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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-SEVENTH LEGISLATURE

## Bill 108

(2005, chapter 13)

### **An Act to amend the Act respecting parental insurance and other legislative provisions**

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**Introduced 10 May 2005**

**Passage in principle 31 May 2005**

**Passage 15 June 2005**

**Assented to 17 June 2005**

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## EXPLANATORY NOTES

*This bill amends the Act respecting parental insurance with a view to the implementation of the Québec parental insurance plan. It provides for the establishment of a social trust within the meaning of the Civil Code of Québec to be known as the Parental Insurance Fund. The Fund is to be established by transferring most of the assets of the Conseil de gestion de l'assurance parentale, which is the trustee of the Fund. The patrimony of the Fund is dedicated to paying benefits under the Act respecting parental insurance and to paying the obligations of the Conseil de gestion in the exercise of its fiduciary functions. The bill also enacts rules applicable to the Conseil de gestion in the exercise of its fiduciary functions and changes the composition of its board of directors.*

*Under the bill, the administration of the plan is entrusted to the Minister of Employment and Social Solidarity, who is responsible for the administration of the Act respecting parental insurance, except Chapter IV, which remains under the responsibility of the Minister of Revenue. The bill makes provision for the powers necessary for the administration of the plan.*

*The bill makes it possible for a person who adopts a child of full age or a spouse's child to receive adoption benefits. The bill provides that the employment earnings used to calculate premiums payable are the same as those used to calculate premiums payable under the federal employment insurance plan, and that the business income used to calculate premiums payable corresponds for the most part to the income from carrying on a business calculated for the purposes of the Taxation Act. The bill also provides that certain persons who reside in Québec but work outside Canada are required to pay a premium under the plan.*

*The bill clarifies the notion of an employee who reports for work at the establishment of an employer, in order to clearly identify in which cases employers and employees are required to pay a premium under the Québec parental insurance plan.*

*Moreover, the bill enacts additional rules to allow appropriate adjustment payments to be made between the federal employment insurance plan and the Québec parental insurance plan if premiums are deducted under one plan with regard to persons subject to the other plan.*

*As well, the bill authorizes the Government to make a regulation if the Conseil de gestion fails to do so within a reasonable time.*

*The bill also amends the Act respecting labour standards in order to harmonize that Act with the Act respecting parental insurance, in particular as regards parental leave in cases of adoption.*

*Lastly, the bill contains technical and consequential amendments to the Act respecting parental insurance and other Acts, including the Act respecting the Ministère du Revenu. It also contains transitional provisions, certain of which derive from the Canada-Québec Final Agreement on the Québec Parental Insurance Plan.*

**LEGISLATION AMENDED BY THIS BILL:**

- Workers' Compensation Act (R.S.Q., chapter A-3);
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Act respecting the Ministère de l'Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting occupational health and safety (R.S.Q., chapter S-2.1);
- Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001);
- Act respecting parental insurance (2001, chapter 9);
- Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information (2002, chapter 5).



## Bill 108

### AN ACT TO AMEND THE ACT RESPECTING PARENTAL INSURANCE AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** Section 2 of the Act respecting parental insurance (2001, chapter 9) is amended by replacing “minor” in paragraph 3 by “child”.

**2.** Section 3 of the Act is amended

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

“(1) in respect of the qualifying period, the person is required to pay premiums under this plan in accordance with Division II of Chapter IV or, to the extent prescribed by regulation of the Conseil de gestion de l’assurance parentale, under the employment insurance plan established under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23) or a plan established for the same purposes by another province or a territory;”;

(2) by replacing “where the person’s insurable earnings derive from a business” in subparagraph 2 of the first paragraph by “in the case of a person whose insurable earnings from a business are considered”;

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

“The eligibility arising out of the obligation to pay a premium under a plan referred to in subparagraph 1 of the first paragraph, other than this plan, is conditional on the Conseil de gestion entering into an agreement for that purpose with the Government of Canada or the government of another province or a territory.”

**3.** The Act is amended by inserting the following section after section 3:

**3.1.** In this Act, a person is considered resident in Québec if the person is so considered for the purposes of the Taxation Act (chapter I-3), and a person is considered not resident in Québec in all other cases.

Despite the first paragraph, if the person is considered resident in Québec as a result of the application of paragraph *a* of section 8 of the Taxation Act, the person is considered not resident in Québec for the purposes of this Act.”

**4.** Section 6 of the Act is replaced by the following section:

**“6.** The Conseil de gestion shall, by regulation, set the following premium rates:

- (1) the premium rate applicable to an employee or a person referred to in section 51;
- (2) the premium rate applicable to an employer;
- (3) the premium rate applicable to a self-employed worker.

For the purposes of the first paragraph, “employee”, “employer” and “self-employed worker” have the meanings assigned by section 43.

The premium rates come into force on 1 January of the year following the date of their publication in the *Gazette officielle du Québec*. They may not be published later than 15 September immediately preceding that 1 January.”

**5.** Section 7 of the Act is amended by adding the following paragraph at the end:

“The Conseil de gestion may, by regulation, determine other cases in which, following a request, payment may end after the expiry of the period prescribed in the second paragraph. The regulation shall determine how many weeks of benefits are suspended in each case.”

**6.** Section 8 of the Act is amended

- (1) by replacing “shall end” in the third line by “ends”;
- (2) by adding the following paragraph at the end:

“Following a request, payment may end after the expiry of the 18 weeks if the weeks of benefits are suspended in the cases and for the time prescribed by regulation of the Conseil de gestion.”

**7.** Section 11 of the Act is amended by replacing “within the framework of an adoption procedure” in the fifth line of the first paragraph by “for the purpose of the adoption”.

**8.** Section 12 of the Act is repealed.

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

“A person who files for benefits must provide the Minister with any document or information necessary to check the person’s eligibility and determine the amount of the benefits.”

**10.** The Act is amended by adding the following after section 17:

“§6. — *Exclusions*

“**17.1.** A parent who has begun to receive or has already received benefits relating to a birth or an adoption under the employment insurance plan or a plan established by another province or a territory is not entitled to benefits under this plan for that birth or adoption.

The application of one of those plans in respect of the parent mentioned in the first paragraph entails the application of the same plan in respect of the other parent, regardless of the latter parent’s place of residence at the beginning of the benefit period, subject to the exceptions determined by regulation of the Conseil de gestion. The regulation may also prescribe the manner in which the parental insurance plan applies in exceptional cases.”

**11.** Section 19 of the Act is amended by striking out the second paragraph.

**12.** Section 20 of the Act is amended by replacing “revenu assurable d’entreprise” in the third line of the first paragraph of the French text by “revenu assurable provenant d’une entreprise”.

**13.** Section 21 of the Act is amended by striking out “reported to the Minister of Revenue” in the third and fourth lines of the third paragraph.

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

“**22.** The insurable earnings of a person consist of

(1) the insurable earnings from employment, which is the total of all amounts each of which is equal to the person’s insurable earnings from an employment, as determined in respect of the person for the purposes of the Employment Insurance Act, or, if an amount of insurable earnings from that employment is not determined in respect of the person for the purposes of that Act, to the person’s eligible wages in respect of the employment within the meaning of section 43; and

(2) the insurable earnings from a business, which corresponds to the person’s business income within the meaning of section 43 less the part of that income included in the total determined in paragraph 1.”

