

A regulation of the Conseil de gestion may prescribe any other time limit or any other evaluation frequency or procedure.”

23. Section 118 of the Act is amended by replacing both occurrences of “15” by “30”.

24. The Act is amended by inserting the following section after section 121:

“121.1. Penal proceedings for an offence under section 121 shall be prescribed one year after the date on which the prosecutor became aware of the commission of the offence. However, proceedings may not be brought if more than five years have elapsed since the commission of the offence.”

OTHER AMENDING PROVISIONS

ACT RESPECTING ADMINISTRATIVE JUSTICE

25. Section 117 of the Act respecting administrative justice (chapter J-3) is amended, in the first paragraph,

(1) by inserting “Chapter IV of the Act respecting parental insurance (chapter A-29.011), subject to the exceptions contemplated in section 49 of the said Act, or respecting” after “a question is raised respecting”;

(2) by replacing “the Tribunal must, subject to the exceptions contemplated in section 76 of the said Act,” by “subject to the exceptions contemplated in section 76 of the said Act, the Tribunal must”.

ACT RESPECTING LABOUR STANDARDS

26. Section 81.2 of the Act respecting labour standards (chapter N-1.1) is amended by replacing “52” in the second paragraph by “78”.

27. Section 81.5 of the Act is amended by replacing “18” by “20”.

28. Section 81.5.2 of the Act is amended by replacing “beginning from the week of the event” at the end of the second paragraph by “that ends not later than 20 weeks after the week of the event”.

29. Section 81.10 of the Act is amended by replacing “52” by “65”.

30. Section 81.11 of the Act is amended by replacing both occurrences of “70” in the first paragraph by “78”.

31. Section 81.14.1 of the Act is amended

(1) by replacing “may be” by “shall be”;

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

“At the request of the employee and provided the employer consents thereto, paternity or parental leave shall be divided into weeks.”

REGULATION UNDER THE ACT RESPECTING PARENTAL INSURANCE

32. Section 41 of the Regulation under the Act respecting parental insurance (chapter A-29.011, r. 2) is replaced by the following section:

“**41.** In respect of a week of benefits, the sum of the weekly benefits payable and of the earnings to which the recipient is entitled, once allocated as set out in section 43.1, must not exceed the recipient’s average weekly earnings. If that sum exceeds the recipient’s average weekly earnings, the excess amount is deducted from the weekly benefits payable.”

TRANSITIONAL AND FINAL PROVISIONS

33. Paragraph 4 of section 1, section 7 and, to the extent that they concern welcome and support benefits relating to an adoption, subparagraph *a* of paragraph 1 of section 11, sections 12 and 14 and paragraph 2 of section 18 apply only with regard to the adoption of a child whose arrival into the care of one of the parents for the purpose of the adoption occurs on or after 1 December 2020.

Paragraphs 2 and 3 of section 1, sections 3 and 4, section 5, to the extent that it enacts sections 10, 10.1 and 10.3 of the Act respecting parental insurance (chapter A-29.011), section 6, to the extent that it enacts sections 11, 11.1 and 11.3 of that Act, paragraph 2 of section 10, subparagraph *a* of paragraph 1 of section 11, except to the extent that it concerns welcome and support benefits relating to an adoption, section 12, except to the extent that it concerns such benefits, section 14, except to the extent that it enacts subparagraphs 1 and 2, with regard to the weeks of shareable parental or adoption benefits added under the first paragraph of section 17 of that Act, and subparagraphs 3 and 4 of the first paragraph of section 18 of that Act, section 17, paragraph 2 of section 18,

except to the extent that it concerns welcome and support benefits relating to an adoption, and sections 26 to 30 apply only with regard to a birth occurring on or after 1 January 2021 or to the adoption of a child whose arrival into the care of one of the parents for the purpose of the adoption occurs on or after that date.

Section 5, to the extent that it enacts section 10.2 of that Act, section 6, to the extent that it enacts section 11.2 of that Act, and section 14, to the extent that it enacts subparagraph 3 of the first paragraph of section 18 of that Act, apply only with regard to a birth occurring on or after 1 January 2022 or to the adoption of a child whose arrival into the care of one of the parents for the purpose of the adoption occurs on or after that date.

34. Section 25 does not apply to proceedings instituted before the Administrative Tribunal of Québec for which a first hearing was held before 29 October 2020.

35. The Minister must, not later than 1 January 2026, report to the Government on the implementation of this Act.

The report must be tabled by the Minister in the National Assembly within the next 30 days or, if the Assembly is not sitting, within 30 days of resumption. The competent committee of the National Assembly examines the report.

36. This Act comes into force on 29 October 2020.

