

Gouvernement du Québec

**O.C. 1018-97, 13 August 1997**

An Act respecting family benefits  
(1997, c. 57)

**Family benefits**

Regulation respecting family benefits

WHEREAS under sections 4, 6 to 8, 10 to 12, 19 and 24 of the Act respecting family benefits (1997, c. 57), the Government may make regulations for the application of the Act;

WHEREAS under section 55 of the Interpretation Act (R.S.Q., c. I-16), when an act comes into force at a date subsequent to its sanction, the regulations contemplated therein may validly be made and published before such date;

WHEREAS under the first paragraph of section 67 of the Act respecting family benefits, the first regulation made under the Act is not subject to the publication requirements of section 11 of the Regulations Act (R.S.Q., c. R-18.1);

WHEREAS under the second paragraph of section 67 of the Act respecting family benefits, the first regulation made under the Act 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 the Regulations Act and may, once published and if it so provides, apply from any date not prior to 1 August 1997;

WHEREAS section 77 of the Act respecting family benefits provides that, in addition to the transitional provisions set out in the Act, the Government may, by a regulation made before 1 September 1998, make any other transitional provision needed to provide for the application of the Act and such a regulation may, if it so provides, apply from any date not prior to 1 August 1997;

IT IS ORDERED, therefore, upon the recommendation of the Minister responsible for Family Policy:

THAT the Regulation respecting family benefits, attached to this Order in Council, be made.

MICHEL CARPENTIER,  
*Clerk of the Conseil exécutif*

**Regulation respecting family benefits**

An Act respecting family benefits  
(1997, c. 57, s. 4, 6, 7, 8, 10, 11 3<sup>d</sup> par., 12 2<sup>d</sup> par. and 3, 19 2<sup>d</sup> par., 24 2<sup>d</sup> par., 67 and 77)

**DIVISION I**

**CHILDREN EXCLUDED FROM  
FAMILY BENEFITS**

**1.** A child in any of the following situations is not entitled to family benefits:

(1) where he is institutionalized or placed under authority of law, unless the terms and conditions concerning the contribution required under the Regulation respecting the application of the Act respecting health services and social services (R.R.Q., 1981, c. S-5, r.1) as it read at the time of its application are respected;

(2) where he is married or lives in a conjugal relationship and his spouse received in respect of him, for the reference year mentioned in the second paragraph, the spousal tax credit referred to in paragraph *a* of section 752.0.1 of the Taxation Act (R.S.Q., c. I-3).

For a given month, “reference year” means:

(1) the year that ended on 31 December of the second preceding year, where that month falls within the first six months of a year;

(2) the year that ended on 31 December of the preceding year, where the month falls within the last six months of a year.

**DIVISION II**

**PARENTS OF INSTITUTIONALIZED  
OR PLACED CHILDREN**

**2.** If a child is institutionalized or placed under authority of law, the family benefits referred to in the first paragraph of section 6 of the Act respecting family benefits (1997, c. 57) are paid to the father or the mother, provided the terms and conditions related to the contribution mentioned in subparagraph (1) of the first paragraph of section 1 are respected.

**DIVISION III**

**ORDER OF PRIORITY FOR PAYMENT  
OF FAMILY BENEFITS**

**3.** For the application of this section, the word “mother” means a person who is the child’s mother under section 2 of the Taxation Act, adapted as required.

The mother has priority for the payment of family benefits, except in the following situations:

(1) the mother declares to the Régie des rentes du Québec that she lives with the father of the child and that he is mainly responsible for the care and education of the children who live with them;

(2) the mother is herself the child of a person who receives family benefits for her and each of them files an application for benefits for the child;

(3) the child lives with more than one person who meets the definition of "mother" under the first paragraph and each of them files an application for benefits for the child;

(4) more than one person files an application for benefits for a child who lives with each of them in different places.

#### **DIVISION IV** APPLICATION FOR FAMILY BENEFITS

**4.** A person who submits the notice in subsection 122.62(1) of the Income Tax Act (R.S.C., 1985, c. 1, 5<sup>th</sup> supp.) to obtain the child tax credit provided for by that act is released from filing the application mentioned in section 7 of the Act for obtaining a family allowance.

