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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

## **Bill 19**

(2003, chapter 17)

### **An Act to amend the Act respecting financial assistance for education expenses**

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**Introduced 4 November 2003  
Passage in principle 12 November 2003  
Passage 12 December 2003  
Assented to 18 December 2003**

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## EXPLANATORY NOTES

*This bill amends the Act respecting financial assistance for education expenses to allow the granting of financial assistance on a monthly or periodic basis so as to better reflect the times of the year when students incur certain expenses. It provides that the elements to be taken into consideration to establish the amount of financial assistance are to be determined on a per-month rather than a per-trimester basis.*

*Another object of the bill is to amend the computation rules for financial assistance. It provides that the total amount of financial assistance will first be granted in the form of a loan. Financial assistance in the form of a bursary will then be paid to the financial institution that granted the loan, to be applied to the repayment of a part of the loan.*

*The bill also provides that financial assistance received by a student who was not entitled to it may be recovered during subsequent years of allocation, according to the rules prescribed by regulation.*

*Lastly, the bill authorizes the Minister of Education to grant a release from all or part of a debt where warranted by exceptional circumstances.*

## Bill 19

### AN ACT TO AMEND THE ACT RESPECTING FINANCIAL ASSISTANCE FOR EDUCATION EXPENSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 2 of the Act respecting financial assistance for education expenses (R.S.Q., chapter A-13.3) is amended by replacing the definition of “year of allocation” by the following definition:

“**year of allocation**” means the period comprised between 1 September of one year and 31 August of the following year.”

**2.** Section 4 of the said Act is amended

(1) by replacing “trimesters” in subparagraph 5.1 of the first paragraph by “years of study”;

(2) by replacing “Unemployment Insurance Act (Revised Statutes of Canada, 1985, chapter U-1)” in subparagraph 10 of the first paragraph by “Employment Insurance Act (Statutes of Canada, 1996, chapter 23)”.

**3.** Section 5 of the said Act is replaced by the following section:

**5.** For the purposes of the loans and bursaries program, the contribution of the student and, where applicable, that of the student’s parents, sponsor or spouse shall be established according to their income, on the conditions and in accordance with the rules prescribed by regulation for each form of assistance.

The regulations may provide for certain exemptions and determine, for each of these contributions, the conditions under which a reduction or an exemption may be granted.”

**4.** Sections 6 and 7 of the said Act are repealed.

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

**9.** For the purposes of this division, a full-time student is one considered as such by the educational institution attended, and a part-time student is one who is not a full-time student and who receives a minimum of 20 hours of instruction per month.”

**6.** Section 10 of the said Act is amended

(1) by replacing “pursues, on a part-time basis, a course of study recognized by the Minister” in the second and third lines of the first paragraph by “pursues studies recognized by the Minister on a part-time basis” and by replacing “un tel programme” in the last line of the first paragraph of the French text by “de telles études”;

(2) by replacing “pursue, on a full-time basis, a course of study recognized by the Minister” in the second paragraph by “pursue studies recognized by the Minister on a full-time basis”.

**7.** Section 11 of the said Act is amended

(1) by striking out “, on the date of his application,” in the part preceding paragraph 1;

(2) by replacing “pursue on a full-time basis a course of study recognized by the Minister” in paragraph 3 by “pursue studies recognized by the Minister on a full-time basis”;

(3) by inserting “, at the beginning of the year of allocation,” after “is” in paragraph 4;

(4) by inserting “, at the beginning of the year of allocation,” after “not” in paragraph 6.

**8.** Section 12 of the said Act is amended by striking out “or, as the case may be, for a trimester,”.

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

**“13.** The maximum loan amount shall be established pursuant to the regulations according to the number of months during which the student is enrolled or deemed to be enrolled within the meaning of the regulations, according to the level of education, the cycle and the classification of the educational institution attended and according to the student’s family situation.

The amount may be increased or reduced in the cases and subject to the conditions determined by regulation.”

**10.** Section 14 of the said Act is amended

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

**“14.** The amount of the loan shall be computed, for and up to the first portion fixed by regulation, by subtracting the amount determined as the contribution of the student from the sum obtained by adding the amount determined as allowable expenses and the amount determined as supplementary expenses, and, for the second portion, by subtracting the following amounts from the same sum:”;

(2) by striking out “or the balance of financial assistance that may be granted to the student in the form of a loan” in the second paragraph.

