

Regulations and other acts

Gouvernement du Québec

O.C. 1170-2005, 30 November 2005

Act respecting income support, employment assistance and social solidarity
(R.S.Q., c. S-32.001)

Income support — Amendments

Regulation to amend the Regulation respecting income support

WHEREAS, pursuant to the Act respecting income support, employment assistance and social solidarity (R.S.Q., c. S-32.001), the Government made the Regulation respecting income support by Order in Council 1011-99 dated 1 September 1999;

WHEREAS it is expedient to amend the Regulation;

WHEREAS, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft of the Regulation to amend the Regulation respecting income support was published in Part 2 of the *Gazette officielle du Québec* of 28 September 2005, on page 4309, with a notice that it could be made by the Government on the expiry of 45 days following that publication;

WHEREAS the 45-day period has expired;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, on the recommendation of the Minister of Employment and Social Solidarity:

THAT the Regulation to amend the Regulation respecting income support, attached hereto, be made.

ANDRÉ DICAIRE,
Clerk of the Conseil exécutif

Regulation to amend the Regulation respecting income support*

An Act respecting income support, employment assistance and social solidarity
(R.S.Q., c. S-32.001, s. 155, pars. 6 and 8, s. 156, pars. 6, 8, 15, 17, 18, 22 and 25.2, s. 159, pars. 1, 5 and 8 and s. 160; 2005, c. 15, s. 176, pars. 2, 3, 8, 14, 26, 27, subpars. *a* and *b* and par. 29, subpar. *a*, ss. 177, 179, 1st par. and s.194; 2005, c. 13, ss. 93 and 94)

1. The Regulation respecting income support is amended by deleting section 1.1.

2. The following is inserted after section 2:

“**2.1.** For the purposes of the second paragraph of section 6.1 of the Act, financial assistance granted as an employment-assistance allowance to a Native person is financial assistance granted as such under a manpower and employment agreement entered into with the Government of Canada within the framework of its Aboriginal Human Resources Development Strategy.

2.2. For the purposes of section 7 of the Act, the portion of employment-assistance allowance that is unseizable for non-payment of spousal or child support is set at \$30 per week.”

3. Section 12 is amended

(1) by striking out “, or to financial assistance granted as such to a Native person” in subparagraph 4 of the first paragraph and the word “and” at the end of that subparagraph;

(2) by inserting the following after subparagraph 4 of the first paragraph:

“(4.1) for not more than 6 consecutive months, where non-qualification is attributable to financial assistance paid by a third person and recognized by the Minister as an employment-assistance allowance;”;

* The Regulation respecting income support, made by Order in Council 1011-99 dated 1 September 1999 (1999, *G.O.* 2, 2881), was last amended by the regulation made by Order in Council 820-2005 dated 31 August 2005 (2005, *G.O.* 2, 3925) and 1143-2005 dated 24 November 2005 (2005, *G.O.* 2, 5125). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Québec Official Publisher, 2005, updated to 1 September 2005.

(3) by adding the following after subparagraph 5 of the first paragraph:

“(6) for not more than 6 consecutive months, in the case of an independent adult or a family whose benefit is administered by the Public Curator, except in the case of an adult who is sheltered and if the non-qualification is attributable to excess liquid assets.”;

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

“This section applies so long as an adult continues, without interruption, to meet the eligibility requirements prescribed in any of subparagraphs 1 to 6 of the first paragraph and so long as the adult’s financial resources and those of his family, where applicable, are below the amount necessary to meet his needs according to the calculation under section 27 of the Act respecting income support, employment assistance and social solidarity, without taking into account the income that disqualified the adult. In addition, subparagraph 5 of the first paragraph ceases to apply if, after the first month of non-qualification, and for more than 3 consecutive months, gross monthly work income or the gross amount of benefits under the Employment Insurance Act (S.C. 1996, c. 23) or under the Act respecting parental insurance (R.S.Q., c. A-29.011) exceeds \$1,500.”.

4. Section 13 is amended by adding the following at the end of the first paragraph: “The same applies to an independent adult who is sheltered, for a period of 6 months following the date on which a benefit ceased to be granted because of excess liquid assets.”.

