



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 24

(1999, chapter 22)

An Act to amend the Automobile Insurance Act and other legislative provisions

Introduced 28 April 1999

Passage in principle 13 May 1999

Passage 18 June 1999

Assented to 19 June 1999

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EXPLANATORY NOTES

This bill amends the Automobile Insurance Act principally so as to revise the public plan for the compensation of victims of road accidents.

The maximum indemnity for non-pecuniary damage is increased from \$138,445 to \$175,000 and compensation will henceforth be claimable for pain and suffering and other temporary consequences of accidents. As well, the indemnity payable to a victim who dies without dependants is increased from \$18,420 to \$40,000.

The conditions for eligibility for a care expense indemnity are relaxed and adjustments are made to better reflect the economic loss sustained by victims.

The rules governing the compensation of property damage are amended so as to clarify conditions for eligibility. New financial provisions are introduced to provide explicitly for the use of investment income as a source of financing and to authorize the Société de l'assurance automobile du Québec, with the approval of the Government, to use unappropriated surpluses to grant rebates on insurance contributions. Rules governing the payment of the cost of health services required as a result of automobile accidents are also included in the bill.

LEGISLATION AMENDED BY THIS BILL :

- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5).

Bill 24

AN ACT TO AMEND THE AUTOMOBILE INSURANCE ACT AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 11 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing “grant an extension to an applicant who, owing to extraordinary circumstances, was unable to act within the prescribed time” in the second paragraph by “allow an applicant to apply for compensation after the prescribed time if the applicant was unable, for serious and valid reasons, to act sooner”.

2. Section 22 of the said Act is repealed.

3. Section 26 of the said Act is amended by striking out “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” in the third paragraph.

4. Section 29.1 of the said Act is amended by adding “but not beyond the date scheduled, at the time of the accident, for the completion of current studies” at the end of the first paragraph.

5. Section 30 of the said Act is amended

(1) by adding “but not beyond the date scheduled, at the time of the accident, for the completion of current studies” at the end of the second paragraph;

(2) by striking out the third and fourth paragraphs.

6. Section 36.1 of the said Act is amended by adding “but not beyond the end of the school year in which he reaches 16 years of age” at the end of the first paragraph.

7. Section 37 of the said Act is amended

(1) by adding “but not beyond the end of the school year in which he reaches 16 years of age” at the end of the second paragraph;

(2) by striking out “section 38 or” in the fourth paragraph.

8. Section 42 of the said Act is amended by replacing “sections 21 and 22” in the fourth paragraph by “section 21”.

9. Section 50 of the said Act is amended by adding the following paragraph at the end:

“Where, following an examination required under section 83.12, the victim is informed by the Société that he is no longer entitled to an income replacement indemnity, the period determined under the second paragraph only begins on the date of the Société’s decision.”

10. Section 63 of the said Act is replaced by the following section:

“63. The spouse of a victim on the date of the victim’s death is entitled to a lump sum indemnity equal to the greater of

(1) the amount obtained by multiplying the gross income used in computing the income replacement indemnity to which the victim was entitled on the one hundred and eighty-first day after the accident, or would have been entitled to on that date if 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; and

(2) \$49,121.

If the spouse was disabled on the date of the victim’s death, the indemnity amount referred to in subparagraph 1 of the first paragraph is determined on the basis of the factors appearing in Schedule II.”

11. Sections 64 and 65 of the said Act are repealed.

12. Section 68 of the said Act is amended by replacing “provided for by section 63, 64 or 65, as the case may be,” by “provided for by section 63”.

13. Section 69 of the said Act is replaced by the following section:

“69. If the victim is a minor and has no dependants on the date of his death, his mother and father are entitled to equal shares of a lump sum indemnity of \$40,000. If one of the parents is deceased, has been deprived of parental authority or has abandoned the victim, the share of that parent accrues to the other parent. If both parents are deceased, the indemnity shall be paid to the victim’s succession except where the property of the succession is to be taken by the State.

If the victim is of full age and has no dependants on the date of his death, the indemnity shall be paid to his succession except where the property of the succession is to be taken by the State.”

14. Division III of Chapter III of Title II of the said Act is repealed.

15. Chapter IV of Title II of the said Act is replaced by the following chapter:

“CHAPTER IV

“NON-PECUNIARY DAMAGE INDEMNITY

“73. For loss of enjoyment of life, pain, mental suffering and other consequences of the temporary or permanent injuries or functional or cosmetic sequelae that a victim may suffer following an accident, a victim is entitled, to the extent determined by regulation, to a lump sum indemnity not exceeding \$175,000 for non-pecuniary damage.

“74. No indemnity is payable if the victim dies within 24 hours after the accident.

“75. If the victim dies more than 24 hours but within 12 months after the accident, the indemnity that may be paid is the indemnity fixed by regulation for the compensation of bodily injury.