**11.** Section 15 of the said Act is replaced by the following section:

“**15.** The Minister shall issue, to a student who is enrolled or deemed to be enrolled within the meaning of the regulations, a guarantee certificate in respect of a loan contracted by the student with a financial institution recognized by the Minister.

The loan shall be disbursed in monthly or periodic payments, in accordance with the terms and conditions determined by the Minister. The Minister shall notify the student and the financial institution of the amount of each of these payments and of the time at which they may be disbursed.

The Minister may specify that the guarantee certificate is valid in respect of a loan contracted by the student for any subsequent year of allocation.”

**12.** Section 17 of the said Act is replaced by the following section:

“**17.** A student who is a minor and who receives a guarantee certificate is deemed to be of full age for the purposes of the guaranteed loan.”

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

“**18.** A student is eligible for a bursary provided that the student has been admitted to an educational institution designated by the Minister for the granting of loans and bursaries in order to pursue studies recognized by the Minister on a full-time basis and the student is within the period of eligibility established by regulation for a bursary.”

**14.** Sections 19 and 20 of the said Act are repealed.

**15.** Section 21 of the said Act is amended

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

“**21.** The amount of the bursary shall be computed by subtracting the part, determined pursuant to the regulations, of the maximum loan amount established under section 13 from the amount of the loan granted under section 14.”;

(2) by striking out the third paragraph.

**16.** Section 22 of the said Act is replaced by the following section:

**“22.** The bursary shall be paid to the financial institution so that it may be applied to the repayment of the guaranteed loan. The bursary is inalienable and unseizable.

The Minister may suspend payment of the bursary if the student is required to file a fiscal return pursuant to the Taxation Act (chapter I-3) and fails to do so.”

**17.** Section 23 of the said Act is replaced by the following section:

**“23.** For the purposes of this subdivision,

“full exemption period” means the period beginning on the date on which a borrower obtains a first loan or resumes being a full-time student, and ending at the end of the month in which the borrower ceases to be a full-time student or, if the borrower is in a situation provided for by regulation, at the time mentioned therein; and

“partial exemption period” means the period of six months following the end of the full exemption period.”

**18.** Section 24 of the said Act is replaced by the following section:

**“24.** During a borrower’s full exemption period, the Minister shall pay the interest on the balance of the loan, at the rate fixed by regulation, to any financial institution which has made a guaranteed loan.

During the borrower’s partial exemption period, the borrower must pay the interest on the balance of the loan at the rate fixed by regulation. At the end of this period, any interest not paid by the borrower shall be capitalized.

Despite the second paragraph, the interest on the portion of the loan repaid pursuant to section 22 shall be borne by the Minister.”

**19.** Section 25 of the said Act is amended by replacing “period of exemption” by “partial exemption period”.

**20.** Section 27 of the said Act is amended by replacing “reimburse the amount of the loan to the financial institution” by “repay to the financial institution the balance of the guaranteed loan with the interest due”.

**21.** Section 28 of the said Act is amended by replacing “an authorized” by “a guaranteed”.

**22.** Section 29 of the said Act is amended by adding the following paragraph at the end:

“However, subrogation does not take place if the borrower dies during the full exemption period.”

**23.** Section 31 of the said Act is amended by inserting “, sent to the last address declared to the Minister by the debtor or to any other address of which the Minister has been informed,” after “section” in the second paragraph.

**24.** The said Act is amended by inserting the following section after section 31:

“**31.1.** Where warranted by exceptional circumstances, the Minister may grant a release from all or part of an amount owed.”

**25.** Section 32 of the said Act is replaced by the following section:

“**32.** For the purposes of this division,

“part-time” means, per trimester and subject to the regulations,

- (1) at the secondary level, 76 to 179 class hours or 6 to 11 credits;
- (2) at the college level, 2 or 3 courses or 76 to 179 periods;
- (3) at the university level, 6 to 11 credits;

“trimester” means the period of approximately three months beginning on 1 September, 1 January or 1 May of a year of allocation.”

**26.** Section 33 of the said Act is amended

(1) by striking out “, on the date of the application,” in the part preceding paragraph 1;

(2) by replacing “take, on a part-time basis, courses forming part of a course of study recognized by the Minister” in paragraph 3 by “pursue studies recognized by the Minister on a part-time basis”;

(3) by inserting “, at the beginning of the year of allocation,” after “is” in paragraph 4;

(4) by inserting “, at the beginning of the year of allocation,” after “not” in paragraph 6.