5. Section 23 is amended

(1) by inserting the following after subparagraph 4 of the third paragraph:

“(4.1) if the sharing of the dwelling is necessary to enable the independent adult or a member of the family to provide constant care required by reason of a disease or disability to the grandfather, grandmother, father’s or mother’s spouse, brother or sister, or to enable the father or mother to provide that person with such care and if that person resides with them.”;

(2) by adding the following paragraph after the third paragraph:

“For the purposes of subparagraph 5 of the third paragraph, the father or mother who receives the maximum amount of the supplement, for the month of June of a year, is deemed to receive the maximum amount for the following month.”.

6. The following is inserted after section 23:

“**23.1.** If the adult referred to in the second paragraph of section 23 establishes at a later date that his father or mother receives the maximum amount of the monthly guaranteed income supplement under the Old Age Security Act, the basic benefit granted to the adult or his family for the months in which the supplement is paid may be modified on request to take that situation into account, up to a maximum of 12 months preceding the date of the request.”.

7. Section 31.1 of the Regulation is revoked.

8. The following is inserted after section 33:

“**33.1.** The amount of the support allowance granted by the Minister to a recipient who participates in a Social Assistance and Support Program established under section 18.1 of the Act is \$130 per month per adult.

33.2. For the purposes of section 25.4 of the Act, a person may receive the allowances provided for in that section concurrently, for a maximum period of two consecutive months, if the eligibility period for one of the allowances commences in the same month as the month in which another allowance granted comes to an end.”.

9. Section 77 of the Regulation is amended

(1) by inserting “or the Act respecting parental insurance” after “Employment Insurance Act” in the second paragraph;

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

“In addition, if the application is submitted by an independent adult or a family referred to in section 12 within the period referred to in that section or within the month following that period, the employment-assistance allowances or financial assistance granted by a third person and recognized as such by the Minister, and work income, if any, are considered only if they are owed for the month of the application. The same applies to an independent adult who is sheltered if the application is submitted within six months after the date on which a benefit ceased to be granted because of excess liquid assets.”.

10. Section 78 is amended by adding the following at the end of the first paragraph: “The capital referred to in subparagraph 5.1 of the first paragraph of section 110 is, however, excluded to the extent that the amounts were paid by the adult into an institutional savings plan or, in the case of an individual savings plan, if the saving

began during a period in which the adult was a recipient and a benefit, other than a benefit referred to in section 12, was paid to the adult for a period not exceeding five years preceding the date of the adult's application."

11. Section 80 is amended by adding the following at the end of the first paragraph: "They also do not apply to an independent adult who is sheltered, if the application is submitted within six months after the date on which a benefit ceased to be granted because of excess liquid assets."

12. Section 84 is amended

(1) by replacing paragraph 15 by the following:

"(15) amounts paid by the Minister as additional expenses related to participation in an employment-assistance measure or program or a Social Assistance and Support Program established under section 18.1 of the Act, and amounts paid by a third person and recognized as such by the Minister;"

(2) by replacing paragraph 16 by the following:

"(16) employment-assistance allowances paid by the Minister as well as employment-assistance allowances and support allowances paid by a third person and recognized as such by the Minister, up to a total amount of \$130 per month per adult;"

(3) by striking out "under 5 years of age on 30 September" at the end of paragraph 22.

13. Section 87 is amended

(1) by replacing "and that from the amounts paid as employment assistance allowances or financial assistance granted as such to a Native person" in the part preceding paragraph 1 paragraph by "or the Act respecting parental insurance and income from employment-assistance allowances granted by the Minister or recognized as such or as a support allowance";

(2) by inserting the following after paragraph 2:

"(2.1) the employee's premium under the Act respecting parental insurance;"

14. Section 88 is amended by replacing "or paid by the Minister as an allowance for a maternity or parental leave" in the second paragraph by "or under the Act respecting parental insurance".

15. Section 95 is replaced by the following:

"**95.** Periodic payments as spousal or child support arrears shall be allocated in priority in the following order:

- (1) over any period subsequent to 30 November 2005;
- (2) over any period subsequent to 30 April 1998.

The allocation of such arrears in that order may not operate to interrupt the sequence of consecutive months of eligibility required by this Regulation, in particular for the purposes of the special benefits referred to in section 49."

16. Section 97 is amended by adding the following paragraph:

"In the case of an adult who is entitled to receive benefits under the Act respecting parental insurance, the period ends at the end of the fourth week following the date on which the claim for benefits was filed."