**15.** Section 23 of the Act is amended

(1) by replacing “within the framework of an adoption procedure” in the fifth line of the second paragraph by “for the purpose of the adoption”;

(2) by striking out “The benefit period may not exceed the week in which the adopted child reaches majority.” in the sixth and seventh lines of the second paragraph.

**16.** The Act is amended by inserting the following section after section 25:

**“25.1.** If the final amount of the benefits is higher than that of the interim benefits, the Minister must pay the beneficiary the additional amount that would have been paid if the final benefits had been authorized instead of the interim benefits.

If the final amount is less than that of the interim benefits, the overpayment must be recovered in the manner determined by the Minister.”

**17.** Section 28 of the Act is replaced by the following section:

**“28.** The recovery of amounts unduly paid is prescribed five years after they become recoverable. If the person who received such an amount made a false declaration, recovery is prescribed five years after the date on which the Minister becomes aware that the amount is owed, but not later than 15 years after the date it becomes recoverable.”

**18.** The Act is amended by adding the following section after section 28:

**“28.1.** A false declaration is made when an amount is granted to a person as a result of the person’s failing to make a declaration, making a declaration containing false information, or sending a document containing incomplete or false information in order to make the person eligible under this plan or to allow the person to receive a benefit greater than the benefit the person would otherwise have been granted.”

**19.** Section 29 of the Act is amended by replacing the first paragraph by the following paragraph:

**“29.** The Minister shall send a formal notice to a debtor of an amount recoverable under this Act, stating the reasons why the debt is owed, the amount of the debt and the debtor’s right to apply for a review of the decision within the period prescribed by section 39. The notice must also include information on the recovery procedure, in particular with regard to the issue of a certificate and its effects.”

**20.** Section 30 of the Act is replaced by the following section:

**“30.** The debtor must repay any amount owed within the time and according to the terms and conditions determined in a regulation of the Conseil de gestion, unless the debtor and the Minister agree otherwise.

The Minister may make a deduction from any benefit payment that becomes payable to the debtor.

A deduction under the second paragraph interrupts prescription. The same applies to an allocation by the Minister of Revenue under the second paragraph of section 31 of the Act respecting the Ministère du Revenu (chapter M-31).”



**21.** Section 31 of the Act is replaced by the following section:

**“31.** Failing payment by the debtor, the Minister may, at the expiry of the time for filing an application for review or for contesting a decision made after a review or, as the case may be, at the expiry of a period of 30 days after a decision of the Administrative Tribunal of Québec confirming all or part of the Minister’s decision, issue a certificate stating the debtor’s name and address and the amount of the debt.

As of the filing of the certificate, accompanied by a copy of the final decision establishing the debt, in the office of the court of competent jurisdiction, the decision is executory as if it were a final judgment of that court, not subject to appeal, and has all the effects of such a judgment.”

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

**“32.** In exceptional circumstances, the Minister may suspend all or part of the recovery of an amount owed or cancel all or part of the debt, on the conditions the Minister determines, even after the certificate referred to in section 31 has been filed.”

**23.** Section 33 of the Act is amended by replacing the second paragraph by the following paragraph:

“However, the Minister may deduct from benefits payable under this Act the amount repayable to the Minister under section 102 of the Act respecting income support, employment assistance and social solidarity (chapter S-32.001).”

**24.** Section 42 of the Act is replaced by the following section:

**“42.** A proceeding to contest the accuracy of information communicated to the Minister by the Minister of Revenue that relates to the computation of income for the purpose of establishing a person’s entitlement to benefits under this Act must be brought under the Act respecting the Ministère du Revenu.”

**25.** Section 43 of the Act is amended

(1) by inserting the following definition after the definition of employer:

““employment” means an employment or office, within the meaning of section 1 of the Taxation Act, that is work covered by this plan within the meaning of section 4;”;

(2) by replacing the definitions of business and employer by the following definitions:

““business” means a business, within the meaning of section 1 of the Taxation Act, that is work covered by this plan within the meaning of section 4;

““employer” means a person, including a government, that pays a wage to another person in exchange for that other person’s services;”;

(3) by inserting the following definition after the definition of employment:

““establishment” means an establishment within the meaning of Chapter III of Title II of Book I of Part I of the Taxation Act;”;

(4) by inserting the following definitions after the definitions of Minister and business, respectively:

““province” means a province within the meaning of section 1 of the Taxation Act;

““business income” of a person for a year means the amount by which the aggregate of all amounts each of which is the person’s income from a business carried on by that person for the year, calculated in accordance with Part I of the Taxation Act, except for paragraph *v* of section 87 and section 154.1 of that Act, exceeds the aggregate of all amounts each of which is the person’s loss, so calculated, from such a business for the year;”;

(5) by replacing the definition of work income by the following definition:

““work income” of a person for a year means the aggregate of the person’s income for the year which is either the person’s eligible wages for that year in respect of an employment, in relation to an establishment, or the person’s business income for the year.”;

(6) by striking out the definition of income from a business;

(7) by replacing the definition of wages by the following definition:

““eligible wages” of a person for a year, in respect of an employment and in relation to an establishment, means one of the following amounts:

(1) if insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act, the amount corresponding to

(a) the part of the insurable earnings that may reasonably be considered as being paid to the person for one or more periods during which the person reports for work at that establishment; or

(b) if the person is not required to report for work at any establishment of the employer, the part of the insurable earnings that may reasonably be considered as being paid to the person from that establishment;

(2) in the other cases, the aggregate of the amounts in respect of that employment each of which is a prescribed amount paid to the person during

the year for one or more periods during which the person reports for work at that establishment, or, if the person is not required to report for work at any establishment of the employer in respect of that employment, a prescribed amount paid to the person during the year from that establishment;”;

(8) by replacing the definition of self-employed worker by the following definition:

““self-employed worker” means a person who has business income for the year;”;

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

“For the purposes of the definition of business income set out in the first paragraph, income or losses from a business that a person carries on as a member of a partnership are only considered if the person is actively engaged in the activities of the partnership.”

**26.** The Act is amended by inserting the following section after section 43:

**“43.1.** A person residing in Québec at the end of a year who, in respect of an employment, reports for work at an establishment of the employer outside Canada or, if the person is not required to report for work at an establishment of the employer, whose wages are paid from such an establishment outside Canada is deemed to be an employee for the year if

(1) no insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act;

(2) the employer has an establishment in Québec; and

(3) the person is not required to pay premiums under a prescribed plan.

If the presumption provided in the first paragraph applies, the establishment outside Canada is deemed to be an establishment in Québec.”

**27.** Sections 44 to 46 of the Act are replaced by the following sections:

**“44.** When any question arises as to whether a given person is required to pay a premium under this chapter for a year as an employee or as an employer, the given person, the given person’s employer or the person who would be the employer if the given person was an employee may apply to the Minister, not later than 30 April of the following year, for a determination of the question.

The application must be made on the prescribed form and sent to the Minister.

The Minister must give the persons involved in the application an opportunity to provide information or make representations.