**27.** Section 34 of the said Act is amended by striking out “actual” wherever it appears.

**28.** Section 36 of the said Act is amended by replacing the first paragraph by the following paragraphs:

“**36.** The Minister shall issue to a student who is enrolled a guarantee certificate in respect of a loan contracted by the student with a financial institution recognized by the Minister.

The loan shall be disbursed in periodic payments, in accordance with the terms and conditions determined by the Minister. The Minister shall notify the student and the financial institution of the amount of each of these payments and of the time at which they may be disbursed.

The Minister may specify that the guarantee certificate is valid in respect of a loan contracted by the student for any subsequent year of allocation.”

**29.** Section 36.1 of the said Act is amended by replacing “31” by “28, the first paragraph of section 29 and sections 30 to 31.1”.

**30.** Section 36.2 of the said Act is amended by replacing “an authorized” by “a guaranteed”.

**31.** Section 37.1 of the said Act is amended by replacing “loan certificate issued by the Minister” in the second paragraph by “amount paid”.

**32.** Section 39 of the said Act is amended by adding the following paragraph at the end:

“(3) to notify the Minister, within 30 days, of any change of address.”

**33.** Section 40 of the said Act is amended by replacing the second and third paragraphs by the following paragraphs:

“Where, as a result of the Minister’s decision, the amount of financial assistance is increased, the Minister shall notify the student and, where applicable, the financial institution of the additional amount granted and of any special terms and conditions of payment established by the Minister.

Where, as a result of the Minister’s decision, the amount of a loan is reduced, the Minister shall recover the amount of the reduction from the amount of any future financial assistance, in accordance with the rules prescribed by regulation, after notifying the student.”

**34.** Section 41 of the said Act is replaced by the following section:

“**41.** If an application for financial assistance is filed after the time prescribed or if the provisions of paragraph 2 of section 39 have been contravened, the Minister may refuse the application or reduce or cancel a financial assistance payment.

If the provisions of paragraph 3 of section 39 have been contravened, the Minister may suspend payment of financial assistance until the student has met his or her obligations.”

**35.** Section 42 of the said Act is amended by replacing the first paragraph by the following paragraph:



**42.** A person who has received a bursary amount without entitlement must repay the amount to the Minister without delay, unless the person has been informed of the Minister's intention to recover the amount from the amount of any future financial assistance, in accordance with the rules prescribed by regulation, or has made an agreement with the Minister on another method of repayment. Interest on the amount due shall be payable at the rate fixed by regulation, from the end of the full exemption period within the meaning of section 23."

**36.** Section 43 of the said Act is amended by replacing paragraphs 1 and 2 by the following paragraphs:

"(1) a person who, pursuant to section 29, must repay a loan amount, as long as this amount has not been repaid, unless the person has made an agreement with the Minister with respect to repayment terms and conditions or has been informed of the Minister's intention to recover the amount from the amount of any future financial assistance;

"(2) a person who, pursuant to section 42, must repay a bursary amount, as long as this amount has not been repaid, unless the person has made an agreement with the Minister with respect to repayment terms and conditions or has been informed of the Minister's intention to recover the amount from the amount of any future financial assistance;"

**37.** Section 43.1 of the said Act is amended by striking out " , within 30 days of being advised of the decision," and "in writing".

**38.** Section 44 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The total amount of financial assistance granted in the form of a loan for a given year of allocation must not, however, exceed the maximum amount determined under section 13 and the financial assistance granted in the form of a bursary under the first paragraph must not exceed the amount of financial assistance granted in the form of a loan under that paragraph."

**39.** Section 48 of the said Act is amended by replacing "The Government may authorize the Minister to" by "The Minister may".

**40.** Section 56 of the said Act is amended

(1) by inserting "courses or" after "list of" in subparagraph 4 of the first paragraph;

(2) by replacing "authorized" in subparagraph 5 of the first paragraph by "guaranteed";

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

“Instead of drawing up a list, the Minister may determine, for each level of education, for each cycle and for certain categories of institutions that the Minister identifies, the conditions that an educational institution must meet in order to be designated for the granting of loans and bursaries or the granting of loans, and the conditions that a course or course of study must meet in order to be recognized for the purposes of eligibility for financial assistance.”

