

chapter A-29.011, r. 2

Updated to 1 April 2017

Regulation under the Act respecting parental insurance

Act respecting parental insurance

(chapter A-29.011, s. 3, par. 1 and 4, ss. 4, 7, 8, 13, 16, 17.1, 18 to 21, 23, 26, 30, 34, 38, 88, par. 1 to 4 and 6)

DIVISION I

GENERAL

1. Every application made to the Minister of Employment and Social Solidarity may be made in writing, by telephone or by any other electronic means, subject to section 10. The applicant must provide any information required by the Minister in support of the application. The application is deemed to be made on the day it is received by the Ministère de l'Emploi et de la Solidarité sociale, duly signed and accompanied by any required documents.

O.C. 986-2005, s. 1.

2. Subject to section 10, a person who provides his or her personal identification number and password by telephone or by any other electronic means is deemed to have signed the application.

O.C. 986-2005, s. 2.

3. Information and documents must be communicated to the Minister in writing, by telephone or by any other electronic means.

O.C. 986-2005, s. 3.

4. Any notice given directly to a person or sent to the last known address is validly given.

O.C. 986-2005, s. 4.

5. A week is a period of 7 consecutive days beginning on Sunday.

O.C. 986-2005, s. 5.

DIVISION II

ELIGIBILITY UNDER THE PLAN

6. For the purposes of subparagraph 1 of the first paragraph of section 3 of the Act, a person who, in respect of benefits related to a pregnancy, a birth or an adoption, is required to pay premiums under the plan established under the Employment Insurance Act (S.C. 1996, c. 23) is eligible under the parental insurance plan.

O.C. 986-2005, s. 6.

7. For the purposes of subparagraph 4 of the first paragraph of section 3 of the Act, a person whose income is derived from employment has an interruption of earnings if his or her usual weekly income is reduced by at least 40%.

The same applies in the case of a person whose income is derived from a business and who declares having reduced the time devoted to his or her business activities by at least 40%.

Despite the foregoing, a person whose income is obtained as a family-type resource or intermediate resource is deemed to reduce the time devoted to those activities by at least 40%.

A person whose income is derived from more than one of the sources mentioned in the first, second or third paragraph has an interruption of earnings if the reductions described in the corresponding paragraph apply to the person for each source.

O.C. 986-2005, s. 7; O.C. 1209-2011, s. 1.

8. Employment covered by the plan is employment in the service of Her Majesty in Right of Canada or of an agent of Her Majesty in Right of Canada if the Government of Canada agrees with the Conseil de gestion de l'assurance parentale that the employment is covered.

O.C. 986-2005, s. 8.

9. Employment excluded from the plan is

(1) the employment of a member of a religious order who has taken a vow of poverty and whose remuneration is paid directly or by the member to the order;

(2) employment in Québec of a Canadian resident by another government or by an international governmental organization, unless that government or international governmental organization agrees to the employment being included;

(3) employment that constitutes an exchange of work or services;

(4) employment in agriculture, an agricultural enterprise or horticulture if the person is not regularly employed by the employer in that employment and is employed by that employer for fewer than 7 days in a year;

(5) employment by the Government of Canada, the government of a province, a municipality or a school board in connection with a referendum or election, if the person is not regularly employed by that employer and is employed by that employer for fewer than 35 hours with respect to such referendum or election;

(6) employment, other than as an entertainer, in a circus, show, fair, parade, carnival, exposition, exhibition or other like activity, if the person is not regularly employed by the employer in that employment and is employed by that employer for fewer than 7 days in a year;

(7) employment for the purpose of a rescue operation, if the person is not regularly employed by the employer in that employment and is employed by that employer for fewer than 7 days in a year;

(8) employment as part of an exchange program, if the employee receives remuneration from an employer not resident in Canada;

(9) casual employment not performed in the course of the employer's business or usual trade.

Despite subparagraph 5 or 6 of the first paragraph, employment is included employment from its commencement if the employment is performed for the benefit of a single employer during one or more periods whose total duration exceeds, in the course of a year,

(1) 34 hours, in the case of employment described in subparagraph 5; and

(2) 6 days, in the case of employment described in subparagraph 6.