The Minister must make the decision known to the persons involved in the application with dispatch, in the manner the Minister considers suitable.

**“45.** If an application under section 65 of the Act respecting the Québec Pension Plan (chapter R-9) was made by a person to whom section 44 applies for a particular year, no application may be made under that section 44 in respect of that year by any person involved in the application.

A decision rendered for the purposes of the Act respecting the Québec Pension Plan as to the capacity in which a person is required to pay a contribution for a year is valid as if it had been rendered for the purposes of this chapter.

**“45.1.** Chapter III.2 of the Act respecting the Ministère du Revenu applies, with the necessary modifications, to a decision rendered by the Minister under section 44.”

**28.** Sections 48 and 49 of the Act are replaced by the following sections:

**“48.** In this chapter, the following rules apply:

(1) a person who reports for work at an establishment of the employer means,

(a) in respect of wages other than wages described in subparagraph *b*, a person who reports for work at that establishment for the regular pay period to which the wages relate;

(b) in respect of wages paid as a premium, an increase with retroactive effect or vacation pay or wages that do not relate to a regular pay period, a person who ordinarily reports for work at that establishment;

(2) a person who reports for work at an establishment of the employer in Québec and at an establishment of the employer outside Québec during a regular pay period is deemed, for that period, in respect of wages other than wages described in subparagraph *b* of paragraph 1,

(a) to report for work only at the establishment in Québec, except if subparagraph *b* applies,

(b) to report for work only at the establishment outside Québec if the person reports for work mainly at such an establishment of the employer during that period;

(3) a person who ordinarily reports for work at an establishment of the employer in Québec and at an establishment of the employer outside Québec is deemed, in respect of wages described in subparagraph *b* of paragraph 1, to ordinarily report for work only at the establishment in Québec.

**“48.1.** For the purposes of this chapter, a person who is not required to report for work at an establishment of the employer and whose wages are not paid from such an establishment in Québec is deemed to report for work at an establishment of the employer in Québec for a pay period if, given the place where the person mainly reports for work, the place where the person mainly performs employment duties, the person’s principal place of residence, the establishment from where the person is supervised, the nature of the employment duties performed by the person or any similar criterion, it may reasonably be considered that the person is an employee of that establishment for that pay period.

**“48.2.** For the purposes of this chapter, if a person who is an employee of an establishment of an employer outside Québec provides a service in Québec to or for the benefit of another employer who is not the person’s employer, an amount that may reasonably be considered to be the wages earned by the person to provide the service is deemed to be wages paid by the other employer to one of the other employer’s employees in the pay period during which the wages are paid to the person if

(1) the other employer has an establishment in Québec at the time the service is provided; and

(2) the service provided by the person

(a) is provided by the person in the ordinary performance of employment duties with the employer,

(b) is provided to or for the benefit of the other employer in the course of regular and ongoing activities of a business carried on by the other employer, and

(c) is the kind of service provided by employees of employers carrying on the same type of business as the business referred to in subparagraph *b*; and,

(3) but for this section, the amount would not be included in the total wages paid by the other employer and determined for the purposes of this chapter.

**“48.3.** Section 48.2 does not apply in respect of a pay period of another employer if the Minister is of the opinion that a reduction in the premiums payable under this chapter by the employers referred to in that section is not one of the purposes or expected results of entering into or maintaining in effect

(1) the agreement under which the service is provided by the person to or for the benefit of the other employer; or

(2) any other agreement that affects the amount of wages paid by the other employer in the pay period for the purposes of this chapter and that the Minister considers to be related to the agreement for the provision of services referred to in paragraph 1.

**“49.** Except if inconsistent with this chapter or a regulation made under it, sections 1000 to 1026.0.1, 1026.2 and 1037 to 1079.16 of the Taxation Act apply, with the necessary modifications, to a premium in respect of the eligible wages of a person referred to in section 51 or the business income of a self-employed worker.”

**29.** Section 50 of the Act is amended by replacing “on the last day of a year” in the first line by “at the end of a year”.

**30.** Section 51 of the Act is amended by replacing “on the last day of a year” in the first line by “at the end of a year”.

**31.** Section 53 of the Act is amended by replacing “on the last day of a year” in the first and second lines by “at the end of a year”.

**32.** The Act is amended by inserting the following section after section 53:

**“53.1.** A person residing in Québec at the end of a year who, in respect of an employment, reports for work at an establishment of the employer outside Canada or, if the person is not required to report for work at an establishment of the employer, whose wages are paid from such an establishment outside Canada is deemed to be a person to whom section 51 applies for the year if

(1) insurable earnings from the employment are determined for the year in respect of the person for the purposes of the Employment Insurance Act; or

(2) the following conditions are met:

(a) the employer has no establishment in Québec; and

(b) the person is not required to pay premiums under a prescribed plan.

If the presumption provided in the first paragraph applies, the establishment outside Canada is deemed to be an establishment in Canada outside Québec.”

**33.** Section 54 of the Act is amended by replacing “under this chapter” in the third line by “under those sections”.

**34.** Sections 55 to 57 of the Act are replaced by the following sections:

**“55.** Despite sections 50 to 53, this chapter does not apply in respect of a person who, under section 982 or 983 of the Taxation Act or any of paragraphs *a* to *c* of section 96 of the Act respecting the Ministère du Revenu, is exempt from tax for the year under Part I of the Taxation Act.

**“56.** For the purposes of sections 50, 51, 53, 66, 68 and 72, if an employee, a person referred to in section 51 or a self-employed worker dies or ceases to be resident in Canada in a year, the moment that is immediately before the death or cessation of residence is deemed to be the end of that year.”

**35.** Sections 58 and 59 of the Act are replaced by the following sections:

**“58.** An employee is required to pay for a year in respect of an employment, by deduction at source, a premium equal to the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the employee’s eligible wages for the year in respect of that employment, in relation to an establishment of the employer in Québec; and

(2) the maximum insurable earnings for the year.

**“59.** An employer is required to pay to the Minister for a year, in respect of each employee, a premium equal to the product obtained by multiplying the premium rate referred to in subparagraph 2 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the eligible wages of the employee for the year in respect of the employment, in relation to an establishment of the employer in Québec; and

(2) the maximum insurable earnings for the year.

**“59.1.** If, during a year, an employer immediately succeeds another employer following the formation or winding-up of a legal person or following the acquisition of a major portion of the property of a business or of a separate part of a business, without there being an interruption of the services provided by an employee, the following rules apply:

(1) for the purposes of section 58, the employer is deemed to be the same as the preceding employer; and

(2) the premium the employer is required to pay under section 59 is equal to the difference between the premium that the preceding employer should have paid for the year in respect of each employee if there had been no successive employer, and the aggregate of the amounts that the latter is required to pay for that year.”

**36.** Section 60 of the Act is amended

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

**“60.** An employer is required to deduct from the wages paid to an employee in a year, in respect of an employment, the amount prescribed as the employee’s premium, provided the employee reports to an establishment of the employer in Québec in relation to the wages or, if the employee is not required to report to an establishment of the employer, provided the wages are paid to the employee from such an establishment in Québec.

The employer must make the deduction even if the wages are paid as a result of a judgment.”;

(2) by replacing “may draw up” in the second line of the second paragraph by “shall draw up”.