“76. The indemnity shall be determined by the Société on the basis of the amounts in force on the date of the decision.”

16. Section 79 of the said Act is amended by replacing the second and third paragraphs by the following paragraphs:

“The Société shall determine, subject to the conditions and in accordance with the computation method prescribed by regulation, the personal home assistance needs of the victim and the amount of the reimbursement. Expenses are reimbursed on presentation of vouchers, but no reimbursement may exceed \$614 per week.

In the cases and subject to the conditions prescribed by regulation, the Société may replace the reimbursement of expenses by an equivalent weekly allowance.”

17. Section 83 of the said Act is amended

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

“83. A victim who, by reason of the accident, has become unable to care for a child under 16 years of age or for a person ordinarily unable, for any reason whatever, to hold any employment is entitled, if the victim is not already receiving an indemnity under section 80, to the reimbursement of expenses incurred for the care of that child or person.

Entitlement to the reimbursement is maintained when the victim regains the ability to care for the child or person but cannot do so for a time because the victim must

(1) receive medical or paramedical care; or

(2) undergo an examination by a health professional, as required by the Société.”;

(2) by replacing “est également incapable de” in the fourth line of the fifth paragraph of the French text by “ne peut non plus”.

18. Section 83.5 of the said Act is replaced by the following section :

“83.5. A victim who undergoes an examination as required by the Société is entitled to the reimbursement of lodging and transportation expenses.

As well, a victim who must be absent from work for a time to receive medical or paramedical care by reason of the accident or to undergo an examination as required by the Société is entitled to an indemnity for any resulting loss of salary.

A person who accompanies a victim whose physical or mental condition or age so requires when the victim must receive medical or paramedical care or undergo an examination as required by the Société is entitled to an availability allowance. The person is also entitled to the reimbursement of lodging and transportation expenses.

The payment of the allowance and of the indemnity and the reimbursement of lodging and transportation expenses shall be made in the cases and subject to the conditions prescribed by regulation.”

19. Section 83.8 of the said Act is replaced by the following section :

“83.8. For the purposes of this chapter, a member of a professional order designated by a regulation of the Société is a health professional.”

20. Section 83.12 of the said Act is amended

(1) by adding “chosen by the Société from a list of professionals drawn up after consultation with the professional orders concerned” at the end of the first paragraph;

(2) by striking out the second paragraph.

21. Section 83.13 of the said Act is repealed.

22. Section 83.22 of the said Act is amended by replacing “equivalent to the capital value of the indemnity” in the first paragraph by “, the amount of

which shall be computed in accordance with the rules, conditions and method prescribed by regulation.”.

23. Section 83.32 of the said Act, amended by section 41 of chapter 43 of the statutes of 1997, is again amended

(1) by replacing “interest be paid to him” in the first paragraph by “ the person be paid interest computed from the date of the decision refusing to recognize entitlement to an indemnity or refusing to increase the amount of an indemnity, as the case may be.”;

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

“Other cases requiring the payment of interest by the Société may be prescribed by regulation.

The applicable interest rate is the rate fixed under the second paragraph of section 28 of the Act respecting the Ministère du Revenu (chapter M-31).”

24. Section 83.34 of the said Act is amended by adding the following paragraph at the end:

“The amount provided for in section 73 as well as the indemnity amounts prescribed by a regulation under that section shall also be revalorized on 1 January each year.”

25. The said Act is amended by inserting the following section after section 83.44.1:

“83.44.2. A decision concerning the reimbursement of expenses under Division I of Chapter V has effect only in respect of the subject-matter of the decision and shall not be construed as a recognition of entitlement to any other indemnity.”

26. Section 83.46 of the said Act is amended by replacing “it was impossible *de facto* for him to act within that time” by “the person was unable, for serious and valid reasons, to act sooner”.

27. Section 143 of the said Act is replaced by the following section:

“143. The maximum amounts that may be paid by the Société, exclusive of interest and judicial costs, are \$50,000 per accident for bodily injury and \$10,000 per accident for property damage.”

28. Section 145 of the said Act is amended by replacing “, the amount of \$250” in the fifth line of the first paragraph by “the deductible fixed by a regulation of the Société”.

29. Section 148 of the said Act is amended

- (1) by replacing “90” in the fourth line of the first paragraph by “60”;
- (2) by adding the following at the end of the first paragraph: “No claim is admissible if
 - (1) the repairs were made before the damage was appraised by the expert designated by the Société; or
 - (2) the accident was not reported to a police department within 48 hours, unless the claimant was unable, for serious and valid reasons, to act sooner.”;
- (3) by inserting “covering the part of the damage for which the victim is not responsible” after “claim” in the second line of the second paragraph;
- (4) by replacing “the amount of \$250” in the third line of the second paragraph and in the fourth line of the third paragraph by “the deductible fixed by a regulation of the Société”.