The following definitions apply for the purposes of subparagraph 4 of the first paragraph:

(1) "agriculture" means the operations of farming that are carried out for the benefit of any person who is a farmer and, without limiting the generality of the foregoing, includes

(a) where carried out on a farm

- i. clearing land for cultivation,
- ii. cultivation of the soil,
- iii. conservation of the soil, including the construction, maintenance and operation of tile drainage systems, ditches, canals, reservoirs or waterways exclusively for the purposes of farming,
- iv. harvesting, storing or grading any natural product of farming,
- v. preparing land for the growing and harvesting of wild berries,
- vi. raising bees and producing honey,
- vii. breeding or raising animals or birds, or producing eggs,
- viii. dairy farming and the processing of milk, butter or cheese that is produced on that farm, and
- ix. producing maple sap, maple syrup or maple sugar; and

(b) where carried out on or off a farm

- i. offering for sale or selling any of the products of the operations described in subparagraphs i to ix of paragraph a, if the offering for sale or selling is incidental to those operations, and
- ii. exhibiting, advertising, assembling, freezing, storing, grading, preparing, processing, packing and transporting the products described in subparagraph i, if those operations are incidental to the offering for sale or selling described in that subparagraph. (*agriculture*)

(2) “agricultural enterprise” means the business of agriculture carried on for the benefit of any person who is a farmer. (*entreprise agricole*)

(3) “horticulture” means the following operations and includes all the services incidental to the carrying out of those operations, if the services are performed at the place where the operations are carried on:

(a) the propagating, producing, raising or harvesting of

- i. vegetables, flowers, shrubs or ornamental grasses, and
- ii. seeds, seedlings, grafts or cuttings of vegetables, flowers, shrubs or ornamental grasses; and

(b) landscape gardening where it is incidental to the carrying out of

- i. any of the operations described in paragraph a, or
- ii. agriculture. (*horticulture*)

O.C. 986-2005, s. 9; O.C. 841-2007, s. 2.

DIVISION III

CLAIM FOR BENEFITS

10. A person wishing to receive benefits under the parental insurance plan must file a claim in writing or by any electronic means, excluding the telephone, using the form made available by the Minister and must provide the Minister with the information required under the second

paragraph of section 13 of the Act, particularly any information on the net family income required to determine the amount of the increase in benefits provided for in Division IX.

O.C. 986-2005, s. 10.

11. A person who files a claim for benefits by any electronic means is deemed to have provided, in response to the questions asked, the information appearing on the dated form produced by the Department's automated benefit allocation system.

O.C. 986-2005, s. 11.

12. A person who files a claim on behalf of the succession of a person who is deceased or incapable of managing his or her affairs must declare his or her quality and, on request by the Minister of Employment and Social Solidarity, prove his or her title.

O.C. 986-2005, s. 12.

13. The liquidator of a succession may request that the benefits payable on the date of death be paid, provided that the deceased person had filed a claim for benefits.

O.C. 986-2005, s. 13.

14. The following persons are exempt from filing an initial claim for benefits:

(1) a person who files a claim for maternity, paternity or parental benefits and who, at the time of the claim or during the benefit period referred to in section 23 of the Act, informs the Minister of his or her intent to receive paternity or parental benefits, the intended number of weeks of benefits and the time elected;

(2) a person who, pursuant to section 17 of the Act, is entitled to have the number of weeks of maternity or paternity benefits of the deceased parent that were not used on the date of the parent's death added to the total number of weeks of parental benefits, and who, at the time of the death, had filed an initial claim for benefits;

(3) a person who suspends the payment of his or her benefits or who terminates his or her benefit period; and

(4) a person who modifies the intended number of weeks of benefits;

(5) *(paragraph revoked)*.

O.C. 986-2005, s. 14; O.C. 1074-2009, s. 1.

DIVISION IV

GRANTING OF BENEFITS

15. Where both parents take weeks of parental or adoption benefits concurrently, in whole or in part, the remaining week at a higher rate or the last week is granted, where applicable, to the first parent who received benefits in connection with the birth or an adoption. That week is allocated to the parent with the higher average weekly earnings if both parents began to receive their benefits in the same week.

O.C. 986-2005, s. 15.

16. If there is no agreement between the parents on the division of the weeks of parental or adoption benefits, the unused weeks are divided equally between the parents.

The remaining week at a higher rate or the last week is granted, where applicable, in accordance with section 15.

O.C. 986-2005, s. 16.

17. Despite the second paragraph of section 17.1 of the Act, the application to a parent of the plan established under the Act respecting parental insurance (chapter A-29.011) does not entail the application of that plan to the parent who is not resident in Québec at the time a first claim for benefits is filed under the parental insurance plan.

In such case, each week of parental or adoption benefits taken by the other parent under the employment insurance plan is subtracted from the maximum number of benefit weeks provided for in sections 10 and 11 of the Act.

If there is no agreement between the parents, the number of unused weeks is reduced by half. If that number is odd, the remaining week is allocated to the parent who is resident in Québec if that parent was the first to file a claim for benefits.

O.C. 986-2005, s. 17.

DIVISION V

EMPLOYERS' OBLIGATIONS

18. In this Division, "employer" includes any person vested with the rights and obligations incumbent on an employer, such as a trustee, a court appointed receiver, a monitor under the Companies' Creditors Arrangement Act (R.S.C. 1985, c. C-36) or a liquidator.