17. Section 110 is amended

(1) by replacing paragraph 5 by the following:

"(5) the amounts paid by the Minister as additional expenses related to participation in an employment-assistance measure or program or a Social Assistance and Support Program established under section 18.1 of the Act and the amounts paid by a third person and recognized as such by the Minister, provided those amounts are used for the purposes for which they were obtained;"

(2) by adding the following paragraph:

"(5.1) up to a total amount of \$5,000 per adult member of the family, the amounts accrued in an individual savings plan or an institutional savings plan recognized by the Minister that is to be used

(a) to provide for training of the person or a dependent child of the person;

(b) to purchase tools or equipment necessary to hold employment;

(c) to create self-employment or to start up a business;

(d) to purchase or repair a residence; or

(e) to purchase an automobile;"

(3) by adding the following paragraph :

“For the purposes of subparagraph 5.1 of the first paragraph, the amounts must be deposited in a separate account with a financial institution that has an establishment in Canada. In the case of an individual savings plan, the adult must advise the Minister in writing of his intention to set up a savings plan before depositing the amounts or at the latest on the last day of the month following the date of the deposit.”

18. Section 113 is amended by adding the following after subparagraph 4 of the first paragraph :

“(5) the value of the amounts deposited in an individual savings plan or an institutional savings plan recognized by the Minister, pursuant to subparagraph 5.1 of the first paragraph of section 110.”

19. Section 114 is amended

(1) by replacing “paragraph 3” by “subparagraphs 3 and 5.1 of the first paragraph”;

(2) by adding “In the case of the capital referred to in subparagraph 5.1 of the first paragraph of section 110, the amounts may be used only by the adult in respect of whom the savings plan has been set up.”

20. Section 137 is amended by replacing the first three paragraphs by the following paragraph :

“A recipient shall submit to the Minister a short statement of his situation every month, except in the case of an independent adult or a family having a member whose capacity for employment is severely limited or to whom section 12 refers, in which case the short statement is to be submitted only at the time of a change in circumstances.”

21. Section 138 is revoked.

22. The following is inserted after section 184.1 :

“**184.2.** An independent adult who is sheltered, an independent adult or a family whose benefit is administered by the Public Curator is not required to repay the amount recoverable because of excess liquid assets. However, the recipient is required to repay the amount recoverable because of excess liquid assets owned during any period between the date of the Minister’s request to file a statement of liquid assets and the date on which that statement was filed.”

23. The following is inserted after section 189 :

“**189.1.** Where section 117 of the Act applies in respect of an amount owed under a measure or a program established by the Minister under the Act respecting the Ministère de l’Émloi et de la Solidarité sociale and establishing the Commission des partenaires du marché du travail (R.S.Q., c. M-15.001), in accordance with section 194 of the Individual and Family Assistance Act (2005, c. 15), the Minister shall withhold the amounts set out in section 188 or 189, on the conditions provided for in those sections and in accordance with the weekly or monthly payment terms applicable to the program.”

24. Section 191 is replaced by the following :

“**191.** Only one of the amounts withheld pursuant to sections 188, 189 and 189.1 may apply to the same month in respect of a debtor. In such a case, the amount shall be withheld in the following order :

- (1) the amount set out in section 188 ;
- (2) the amount set out in section 189.1 ;
- (3) the amount set out in section 189.”

25. Section 194 is amended by replacing “or 189” in paragraph 3 by “, 189 or 189.1”.

26. The following is added after section 218.2 :

“**219.** The exclusion of work income under section 88 applies to amounts paid by the Minister as an allowance for a maternity or parental leave for a period subsequent to 1 January 2006.”

27. Where section 170.1 of the Regulation applies in respect of periods subsequent to 31 December 2001 and prior to 1 January 2005, it is to be read with “or the Education Act (R.S.Q., c. I-13.3)” inserted in the first paragraph after “(R.S.Q., c. C-8.2)”.

28. Where section 178 of the Regulation, as it read on 31 December 2001, applies in respect of periods subsequent to 30 September 1999 and prior to 1 January 2002, it is to be read with “or the Education Act (R.S.Q., c. I-13.3)” added at the end.

29. This Regulation comes into force on 1 January 2006.