30. Section 149 of the said Act is amended

- (1) by inserting “legal persons, partnerships” after “Government,” in the second line of paragraph 1;
- (2) by adding the following paragraphs at the end:
 - “(5) a person who is insured against the damage sustained;
 - “(6) the owner of an automobile for damage to the automobile or, where applicable, to other property if, at the time of the accident,
 - the owner was driving the automobile while under a sanction within the meaning of section 106.1 of the Highway Safety Code (chapter C-24.2) or without the licence required by section 65 of that Code;
 - the owner, in contravention of section 84, did not have a liability insurance contract guaranteeing compensation for property damage caused by an automobile;
 - the automobile was not registered or the duties provided for in section 31.1 of the Highway Safety Code were unpaid.”

31. Section 151.1 of the said Act is amended

- (1) by replacing “, on the basis of one or more of the following factors” in the fourth line by “according to the accident risk attached to that type of road vehicle. Accident risk may be measured on the basis of such factors as”;

(2) by replacing paragraph 4 by the following paragraph :

“(4) its make, model or piston displacement;”.

32. Section 151.3 of the said Act is amended by inserting “an exemption or” after “giving entitlement to” in paragraph 1.

33. Section 152 of the said Act is amended

(1) by replacing “, the payment of the cost of highway safety promotion, the payment of the liabilities of the Société under Title IV and Chapter II of this title and the payment of the administration expenses of the Société” in the first paragraph by “and of all costs incurred for the administration of this Act, the Act respecting the Société de l’assurance automobile du Québec and the Highway Safety Code”;

(2) by inserting “or contingency fund” after “contingency reserve” in the second paragraph;

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

“For the fixation of insurance contributions, the Société may include investment income other than investment income from assets held in connection with actuarial liability.”

34. The said Act is amended by inserting the following section after section 152:

“152.1. After appropriating such sums as it considers necessary to any contingency reserve or contingency fund it may establish, the Société may, subject to the conditions and in the manner it determines and with the approval of the Government, use all or part of an unappropriated surplus to grant rebates on insurance contributions.”

35. Chapter II of Title V of the said Act is replaced by the following chapter:

“CHAPTER II

“HEALTH SERVICES

“155.1. For the fiscal year 1998, the Société shall pay into the consolidated revenue fund the sum of \$88,654,360, which represents the annual cost of health services required as a result of automobile accidents.

“155.2. For the fiscal year 1999 and subsequent fiscal years of the Société, the sum representing the annual cost of health services required as a result of automobile accidents and defrayed by the Régie de l’assurance-

maladie du Québec shall be determined by agreement between that body, the Minister of Finance and the Société.

For those same fiscal years, the sum representing the annual cost of health services required as a result of automobile accidents and defrayed by the Ministère de la Santé et des Services Sociaux shall be determined by agreement between the Minister of Health and Social Services, the Minister of Finance and the Société.

If an agreement under this section is not made for a given fiscal year, the Société shall pay, for that fiscal year, the sum indicated in section 155.1.

The Société shall pay the sum representing the cost of health services annually into the consolidated revenue fund in two equal instalments, on 31 March and 30 September.

“155.3. If agreed between the Minister of Health and Social Services and the Société, the cost of health services paid under the second paragraph of section 155.2 may be reimbursed, in whole or in part, upon billing of the services.

“155.4. The parties referred to in this chapter may exchange such nominative information as is necessary for the purposes of this chapter.

In that case, they shall make an agreement specifying the information to be transmitted, the means to be used to ensure confidentiality and the security measures to be applied. The agreement shall be submitted to the Commission d'accès à l'information for an opinion.

Should the Commission give an unfavourable opinion, the agreement may be submitted to the Government for approval ; it comes into force on the date of its approval.

The agreement, together with the opinion of the Commission d'accès à l'information and, where applicable, the approval of the Government, shall be tabled in the National Assembly within 30 days of the issue of such opinion or approval or, if the Assembly is not sitting, within 30 days of resumption.”

36. Chapter IV of Title V of the said Act is repealed.

37. Section 179.1 of the said Act is amended by inserting the following paragraph after the first paragraph :

“The Inspector General may, at the request of the Société, communicate to the Société the same information if it is necessary for the purposes of section 22 of the Act respecting owners and operators of heavy vehicles (1998, chapter 40).”