**37.** Section 63 of the Act is amended by replacing the second paragraph by the following paragraph:

“The employer may, however, make the deduction from the wages paid to the employee within 12 months following the failure to make the deduction if the wages are wages described in section 60.”

**38.** Sections 64 to 66 of the Act are replaced by the following sections:

**“64.** Subject to section 65, a person to whom section 51 applies for a year is required to pay a premium for that year that is equal to the lesser of

(1) the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the aggregate of the amounts each of which is equal to the eligible wages of the person for the year, in respect of an employment, in relation to an establishment of the employer in Canada outside Québec; and

(2) the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the amount by which the maximum insurable earnings for the year exceed the quotient obtained by dividing the total deductions at source made from the person’s wages as an employee for that year under this chapter by that rate.

For the purposes of subparagraph 2 of the first paragraph, the total deductions at source must be reduced by the premium overpayment, if any, determined in accordance with the first paragraph of section 68.

**“65.** A person to whom section 51 applies for a year may deduct the prescribed amount from the premium payable for that year.



**“66.** A self-employed worker resident in Québec at the end of a year is required to pay a premium for that year that is equal to the product obtained by multiplying the premium rate referred to in subparagraph 3 of the first paragraph of section 6 by the lesser of

(1) the worker’s business income for the year; and

(2) the amount by which the maximum insurable earnings for the year exceed the quotient obtained by dividing the aggregate of the following amounts by the premium rate referred to in subparagraph 1 of the first paragraph of section 6:

(a) the total deductions at source from the worker’s wages for the year as an employee under this chapter, reduced, if applicable, by the premium overpayment established in accordance with the first paragraph of section 68;

(b) the premium the worker is required to pay for the year under section 64, determined without reference to section 65.”

**39.** Section 67 of the Act is amended by adding the following paragraph at the end:

“The prescribed amount is deemed to be a payment made by a self-employed worker as a partial payment of his or her premium payable for the year under this chapter.”

**40.** Sections 68 and 69 of the Act are replaced by the following sections:

**“68.** The amount by which the total deductions at source made from a person’s wages as an employee for a year under this chapter exceed the product obtained by multiplying the premium rate referred to in subparagraph 1 of the first paragraph of section 6 by the lesser of

(1) the aggregate of the amounts each of which is the person’s eligible wages for the year in respect of an employment, in relation to an establishment of the employer in Québec, and

(2) the maximum insurable earnings for the year,

is a premium overpayment for that year by an employee resident in Québec at the end of the year.

However, the premium overpayment for a year by an employee resident in Québec at the end of the year referred to in section 54 corresponds to the aggregate of the deductions at source made from the person’s wages as an employee for that year under this chapter.

**“68.1.** The amount by which the amount prescribed for the purposes of section 65 exceeds the lesser of the amounts determined under subparagraphs 1

and 2 of the first paragraph of section 64 is a premium overpayment for the year by a person referred to in section 51.

However, the premium overpayment for a year by a person referred to in both section 51 and section 54 corresponds to the amount prescribed for the purposes of section 65.

**“69.** For the purposes of sections 64, 66 and 68, an amount an employer omitted to deduct is deemed to have been deducted by the employer as an employee’s premium if

(1) the employee notified the Minister of the employer’s omission not later than 30 April of the year following the year in which it occurred; or

(2) the employer paid the amount to the Minister.”

**41.** Section 71 of the Act is repealed.

**42.** Sections 72 and 73 of the Act are replaced by the following section:

**“72.** An employee resident outside Québec at the end of a year and in respect of whom amounts were deducted in relation to a premium payable under this chapter may not claim a refund of the amounts so deducted nor apply them to the payment of any debt owed by the employee to the Government insofar as those amounts relate to income that is subject to a premium under either a plan similar to that established by this Act if the employee is resident at the end of the year in another province where such a plan is in force, or the employment insurance plan established under the Employment Insurance Act if the employee is not resident in such a province at the end of the year.

The first paragraph only applies to an employee if the government of the other province, in the case of the employee resident in that province at the end of the year, or the Government of Canada in other cases, is authorized to make a remittance referred to in section 74 to the Government for the year.”

**43.** Section 74 of the Act is replaced by the following sections:

**“74.** With the authorization of the Government, the Minister may make an adjustment payment to the government of another province or the Government of Canada if, for a year, that government is authorized to remit to the Government amounts deducted or paid under a statute of the other province establishing a plan similar to the plan established by this Act or under the Employment Insurance Act and if, in the Minister’s opinion, that remittance is equivalent to an adjustment payment.

With the authorization of the Government, the Minister may make any agreement considered necessary for the purposes of this section with the government of another province or the Government of Canada.

“**74.1.** The total adjustment payments for a year in respect of employees is equal to the aggregate of

(1) all amounts deducted during the year under section 60 from the wages of employees resident outside Québec at the end of the year; and

(2) all amounts paid during the year under section 63 in respect of the wages of employees resident outside Québec at the end of the year.

“**74.2.** The total adjustment payments for a year in respect of employers is equal to the aggregate of the amounts each of which corresponds to the lesser of

(1) the amount an employer paid for the year under section 59 in respect of an employee resident outside Québec at the end of the year; and

(2) the amount the employer would have paid for the year, in respect of the employee, as a parental insurance plan premium had the employer been subject, in relation to the employee,

(a) in the case of an employee resident in another province referred to in the first paragraph of section 74 at the end of the year, to a statute of the other province establishing a plan similar to that established by this Act, or

(b) in the other cases, to the Employment Insurance Act.

“**74.3.** The Minister shall determine the part of the adjustment payments to be paid to the government of another province referred to in the first paragraph of section 74 and the part to be paid to the Government of Canada.

“**74.4.** An amount must only be considered when calculating the total adjustment payments referred to in section 74.1 or 74.2 if the employee’s income from which it was deducted or in respect of which it was paid are subject to a premium under either a plan similar to that established by this Act, if the employee is resident at the end of the year in another province where such a plan is in force, or the employment insurance plan established under the Employment Insurance Act if the employee is not resident in such a province at the end of the year.

“**74.5.** For the purposes of sections 74 to 74.4, “adjustment payment” means a payment made by the Government to the government of another province or the Government of Canada in respect of any amount deducted as a premium under the parental insurance plan established by this Act from the wages of an employee who is not resident in Québec at the end of the year or in respect of any amount paid as a premium under that parental insurance plan in relation to the wages of such an employee.”

**44.** Sections 76 and 77 of the Act are replaced by the following sections:

**“76.** Whatever its imputation, any payment, whether of tax under the Taxation Act, of a premium under this Act or of a contribution under the Act respecting the Québec Pension Plan, must first be imputed, subject to sections 72 and 77 of the Act respecting the Québec Pension Plan, on the premium payable under this Act.

**“76.1.** Before rendering a decision on an employer’s objection to an assessment for the purposes of this chapter, the Minister must, in the manner the Minister considers suitable, give the employee involved the opportunity to provide information and make representations if necessary to protect his or her interests.

The Minister must make the decision known to the employee involved with dispatch, in the manner the Minister considers suitable.”