**5.** The application for a family allowance must contain the following information:

(1) the name, date of birth, marital status, social insurance number and address of the applicant;

(2) the starting date or, where appropriate, the ending date of the conjugal relationship of the applicant and his spouse;

(3) the applicant's status, pursuant to section 2 of the Act;

(4) the name, date of birth, social insurance number and address of the applicant's spouse;

(5) the status of the applicant's spouse, pursuant to section 2 of the Act;

(6) the name, date of birth and address of the child;

(7) the relationship between the applicant and the child as well as between the applicant's spouse and the child;

(8) the date as of which the applicant began to be mainly responsible for the care and education of the child and to usually live with him.

The application must be accompanied with a certificate from the applicant and his spouse that the information contained in the application is correct, complete and true.

**6.** An application for an allowance for handicapped children must contain, in addition to the information listed in subparagraphs (1), (3), (6) and (8) of the first paragraph of section 5, the information and documents establishing the child's handicap, including a report from a physician or another expert.

The application must be accompanied by a certificate from the applicant that the information contained in the application is correct, complete and true.

#### **DIVISION V** AMOUNT OF THE FAMILY ALLOWANCE

##### *§1. Method for calculating income*

**7.** A family allowance is granted according to the income of the person who is entitled to it and the income of that person's spouse.

The income considered is the income for the reference year referred to in the second paragraph of section 1, which is calculated according to sections 28 and 28.1 of the Taxation Act.

Where a person entitled to an allowance, or his spouse, was neither living in Québec on 31 December of the reference year referred to in the second paragraph of section 1 nor in Canada during the entire year, the income of that person or his spouse for the reference year shall be determined as if the person or his spouse was living in Québec on 31 December of the reference year or in Canada during the entire year.

Where a person who is entitled to the allowance, or his spouse, goes bankrupt during the reference year, the income of that person, or his spouse, is determined without taking into account section 779 of the Taxation Act.

##### *§2. Determination of spousal status for calculating income*

**8.** The amount of the family allowance is set for each 12-month period, as of 1 July, on the basis of the spousal status of the person entitled to the allowance on

31 December of the reference year referred to in the second paragraph of section 1.

However, the amount of the allowance is revised during the year if a change in spousal status results in a change in the amount.

### §3. Calculation of the amount of the family allowance

**9.** If the income referred to in section 7 is equal to or less than \$50 000, the monthly amount of the family allowance is obtained by applying the following formula  $1/12(A - B)$ , where:

(1) "A" is the sum of the following allowance amounts: \$975 for the first child or \$2 275 in the case of a person who has sole responsibility for a child, \$975 for the second child and \$398 per child for the third and subsequent children.

(2) "B" is:

(a) in the case of a person who has a spouse, 30 % of the income that exceeds \$21 825 up to a maximum of \$25 921;

plus 50 % of the income exceeding \$25 921;

(b) in the case of a person who has sole responsibility for a child, 50 % of the income exceeding \$15 332 up to a maximum of \$20 921;

plus 30 % of the income exceeding \$20 921 up to a maximum of \$25 921;

plus 50 % of the income exceeding \$25 921.

For the purpose of calculating the family allowance, the income of \$25 921 referred to in subparagraph (2) of the first paragraph is increased by \$1 231 per child for the fourth and subsequent children.

However, the monthly amount of the allowance cannot be less than 1/12 of the sum of the following amounts: \$131 for the first child, \$174 for the second child and \$398 per child for the third and subsequent children.

**10.** If the income referred to in section 7 is greater than \$50 000, the monthly amount of the family allowance is obtained by applying the formula  $1/12(C - D)$ , where:

(1) "C" is the sum of the following amounts: \$131 for the first child, \$174 for the second child and \$398 per child for the third and subsequent children;

(2) "D" is 5 % of the income exceeding \$50 000.

However, the monthly amount of the allowance is deemed to be nil if it is less than 1/12 of \$2.

**11.** As of 1 July 1998, the amount of the family allowance of \$398 referred to in subparagraph (1) of the first paragraph and in the third paragraph of section 9 as well as in subparagraph (1) of the first paragraph of section 10 is increased to \$975.