38. Section 195 of the said Act, amended by section 57 of chapter 43 of the statutes of 1997, is again amended

(1) by replacing paragraphs 12, 13 and 14 by the following paragraph:

“(12) to determine the injuries, the functional or cosmetic sequelae and the minimum eligibility requirements applicable to the compensation of non-pecuniary damage under section 73 and to prescribe rules for evaluating non-pecuniary damage and rules for fixing indemnity amounts;”;

(2) by replacing paragraphs 18 and 19 by the following paragraphs:

“(18) to prescribe conditions and a computation method for the determination of personal home assistance needs and the amount to be reimbursed and to prescribe the cases in which and the conditions subject to which the Société may replace the reimbursement of expenses by an equivalent weekly allowance;

“(19) to prescribe the cases and conditions which give entitlement to the reimbursement of expenses or an availability allowance and to determine the maximum amount of such reimbursement and allowance;”;

(3) by striking out paragraphs 22 and 26;

(4) by adding the following paragraphs after paragraph 32:

“(33) to determine the professional orders whose members are health professionals for the purposes of Chapter VI of Title II;

“(34) to prescribe rules, conditions and a method applicable to the computation of a single-payment indemnity paid under section 83.22;

“(35) to prescribe cases requiring the payment of interest by the Société;

“(36) to determine rules governing the application of Chapter II of Title IV as well as rules for the determination of the deductibles provided for in sections 145 and 148 and to prescribe the reimbursement of other expenses to victims, the maximum amount that may be so reimbursed and the conditions for reimbursement.”

39. The said Act is amended

(1) by replacing “of unemployment insurance benefits or of allowances paid under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19)” in sections 15, 20 and 29.1 by “of regular benefits or employment benefits established to assist in obtaining skills for employment through a training program under the Act respecting employment insurance in Canada (Statutes of Canada, 1996, chapter 23)” and by striking out “or allowances” in those sections;

(2) by replacing “of unemployment insurance benefits or of allowances paid under the National Training Act (Revised Statutes of Canada, 1985, chapter N-19)” in sections 24 and 42 by “of regular benefits or employment benefits established to assist in obtaining skills for employment through a training program under the Act respecting employment insurance in Canada (Statutes of Canada, 1996, chapter 23)”;

(3) by striking out “or allowances” in sections 25 and 42.1;

(4) by replacing “of unemployment benefits” in the first paragraph of section 36.1 by “of regular benefits or employment benefits established to assist in obtaining skills for employment through a training program under the Act respecting employment insurance in Canada (Statutes of Canada, 1996, chapter 23)”;

(5) by replacing “unemployment insurance benefits” in the second and third paragraphs of section 36.1 by “benefits”;

(6) by replacing “premium determined under the Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1)” in section 52 by “employee’s premium determined under the Act respecting employment insurance in Canada (Statutes of Canada, 1996, chapter 23)”.

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

40. Section 67 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 128 of chapter 63 of the statutes of 1997, section 68 of chapter 36 of the statutes of 1998 and section 45 of chapter 44 of the statutes of 1998, is again amended by inserting the following paragraph after the fifth paragraph:

“Nor does it prohibit the disclosure of information obtained for the carrying out of this Act to the Société de l’assurance automobile du Québec and to the Ministère de la Santé et des Services sociaux for the purpose of determining the cost of health services provided following an automobile accident, in accordance with section 155.4 of the Automobile Insurance Act (chapter A-25).”

41. Section 2 of the Act respecting the Régie de l’assurance-maladie du Québec (R.S.Q., chapter R-5), amended by section 2 of chapter 94 of the statutes of 1997, is again amended by replacing “fifth” in subparagraph *i* of the second paragraph by “seventh”.

42. Notwithstanding section 83.34 of the Automobile Insurance Act, the amounts provided for in sections 69 and 73 of that Act, as enacted by sections 13 and 15 of this Act, respectively, and the indemnity amounts fixed in a regulation governing the application of section 73 shall only be indexed from 1 January 2001.

43. Notwithstanding section 23 of the Act to amend the Automobile Insurance Act and other legislative provisions (1989, chapter 15), the interest

rate fixed pursuant to the third paragraph of section 83.32 of the Automobile Insurance Act, enacted by section 23 of this Act, is the rate applicable to interest payments on indemnities paid to victims of accidents having occurred before 1 January 1990 and sections 83.35 to 83.39 of the Automobile Insurance Act apply to the indexation of the amount of indemnities paid to victims of accidents having occurred before that date.

44. The provisions of the Automobile Insurance Act, as enacted by sections 2 to 13, 15 to 17, 24 and 27 to 30 of this Act, and the regulatory provisions adopted under paragraphs 12, 18, 19 and 36 of section 195 of the Automobile Insurance Act, as enacted by section 38 of this Act, shall apply to accidents and deaths that occur on or after 1 January 2000; accidents and deaths having occurred before that date shall continue to be governed by the provisions applicable at that time.

45. This Act comes into force on 1 July 1999, except sections 2 to 13, 15 to 24, 27 to 30, 38 and 44, which come into force on 1 January 2000.