**45.** Section 80 of the Act is replaced by the following section:

**“30.** The Minister is responsible for the administration of the parental insurance plan.”

**46.** Section 81 of the Act is amended

(1) by replacing the first sentence by the following sentence: “The administration entrusted to the Minister shall be the subject of an agreement between the Conseil de gestion and the Minister.”;

(2) by striking out “and investment” in the fifth line.

**47.** Section 83 of the Act is amended

(1) by inserting “or the government of another province or a territory” after “Canada” in the introductory sentence;

(2) by inserting “or a statute of another province or a territory” after “Employment Insurance Act” in the second line of subparagraph 1 of the first paragraph.

**48.** Section 84 of the Act is replaced by the following section:

**“84.** Subject to the second paragraph, the Minister may make an agreement with a department or body of the Government or, subject to the applicable legislative provisions, of the Government of Canada or the government of another province or a territory or with a person, provided their names appear in a list drawn up by the Government and published in the *Gazette officielle du Québec*, to gather or communicate nominative information required for the purposes of this Act and the regulations, in particular,

(1) to establish a person’s entitlement to benefits under this Act and to determine the amount to be paid;

(2) to identify, by means including file-matching, a situation not declared by a person that could affect the benefits granted or to be granted the person under this Act;

(3) to check the solvency of a person who is required to repay an amount under Division IV of Chapter II or identify the person's place of residence.

The Minister may also make an agreement with such entities as the Department of Human Resources and Skills Development of Canada, the Canada Revenue Agency and the following departments and bodies of the Government: the Ministère du Revenu, the Registrar of Civil Status, the Commission de la santé et de la sécurité du travail, the Régie de l'assurance maladie du Québec and the Société de l'assurance automobile du Québec.

For the purpose of identifying persons for the purposes of an agreement mentioned in this section, the Minister may communicate each person's name, date of birth, sex, address, social insurance number and file number, the name and date of birth of the child and the name, date of birth and social insurance number of the spouse of the child's parent. The department, body or person receiving the information must destroy it as soon as the purpose for which it was communicated has been fulfilled.

The information must be exchanged in accordance with the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1)."

**49.** Section 85 of the Act is amended

(1) by striking out "or the Board, as the case may be," in the first line of the first paragraph;

(2) by replacing "Either" in the first line of the second paragraph by "The Conseil de gestion" and by striking out "or the Board" in the second line of that paragraph.

**50.** Section 88 of the Act is amended

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

"(1) determining the procedure and time limits for making an application to the Minister and an application on behalf of a person who is deceased or unable to manage his or her affairs;"

(2) by inserting "within the meaning of section 43" after "income" in the fourth line of subparagraph 3 of the first paragraph;

(3) by adding "; the Government may approve them with or without amendment" at the end of the second paragraph;

(4) by adding the following paragraph after the second paragraph:

“If the Conseil de gestion fails to make a regulation within a period the Government considers reasonable, the Government may make the regulation. Such a regulation is deemed to be a regulation of the Conseil de gestion.”

**51.** The Act is amended by adding the following after section 88:

#### “CHAPTER V.1

#### “INSPECTION AND INVESTIGATION

“**88.1.** For the purposes of this Act, a person authorized by the Minister to act as an inspector may require, examine and make a copy of any information or document. The inspector may also require that information or documents be sent by fax or electronic means if a person may be so contacted.

“**88.2.** No proceedings may be brought against an inspector for acts performed in good faith in the exercise of his or her functions.

“**88.3.** The Minister or any person designated by the Minister as an investigator may investigate any matter under the Minister’s authority with respect to the administration of the parental insurance plan.

“**88.4.** For the purposes of an investigation, the Minister and investigators have the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to impose imprisonment.

An investigator may send a subpoena by fax or electronic means if the person to whom it is addressed may be so contacted.

“**88.5.** On request, inspectors or investigators must identify themselves and produce a certificate of authority signed by the Minister.

“**88.6.** No person may hinder an inspector in the exercise of his or her functions, mislead or attempt to mislead an inspector by misrepresentation or deceptive statements, refuse to produce documents required by an inspector or omit or refuse, without good cause, to answer any question that may lawfully be asked.”

**52.** Section 89 of the Act is amended by striking out “and a mandatary of the State” in the second paragraph.

**53.** Section 90 of the Act is amended by replacing the first paragraph by the following paragraph:

**“90.** The property in the possession of the Conseil de gestion on 16 June 2005 belongs to it, except the property transferred to the Parental Insurance Fund.”

**54.** Section 91 of the Act is amended by inserting the following subparagraph after subparagraph 2 of the second paragraph:

“(2.1) to administer the Parental Insurance Fund as trustee;”.

**55.** The Act is amended by inserting the following section after section 91:

**“91.1.** The Conseil de gestion may conduct or commission research or studies in any field covered by this Act.”

**56.** Section 93 of the Act is amended by replacing “the Communauté urbaine” in the second line by “Ville”.

**57.** Section 94 of the Act is amended

(1) by inserting the following subparagraph after subparagraph 3 of the first paragraph:

“(3.1) a member who is a non-union worker, after consultation with bodies representing non-union workers and bodies representing women;”;

(2) by striking out subparagraph 5 of the first paragraph;

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

“The Deputy Minister of Employment and Social Solidarity or the Deputy Minister’s representative are, by virtue of office, members of the board of directors.”

**58.** Section 105 of the Act is replaced by the following section:

**“105.** No document binds the Conseil de gestion or may be attributed to it unless it is signed by the president and director general or, to the extent determined in the internal by-laws of the Conseil de gestion, by a member of the board of directors or a member of the personnel.”

**59.** The Act is amended by inserting the following after section 110:

## **“DIVISION II.1**

### **“STRATEGIC PLAN**

**“110.1.** The Conseil de gestion shall adopt a strategic plan covering a period of more than one year.

**“110.2.** The strategic plan must state

- (1) the mission of the Conseil de gestion;
- (2) the context in which the Conseil de gestion acts and the main challenges it faces;
- (3) the strategic directions, objectives and lines of intervention selected;
- (4) the results targeted by the end of the period covered by the plan;
- (5) the performance indicators to be used in measuring results.

**“110.3.** The Conseil de gestion shall transmit the strategic plan to the Minister, who shall lay it before the National Assembly.”

**60.** Section 111 of the Act is amended by replacing “Child and Family Welfare” in the first line of paragraph 2 by “Employment and Social Solidarity”.

**61.** Section 112 of the Act is repealed.

**62.** Section 115 of the Act is amended by replacing the second paragraph by the following paragraph:

“The surplus, if any, may be allocated to reducing premiums or increasing benefits.”

**63.** The Act is amended by inserting the following after section 115:

#### **“DIVISION III.1**

#### **“PARENTAL INSURANCE FUND**

**“115.1.** The Parental Insurance Fund is hereby established as a social trust patrimony.

**“115.2.** The Conseil de gestion shall transfer to the Parental Insurance Fund the sums in its possession on 16 June 2005, including its securities deposited with the Caisse de dépôt et placement du Québec, except sums kept on deposit by the Conseil otherwise than in a fiduciary capacity.

**“115.3.** The debts of the Conseil de gestion as at 16 June 2005, except the sums owed otherwise than in a fiduciary capacity shall be borne by the Parental Insurance Fund.

