

Draft Regulation

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

Processing of a claim for compensation or application for review and recovery of sums owed to the Société de l'assurance automobile du Québec

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the processing of a claim for compensation or an application for review and the recovery of sums owed to the Société de l'assurance automobile du Québec, the text of which appears below, may be submitted to the Government for approval after forty-five days have elapsed from the date of this publication.

This regulation is intended to replace the Regulation respecting the rules of evidence and procedure before the Société de l'assurance automobile du Québec and recovery of sums owed to the Société. The draft provisions are in keeping with the principles set forth by the Act respecting administrative justice (1996, c. 54). The proposed regulation contains simplified rules, freed of judicial connotation, particularly as concerns the process of reviewing decisions on compensation for victims of automobile accidents.

Further information is available from Ms. Louise Gonthier, Société de l'assurance automobile du Québec, 333, boulevard Jean-Lesage, N-6-41, P. O. Box 19600, Québec, G1K 8J6; tel.: (418) 528-4808; fax: (418) 644-0339.

Any person wishing to make comments on the matter must forward them in written form, before expiry of the 45-day period, to the Chairman and CEO of the Société de l'assurance automobile du Québec, 333, boulevard Jean-Lesage, N-6-2, P. O. Box 19600, Québec, G1K 8J6; fax: (418) 644-0339.

JEAN-YVES GAGNON,
*Chairman and CEO of the
Société de l'assurance automobile du Québec*

Regulation respecting the processing of a claim for compensation or application for review and recovery of sums owed to the Société de l'assurance automobile du Québec

Automobile Insurance Act
(R.S.Q., c. A-25, s. 195, pars. 20°, 24°, 25°)

DIVISION I GENERAL RULES

- 1.** A Claim for Compensation or an Application for Review is made on a form supplied by the Société for that purpose, and signed by the claimant. An Application for Review must indicate the main reasons for challenging a decision.
- 2.** A claim or an application is deemed to be filed with the Société on the date it is received at a Société office.
- 3.** When a claim or an application is filed after the time period allowed under the Automobile Insurance Act (R.S.Q., c. A-25), the claimant must include a signed, written statement setting forth the reasons preventing him from acting before the time limit.
- 4.** If a time limit occurs on a day on which the offices of the Société are closed, the time limit is extended to the following working day.
- 5.** No document submitted shall be rejected because of faulty drafting or a procedural irregularity.
- 6.** Before making a decision, the Société shall ensure that the claimant has had an opportunity to make known his observations and complete his case.
- 7.** A claim or application may be withdrawn or modified at any time by means of an express notice to that effect. When this notice is given verbally, the Société shall take note and provide written confirmation of this to the claimant.
- 8.** The Société shall send a decision in writing and the reasons for it to the claimant by mail, in care of his last address on record at the Société. A review decision shall be sent by certified or registered mail or priority post.
- 9.** In the event of an interruption in postal service, the Société may use another method of conveyancing.
- 10.** At the Société's request, a person acting as the agent of a claimant must produce a written statement, authorizing him to act as representative.

11. As soon as the Société is advised of the name of a representative, it shall provide the agent with a copy of all written communications it sent to the person represented.

12. The Société's officer responsible for rendering a decision on a claim for compensation or application for review, as the case may be, must withdraw where there is reasonable fear of bias, due to, in particular:

- (1) a conflict of pecuniary interest;
- (2) the existence of a personal, family, social, professional or business relationship with the claimant or an interested party;
- (3) the officer's being or having been an interested party in an application for review or claim for compensation involving a matter like the one in question;
- (4) the officer's public statements or prior positions in direct connection with a case;
- (5) manifestations of hostility or interest in favouring a claimant or interested party.

DIVISION II RULES CONCERNING THE REVIEW OF A DECISION

13. Upon receipt of an application for review, the Société shall communicate with the claimant:

- (1) to provide necessary information on the Automobile Insurance Act as well as the review process and its role;
- (2) to provide assistance in completing the review file;
- (3) to clarify, where necessary, the decision challenged, reasons for the challenge and the end sought.

14. The review officer shall reexamine the relevant aspects of a case and the grounds for an initial decision, taking into consideration the observations of the claimant and any interested party along with additional documentation they submit to complete a case.

The review officer shall communicate with the claimant or any other person likely to shed light on a case.

15. Where the Société deems it necessary to ensure that a claimant has had the opportunity to present observations, it may decide to hold a hearing, in which event the claimant shall be notified in advance of the time and place of the hearing.

16. If the persons notified of a hearing are not present, the Société may proceed with a review of the decision on the basis of information already on file.

17. At any time before rendering its decision, the review officer may, on his own initiative, order an assessment by a health care professional.

The Société must forward a copy of the assessment report to the persons concerned, and allow them to present their observations concerning the report.

DIVISION III RECOVERY OF SUMS OWED TO THE SOCIÉTÉ

18. Where a person has received compensation to which he or she is not entitled, the Société may, without prejudice to any legal recourse, deduct the amount of the debt from any amount due to that person, in the following manner:

(1) if the amount due is an indemnity payable every fourteen days, the Société may:

(a) reduce the amount of compensation by a maximum percentage of 50 % until the sum owed is repaid in full;

(b) reduce the amount of compensation by a percentage higher than that indicated in subparagraph a where the person consents to this or where it appears impossible to recover the entire sum owed because of the amount and the foreseeable length of compensation payments;

(2) where the amount due is not compensation payable every fourteen days, the Société may subtract the sum owed from that amount and pay any difference.

DIVISION IV COMING INTO FORCE

19. This regulation replaces the Regulation respecting the rules of evidence and procedure before the Société de l'assurance automobile du Québec and recovery of sums owed to the Société, approved by Order in Council 1924-89 dated 13 December 1989.

20. Claims and applications already submitted to the Société when this regulation comes into force shall be processed under its provisions.

21. This regulation comes into force on April 1, 1998.

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