**41.** Section 57 of the said Act is amended

(1) by striking out “, for each form of assistance,” in subparagraph 1 of the first paragraph;

(2) by replacing “the minimum contribution, the foreseeable income and the actual income” in subparagraph 2 of the first paragraph by “the student’s income and the income of the student’s parents, sponsor or spouse”;

(3) by replacing “a course of study” in subparagraph 2.1 of the first paragraph by “studies”;

(4) by striking out subparagraph 3 of the first paragraph;

(5) by replacing “trimesters” in subparagraph 3.1 of the first paragraph by “years of study”;

(6) by striking out “actual” in subparagraph 3.3 of the first paragraph;

(7) by striking out “, for each form of assistance,” in subparagraph 7 of the first paragraph;

(8) by inserting the following subparagraph after subparagraph 7.1 of the first paragraph:

“(7.2) for the purpose of computing the amount of financial assistance which may be paid under the loans and bursaries program, determine conditions and rules for establishing the amounts allowed as supplementary expenses;”;

(9) by inserting the following subparagraph after subparagraph 9.1 of the first paragraph:

“(9.2) determine conditions and rules for establishing the part of the maximum loan amount used for the calculation under section 21;”;

(10) by replacing “loan certificate shall be issued” in subparagraph 10 of the first paragraph by “guarantee certificate shall be issued or financial assistance payment shall be disbursed”;

(11) by replacing subparagraphs 13 and 13.1 of the first paragraph by the following subparagraphs:

“(13) determine terms and conditions for the presentation of a guarantee certificate and for the monthly or periodic payment of a guaranteed loan;

“(13.1) determine, for the purposes of sections 23 and 24, the time at which the full exemption period ends, depending on the borrower’s situation;”;

(12) by replacing “an authorized” in subparagraph 14 of the first paragraph by “a guaranteed”;

(13) by inserting the following subparagraph after subparagraph 14 of the first paragraph:

“(14.1) determine in which cases a financial institution must assign a claim to another financial institution and prescribe the terms and conditions of assignment;”;

(14) by replacing “an authorized” in subparagraph 15 of the first paragraph by “a guaranteed”;

(15) by replacing “the amount of assistance reduced and the amount of the reduction” in subparagraph 18 of the first paragraph by “a financial assistance payment may be reduced or cancelled”;

(16) by replacing “15 and 22” in subparagraph 19 of the first paragraph by “13 and 15”;

(17) by replacing “trimesters” in subparagraph 21 of the first paragraph by “months”;

(18) by inserting the following subparagraph after subparagraph 21 of the first paragraph:

“(21.1) determine in which cases allowable expenses are to be carried forward to another year of allocation and specify, for the purpose of computing the amount of financial assistance, the special rules that apply in such cases;”;

(19) by inserting the following subparagraph after subparagraph 24 of the first paragraph:

“(24.1) determine, for the purposes of sections 40 and 42, the maximum number of consecutive years of allocation during which the Minister may recover amounts, prescribe rules for repayment over time and fix the amount below which no recovery may be made by the Minister;”;

(20) by adding the following subparagraphs after subparagraph 25 of the first paragraph:

“(26) provide for the increase, reduction or variation of the effective interest rate in cases where the Minister is subrogated in all the rights of a financial institution and in any other case determined by regulation;

“(27) determine, for the purposes of any proceeding and in the absence of any evidence to the contrary, the documents that constitute proof of amounts owed by the borrower.”;

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

“The provisions of the regulations made under subparagraphs 1, 2, 7, 7.2 and 21 may vary according to the situation of the student prior to the period covered by the application for financial assistance, as well as the situation of the student or the student’s spouse, parents or sponsor during that period. The provisions may also vary according to the number of months during which the student is pursuing studies or is employed, the studies pursued and the place of residence of the student and, where applicable, that of the student’s parents or sponsor, and depending on whether the student suffers from a major functional deficiency.”

**42.** The Government may, in a regulation made before (*insert the date occurring one year after the coming into force of section 42*), adopt any transitional provision or measure that is expedient for the carrying out of this Act.

**43.** The provisions of this Act and the first regulations made under it are applicable to juridical situations pending at the time of their coming into force.

**44.** The provisions of this Act come into force on the date or dates to be fixed by the Government.