**“115.4.** The Parental Insurance Fund is dedicated to

- (1) the payment of benefits under this Act; and



(2) the payment of the obligations of the Conseil de gestion in the exercise of its fiduciary functions.

**“115.5.** The Conseil de gestion is the trustee of the Parental Insurance Fund.

The Conseil is deemed to have accepted the trusteeship and the obligations arising from it as of 17 June 2005.

The Conseil shall act to promote the objectives pursued by the Parental Insurance Fund.

**“115.6.** Articles 1260 to 1262, 1264 to 1266, 1270, 1274, 1278, 1280, 1293, 1299, 1306 to 1308, 1313 and 1316, with the necessary modifications, are the only provisions of Titles Six and Seven of Book Four of the Civil Code that apply to the Parental Insurance Fund and the Conseil de gestion in its fiduciary capacity.

**“115.7.** The Conseil de gestion shall transfer to the Parental Insurance Fund all sums its receives for the funding of the parental insurance plan, as they are received, in accordance with section 111.

The Conseil de gestion shall prepare a monthly reconciliation of the sums so collected and the sums actually transferred.

**“115.8.** The sums transferred to the Parental Insurance Fund by the Conseil de gestion are deposited with a bank governed by the Bank Act (Statutes of Canada, 1991, chapter 46) or a financial services cooperative governed by the Act respecting financial services cooperatives (chapter C-67.3).

**“115.9.** The sums making up the Parental Insurance Fund that are not required immediately are deposited with the Caisse de dépôt et placement du Québec.

**“115.10.** The administrative expenses of the Parental Insurance Fund are payable out of the Fund.

The expenses incurred by the Conseil de gestion for the carrying out of this Act are payable out of the Fund, except those paid out of the sums kept on deposit by the Conseil otherwise than in a fiduciary capacity.

The sums required to pay the remuneration and expenses relating to the employment benefits and other conditions of employment of the personnel members of the Conseil de gestion, insofar as they work within the scope of the fiduciary functions of the Conseil de gestion, are also payable out of the Fund.

**“115.11.** When the Conseil de gestion withdraws a sum from the Parental Insurance Fund, it is acting in its fiduciary capacity.

“**115.12.** The Conseil de gestion must prepare budget estimates for the Parental Insurance Fund for the following fiscal year at least one month before the end of the current fiscal year or by any other date set by the board of directors.

It must also adopt an investment policy for the Fund.

“**115.13.** The Financial Administration Act (chapter A-6.001) does not apply to the Conseil de gestion in the exercise of its fiduciary functions, except sections 89 and 90.

“**115.14.** The Public Administration Act (chapter A-6.01) does not apply to the Conseil de gestion in the exercise of its fiduciary functions, except Chapter III, section 78 insofar as it relates to human resources and Chapters V and VI.

“**115.15.** The fiscal year of the Parental Insurance Fund ends on 31 December.

“**115.16.** Not later than 30 April each year, the Conseil de gestion must submit to the Minister the financial statements of the Parental Insurance Fund and an annual management report on the Fund’s operations for the previous fiscal year. The report must contain all the information prescribed by the Minister.

The Minister must lay the financial statements and the report before the National Assembly within 30 days of receiving them if the National Assembly is sitting or, if it is not sitting, within 30 days of resumption.

“**115.17.** The books and accounts of the Parental Insurance Fund are audited by the Auditor General every year and whenever ordered by the Government.

“**115.18.** The president and director general of the Conseil de gestion is accountable to the National Assembly for the management of the Parental Insurance Fund.

The competent parliamentary committee of the National Assembly may hear the president and director general at least once each year to discuss the management of the Fund.

The parliamentary committee may discuss, in particular, the Fund’s financial statements and annual management report, and any administrative matter related to the Fund that may have been noted in a report of the Auditor General or the Public Protector.”

**64.** The Act is amended by replacing the title of Division IV of Chapter VI by the following title:

“ACCOUNTABILITY”.

**65.** Section 116 of the Act is amended by replacing “March” by “December”.

**66.** Section 117 of the Act is amended

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

“**117.** Not later than 30 April each year, the Conseil de gestion shall submit to the Minister its financial statements and a management report on the results achieved in relation to the objectives set out in its strategic plan.

The report must also state

(1) the mandates conferred on the Conseil de gestion;

(2) the programs under the management or administration of the Conseil de gestion;

(3) changes in personnel levels;

(4) a statement by the president and director general concerning the reliability of the information in the report and of monitoring mechanisms.”;

(2) by striking out “and report of operations” in the first line of the second paragraph.

**67.** Section 118 of the Act is amended by replacing “report of operations” in the first line by “management report”.

**68.** The Act is amended by inserting the following section after section 118:

“**118.1.** Subject to the applicable legislative provisions, the president and director general is accountable to the National Assembly for his or her administrative management, in particular as concerns the exercise of the authority and powers of the Minister responsible.

If the Minister considers it appropriate, the competent parliamentary committee of the National Assembly shall hear the Minister and, as the case may be, the president and director general at least once each year to discuss their administrative management.

The parliamentary committee may examine the results achieved with regard to the administrative aspects of the strategic plan, and any other matter of an administrative nature under the authority of the Conseil de gestion that is noted in a report of the Auditor General or the Public Protector.”

**69.** Section 121 of the Act is amended by replacing paragraphs 3 to 5 by the following paragraphs:

“(3) enters false information in any document required by the Minister under this Act or the regulations, or

“(4) contravenes section 38 or 88.6.”.

**70.** The Act is amended by replacing “the Board” wherever it appears in sections 34 to 39, 41 and 82 by “the Minister”, with the necessary grammatical adjustments.

**71.** Sections 122, 134, 140 to 142, 144 and 145 of the Act are repealed.

**72.** Section 147 of the Act is amended by replacing “occurs within the framework of an adoption procedure” in the second line of the second paragraph by “for the purpose of the adoption occurs”.

**73.** Section 152 of the Act is amended by replacing “of Child and Family Welfare” by “of Employment and Social Solidarity”.

#### OTHER AMENDING PROVISIONS

#### WORKERS’ COMPENSATION ACT

**74.** Section 2 of the Workers’ Compensation Act (R.S.Q., chapter A-3) is amended by inserting “, the Act respecting parental insurance (2001, chapter 9)” after “chapter 23)” in the sixth line of subparagraph *p* of paragraph 1.

**75.** The Act is amended by inserting the following section after section 34.1:

“**34.2.** The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of the Act respecting parental insurance (2001, chapter 9).”

#### ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

**76.** Section 42.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by replacing “transmission” in the second line of the first paragraph by “communication”.

**77.** The Act is amended by inserting the following section after section 42.1:

“**42.2.** The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of the Act respecting parental insurance (2001, chapter 9).”

## FINANCIAL ADMINISTRATION ACT

**78.** Schedule 2 to the Financial Administration Act (R.S.Q., chapter A-6.001), amended by section 52 of chapter 25, section 50 of chapter 30, section 53 of chapter 32, section 39 of chapter 35, section 40 of chapter 37 and section 16 of chapter 40 of the statutes of 2004, is again amended by inserting “Conseil de gestion de l’assurance parentale, in the exercise of its non-fiduciary functions” in alphabetical order.