**12.** In the calculations referred to in sections 9 and 10, the monthly amount of the family allowance shall be limited to two decimals and where the calculation results in a number of more than two decimals, the second decimal shall be increased by one unit if the third decimal is five or more.

## DIVISION VI STATEMENT OF INCOME

**13.** Where a person who is entitled to a family allowance, or his spouse, was living in Québec on 31 December of the reference year referred to in the second paragraph of section 1, the statement of income required under section 10 of the Act is the tax return provided for in section 1000 of the Taxation Act and filed with the Minister of Revenue for that reference year.

In the event of non-residence in Canada for a part of the reference year, the statement of income referred to in the first paragraph must be supplemented with a statement of income addressed to the Régie.

Where a person is entitled to a family allowance, or his spouse, was not living in Québec on 31 December of the reference year, the statement of income required under section 10 of the Act, is a statement of income addressed to the Régie.

The statement of income is established as if it were the tax return referred to in the first paragraph.

A person who was living outside Québec but elsewhere in Canada may provide the Régie with the notice of assessment issued by the Canada Minister of National Revenue in lieu of the statement of income.

## DIVISION VII AMOUNT OF THE ALLOWANCE FOR HANDICAPPED CHILDREN

**14.** The amount of the allowance for handicapped children is set at \$119,22 a month.

## DIVISION VIII PAYMENT OF FAMILY BENEFITS

**15.** Where the first day of the month falls on a Saturday or a non-working day, family benefits shall be paid the first working day that precedes the first day.

**16.** Where a person receives a family allowance equal to or less than the minimum allowance provided for in the third paragraph of section 9, the family allowance is paid quarterly by cheque in February, May, August and November.

However, payment of any allowance amount of less than \$1 is carried forward to the following payment until the cumulative amount reaches \$1.

## DIVISION IX DEDUCTION

**17.** The Régie may deduct any recoverable family benefit from any family benefit that it pays up to a maximum of 20 % of such payable benefit.

Notwithstanding the foregoing, a deduction by the Régie may reach the full amount of the payable benefit in the following cases:

- (1) benefits to come are not sufficient to repay the recoverable sum;
- (2) the benefit to be paid is retroactive;
- (3) the benefit to be recovered was obtained through bad faith;
- (4) the debtor consents in writing to the deduction.

## DIVISION X CHANGES OF SITUATION

**18.** The communication of information to the Régie by the Canada Minister of National Revenue with respect to a person who receives a child tax credit paid under the Income Tax Act constitutes a case where the Régie may consider that a change of situation has been communicated to it.

## DIVISION XI TRANSITIONAL AND FINAL PROVISIONS

**19.** From 1 September 1997 to 30 June 1998, the period of 12 months provided for in the first paragraph of section 8 shall be reduced to 10 months.

**20.** The family benefits due and payable on 1 September 1997 shall be paid on 29 August 1997.

**21.** This Regulation comes into force on 1 September 1997 and takes effect from 1 August 1997.

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Gouvernement du Québec

## O.C. 1051-97, 13 August 1997

An Act respecting health services and social services for Cree Native persons  
(R.S.Q., c. S-5)

An Act respecting health services and social services  
(R.S.Q., c. S-4.2)

## Regulation — Amendments

Regulation to amend the Regulation respecting the application of the Act respecting health services and social services

WHEREAS under sections 159, 160 and 161.1 of the Act respecting health services and social services for Cree Native persons (R.S.Q., c. S-5), the Government shall determine, by regulation, the contribution that may be required for the beneficiaries who are sheltered in an institution or taken in charge by a foster family, prescribe the terms and conditions and the circumstances under which a person may be exempt from paying that contribution and may, in such regulation, prescribe the automatic indexing of all or part of the amounts fixed in the regulation, in accordance with the Pension Index established in conformity with section 117 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9);

WHEREAS under sections 512, 514 and 515 of the Act respecting health services and social services (R.S.Q., c. S-4.2), the Government shall determine, by regulation, the contribution that may be required of users lodged in a facility maintained by a public or private institution under agreement, including any intermediate resource of a public institution, or taken in charge by a family-type resource, prescribe the terms and conditions and the circumstances under which a person may be exempt from paying that contribution and may, in such regulation, prescribe the automatic indexing of all or part of the amounts fixed in the regulation, according to the index provided therein;