## ACT RESPECTING THE MINISTÈRE DE L’EMPLOI ET DE LA SOLIDARITÉ SOCIALE AND ESTABLISHING THE COMMISSION DES PARTENAIRES DU MARCHÉ DU TRAVAIL

**79.** Section 53.1 of the Act respecting the Ministère de l’Emploi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., chapter M-15.001) is amended by replacing “and the power to designate an investigator under section 145 of that Act” in the fifth and sixth lines by “or under section 88.1 of the Act respecting parental insurance (2001, chapter 9), enacted by section 51 of chapter 13 of the statutes of 2005 as well as the power to designate an investigator under section 145 of the Act respecting income support, employment assistance and social solidarity or section 88.3 of the Act respecting parental insurance, enacted by section 51 of chapter 13 of the statutes of 2005”.

## ACT RESPECTING THE MINISTÈRE DU REVENU

**80.** Section 69.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 1 of chapter 10 of the statutes of 2004 and section 6 of chapter 2 of the statutes of 2005, is again amended by inserting the following subparagraph after subparagraph *j* of the second paragraph:

“(j.1) the Minister of Employment and Social Solidarity, solely to the extent that the information is required to establish a person’s entitlement to benefits under the Act respecting parental insurance (2001, chapter 9);”.

**81.** Section 93.2 of the Act, amended by section 513 of chapter 21 of the statutes of 2004, is again amended by inserting the following paragraphs after paragraph *h*:

“(h.1) a decision rendered under section 44 of the Act respecting parental insurance (2001, chapter 9);

“(h.2) an assessment issued for the purposes of Chapter IV of the Act respecting parental insurance, other than an assessment referred to in paragraph *h.3*, the amount of which does not exceed \$4,000;

“(h.3) an assessment relating to the eligible wages of a person referred to in section 51 of the Act respecting parental insurance or the business income of a self-employed worker, issued for the purposes of Chapter IV of that Act;”.

## ACT RESPECTING LABOUR STANDARDS

**82.** Section 79.8 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by replacing “mother, brother,” in the fourth line of the first paragraph by “his mother, the spouse of his father or mother, his brother, his”.

**83.** Section 81.1 of the Act is amended by striking out the fourth paragraph.

**84.** Section 81.5 of the Act is amended by striking out the second and third paragraphs.

**85.** Section 81.10 of the Act is amended

(1) by striking out “minor” in the second line of the first paragraph;

(2) by striking out the second paragraph.

**86.** The Act is amended by inserting the following sections after section 81.14:

**“81.14.1.** At the request of the employee, a maternity, paternity or parental leave may be divided into weeks if the child is hospitalized or if the employee may be absent under section 79.1 or 79.8, and in the cases, on the conditions, for the duration and within the time prescribed in the by-law.

**“81.14.2.** If the child is hospitalized during the maternity, paternity or parental leave, the leave may be suspended, following an agreement with the employer, to allow the employee to return to work during the hospitalization.

In addition, an employee who, before the expiry date of the leave, sends the employer a notice accompanied by a medical certificate attesting that the state of health of the child or, in the case of a maternity leave, that the state of health of the employee requires it, is entitled to an extension of the leave for the duration indicated in the medical certificate.”

**87.** Section 89 of the Act is amended by inserting the following paragraph after paragraph 6.1:

“(6.1.1) the other cases, conditions, times and durations prescribed for the division of a maternity, paternity or parental leave into weeks;”.

## ACT RESPECTING THE QUÉBEC PENSION PLAN

**88.** The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting the following section after section 65:

**“65.1.** If an application under section 44 of the Act respecting parental insurance (2001, chapter 9) has been made by an employer or an employee referred to in section 65 for a given year, no application may be made under that section 65 for that year by an employer or an employee involved in the application.

The decision rendered for the purposes of the Act respecting parental insurance as to the capacity in which the person is required to pay a premium for a given year is valid as if it had been rendered for the purposes of this Title.”

**89.** Section 72 of the Act is replaced by the following section:

**“72.** Whatever its imputation, any payment, whether of tax under the Taxation Act (chapter I-3), of an employer’s or an employee’s contribution under this Act or of a premium under the Act respecting parental insurance (2001, chapter 9), must first be imputed on the contribution payable under this Act.”

**90.** Section 77 of the Act is replaced by the following section:

**“77.** Whatever its imputation, any payment, whether of tax under the Taxation Act (chapter I-3), of a contribution in respect of self-employed earnings under this Act or of a premium under the Act respecting parental insurance (2001, chapter 9), must first be imputed on the contribution payable under this Act.”

#### ACT RESPECTING OCCUPATIONAL HEALTH AND SAFETY

**91.** The Act respecting occupational health and safety (R.S.Q., chapter S-2.1) is amended by inserting the following section after section 42:

**“42.1.** A pregnant worker shall receive no indemnity under sections 40 to 42 from the fourth week preceding the expected date of delivery, as stated in the certificate referred to in section 40, if she is eligible for benefits under the Act respecting parental insurance (2001, chapter 9).

However, the expected date of delivery may be changed after a pregnant worker referred to in the first paragraph files a claim for benefits under the Act respecting parental insurance, provided the Minister of Employment and Social Solidarity communicates the new date to the Commission not later than four weeks before the initial expected date of delivery.”

**92.** The Act is amended by inserting the following section after section 174:

**“174.1.** The Commission and the Minister of Employment and Social Solidarity shall enter into an agreement for the communication of the information required for the purposes of this Act and the Act respecting parental insurance (2001, chapter 9).”

ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE  
AND SOCIAL SOLIDARITY

**93.** Section 27 of the Act respecting income support, employment assistance and social solidarity (R.S.Q., chapter S-32.001) is amended by adding “or to which they are entitled under the Act respecting parental insurance (2001, chapter 9)” at the end of subparagraph *c* of subparagraph 3 of the first paragraph.

**94.** Section 156 of the Act is amended by inserting “or parental insurance” after “employment-insurance” in paragraph 18.

ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DU  
REVENU AND OTHER LEGISLATIVE PROVISIONS AS REGARDS  
THE PROTECTION OF CONFIDENTIAL INFORMATION

**95.** Section 12 of the Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information (2002, chapter 5) is amended by striking out “or the Act respecting parental insurance (2001, chapter 9)” in subparagraph 3 of subparagraph *n* of the second paragraph of section 69.1 of the Act respecting the Ministère du Revenu, enacted by paragraph 6.

**96.** Section 13 of the Act is amended by replacing “, the Act respecting family benefits (chapter P-19.1) or the Act respecting parental insurance (2001, chapter 9)” in the second paragraph of section 69.4 of the Act respecting the Ministère du Revenu, that it enacts, by “or the Act respecting family benefits (chapter P-19.1)”.

**97.** Section 39 of the Act is amended by striking out “except the words “or the Act respecting parental insurance (2001, chapter 9)” in subparagraph *n* of the second paragraph of section 69.1 and in section 69.4 of the Act respecting the Ministère du Revenu, amended, respectively, by sections 12 and 13, which will come into force on the date to be fixed by the Government, and”.

TRANSITIONAL AND FINAL PROVISIONS

**98.** The Conseil de gestion de l'assurance parentale is responsible for setting up the parental insurance plan and developing business processes leading to its implementation.

**99.** The work related to setting up and developing operational processes and procedures leading to the implementation of the plan are to be carried out by the Minister of Employment and Social Solidarity and the Minister of Revenue.

**100.** The expenses incurred and commitments made from 1 April 2004 by the Minister of Employment, Social Solidarity and Family Welfare, by the Minister of Employment and Social Solidarity from 18 February 2005, and by



the Minister of Revenue for setting up and developing operational processes and procedures leading to the implementation of the plan are borne by the Conseil de gestion de l'assurance parentale until 16 June 2005.

The sums required to reimburse the expenses are taken out of the sums at the disposal of the Conseil de gestion under section 111 of the Act respecting parental insurance, as amended by section 60.

The expenses are payable out of the Parental Insurance Fund from 17 June 2005.

**101.** From 17 June 2005, the Parental Insurance Fund assumes all the financial obligations contracted by the Conseil de gestion de l'assurance parentale from 10 January 2005, excluding those contracted by the Conseil de gestion otherwise than in its fiduciary capacity, and every document evidencing such an obligation is deemed to evidence an obligation of the Fund.

From the same date, the expenses incurred and commitments made by the Conseil de gestion from 10 January 2005, excluding those incurred or made by the Conseil otherwise than in its fiduciary capacity, are payable out of the Parental Insurance Fund.

The sums required from 10 January 2005 to pay the remuneration and expenses relating to the employment benefits and other conditions of employment of the personnel members of the Conseil de gestion, insofar as they work within the scope of the fiduciary functions of the Conseil de gestion, are also payable out of the Fund.

**102.** Despite section 21 of the Act respecting parental insurance (2001, chapter 9), as amended by section 13, if only insurable earnings from employment are considered, the average insurable earnings may, on request, be determined on the basis of a period of not more than 26 consecutive weeks preceding the beginning of the person's qualifying period. The average insurable earnings during that period are calculated using the method established by regulation of the Conseil de gestion de l'assurance parentale, excluding, on the conditions prescribed by regulation, the weeks where insurable earnings are below the threshold determined by regulation and subject to the divisor not being less than 16.

Likewise, the average insurable earnings may, on request and in the cases provided for by regulation of the Conseil de gestion, be determined on the basis of the 14 weeks involving the highest amount of insurable earnings from employment during the 52 weeks preceding a benefit period. The regulation must prescribe the method for calculating the average insurable earnings.

The average insurable earnings must be calculated in such a way that the recipient receives benefits equal to or greater than the benefits the recipient would have been entitled to under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23).

This section remains in force until the Government terminates its application by order.

**103.** Despite subparagraph 1 of the first paragraph of section 3 of the Act respecting parental insurance (2001, chapter 9), as replaced by section 2, a person who, on (*insert the date preceding that of the coming into force of this section*), held an employment in respect of which the person was not required to pay a premium under the Employment Insurance Act for the sole reason that it was not insurable employment within the meaning of that Act and who, for (*insert the year of coming into force of this section*), will be required to pay a premium under the Act respecting parental insurance is eligible for benefits under the latter Act, if the person meets the other conditions prescribed by the latter Act.

For the purpose of determining the person's average weekly earnings, the insurable earnings from an employment for (*insert the year preceding that of the coming into force of this section*) correspond to the insurable earnings from an employment defined in paragraph 1 of section 22 of the latter Act, as replaced by section 14.

**104.** Despite subparagraph 1 of the first paragraph of section 3 of the Act respecting parental insurance (2001, chapter 9), as replaced by section 2, a person who, on (*insert the date of coming into force of this section*), was carrying on a business, also did so in (*insert the year preceding that of the coming into force of this section*) and, for (*insert the year of coming into force of this section*), will be required to pay a premium under the plan established by that Act is eligible for benefits under that Act if the person meets the other conditions prescribed by that Act.

For the purpose of determining the person's average weekly earnings, the person's business income for the year (*insert the year preceding that of the coming into force of this section*) corresponds to the insurable earnings defined in paragraph 2 of section 22 of that Act, as replaced by section 14.

**105.** The Conseil de gestion de l'assurance parentale may, by regulation, determine a different method for the reduction of the benefits of a beneficiary who, under the Employment Insurance Act (Statutes of Canada, 1996, chapter 23), may earn higher income without a reduction in benefits.

The regulation must set out the cases in which that method applies and the income threshold below which benefits are not reduced. The method, applied on request, must ensure that the recipient receives benefits equal to or greater than the benefits the recipient would have been entitled to under the Employment Insurance Act.

This section remains in force until the Government terminates its application by order.

**106.** If the Conseil de gestion de l'assurance parentale fails to make a regulation under section 102 or 105 within a time that the Government considers reasonable, the Government may make the regulation. The regulation is deemed to be a regulation of the Conseil de gestion and the provisions of section 107 apply.

**107.** A regulation made before (*insert the date of coming into force of section 1 of chapter 9 of the statutes of 2001*) under the Act respecting parental insurance (2001, chapter 9) as amended by this Act may be published within a period shorter than that set out in section 11 of the Regulations Act (R.S.Q., chapter R-18.1) but not less than 15 days, is exempt from the requirement set out in section 17 of that Act regarding the date of coming into force and, despite section 6 of the Act respecting parental insurance, may be published later than the date set out in that section.

**108.** The Government may, by regulation, adopt any other transitional provision or measure that is expedient for the purposes of this Act, the Canada-Québec Final Agreement on the Québec Parental Insurance Plan and related administrative agreements before 17 June 2006.

A regulation made under this section is not subject to the publication requirement under section 8 of the Regulations Act (R.S.Q., chapter R-18.1). Moreover, a regulation may, if it so provides, apply from any date that is not prior to the date of coming into force of this section.

**109.** Despite section 154 of the Act respecting parental insurance (2001, chapter 9), subparagraph 4 of the first paragraph of section 3, sections 4, 7 and 8, the second paragraph of section 16, the second paragraph of section 18, the first paragraph of section 19, section 20, the first and third paragraphs of section 21, the second and third paragraphs of section 23, the second paragraph of section 26, the second paragraph of section 34, section 38, the third paragraph of section 83 and subparagraphs 2 to 6 of the first paragraph and the second paragraph of section 88 of that Act, insofar as they are necessary to allow the Conseil de gestion de l'assurance parentale to exercise its regulatory powers, come into force on 17 June 2005.

**110.** Sections 55 and 98 have effect from 10 January 2005 and section 99 has effect from 1 April 2004.

**111.** This Act comes into force on 17 June 2005, except sections 2, 4 to 6, 10, 15, 20, 47, 50, 102 and 105, save where those provisions apply in respect of the Conseil de gestion de l'assurance parentale and to the extent that they are necessary to allow it to exercise its regulatory powers, in which case they also come into force on 17 June 2005, and sections 1, 3, 7 to 9, 11 to 14, 16 to 19, 21 to 46, 49, 51, 69 to 72, 74, 81 to 91, 93 to 97, 103 and 104, which come into force on the date or dates to be set by the Government.