O.C. 986-2005, s. 18.

19. Where an employee has an interruption in earnings in connection with a pregnancy, a birth or an adoption, the employer must provide the following information using the information statement form made available by the Minister which will be used to establish the employee's entitlement to benefits:

- (1) the employer's name, address and telephone number;
- (2) where applicable, the employer's business number in Québec obtained from the enterprise registrar;
- (3) the employee's name, address and social insurance number;
- (4) the date on which the employee's earnings were interrupted and the reasons therefor;
- (5) the dates of the first and last days of paid work;
- (6) the end date of the last pay period;
- (7) the total insurable earnings during the 52 weeks preceding the interruption of earnings and, where applicable, during the qualifying period as extended;
- (8) the frequency of the pay periods during the 52 weeks preceding the interruption of earnings and, for each, the amount of the employee's insurable earnings, allocated in accordance with section 26.1;
- (9) any pay period without earnings;
- (10) any amount payable to the employee after the last payday and the reason for the payment;
- (11) any amount paid to the employee as salary insurance; and
- (12) the name of the person to contact for more information.

O.C. 986-2005, s. 19; O.C. 841-2007, s. 3.

20. Within 5 days of an interruption of earnings in connection with a pregnancy, a birth or an adoption, the employer must deliver the information statement required by section 19 to the employee, using the form.

If the employer is unable to deliver the statement to the employee within that time for reasons beyond the employer's control, the employer must mail the statement to the employee if the employer knows the employee's mailing address; otherwise, the employer must retain the statement until whichever of the following events occurs first:

- (1) the statement is requested by the Minister;
- (2) the statement is requested by the employee; or
- (3) 52 weeks have elapsed since the statement was completed.

O.C. 986-2005, s. 20.

21. An employer who complies with subsections 2 to 4 of section 19 of the Employment Insurance Regulations (SOR/96-332) respecting the completion and distribution of a record of employment is deemed to have fulfilled the obligations incumbent on the employer under sections 19 and 20.

O.C. 986-2005, s. 21.

22. Where a person has an interruption of earnings for a reason not referred to in section 19, the employer or former employer must, on request by the person, deliver to the person the statement referred to in that section used to establish the person's entitlement to benefits under the plan within 10 days of the request.

O.C. 986-2005, s. 22.

23. On request by the Minister, an employer to whom section 19 or 22 applies must provide the Minister within 10 days with the information statement referred to in section 19.

O.C. 986-2005, s. 23.

DIVISION VI

CALCULATION FOR ELIGIBILITY PURPOSES AND BENEFIT PAYMENT

24. A person who wishes to elect for weekly benefits equal to 75% of the person's average weekly earnings must so declare in the initial claim for benefits. In the absence of a declaration, the amount of weekly benefits is calculated in accordance with the first paragraph of section 18 of the Act.

O.C. 986-2005, s. 24.

25. *(Revoked).*

O.C. 986-2005, s. 25; O.C. 1074-2009, s. 2.

26. A person who earned income from employment after an interruption in the benefit period may, if the person is entitled to parental benefits in respect of the same event or in the case referred to in the second paragraph of section 15 of the Act, file an initial claim for benefits so that his or her average weekly earnings may be recalculated.

The foregoing applies to a person who earned income from a business or as a family-type resource or intermediate resource if the person is entitled to parental benefits in the case

referred to in the second paragraph of section 15 of the Act.

O.C. 986-2005, s. 26; O.C. 1209-2011, s. 2.

26.1. Where insurable earnings from employment are considered pursuant to section 22 of the Act, a person's insurable earnings or eligible wages are allocated in accordance with the provisions in the Employment Insurance Regulations (SOR/96-332) respecting the allocation of insurable earnings.

O.C. 841-2007, s. 4.

27. The average weekly earnings of a person is the average of the person's insurable earnings apportioned over a week.

O.C. 986-2005, s. 27; O.C. 841-2007, s. 5.

28. Where insurable earnings from employment and insurable earnings from a business or as a family-type resource or intermediate resource are considered, the average of the insurable earnings is equal to 1/52 of the total of the insurable earnings from employment and the insurable earnings from a business or as a family-type resource or intermediate resource for the year preceding the beginning of the person's benefit period.

O.C. 986-2005, s. 28; O.C. 1209-2011, s. 3.

29. In the case provided for in section 31, where only earnings from a business or as a family-type resource or intermediate resource are considered, the average of the insurable earnings is equal to 1/52 of the insurable earnings established for the qualifying year.

Where insurable earnings from employment and insurable earnings from a business or as a family-type resource or intermediate resource are considered, the average of the insurable earnings is equal to 1/52 of the total of the insurable earnings from employment and the insurable earnings from a business or as a family-type resource or intermediate resource established for the qualifying year.

O.C. 986-2005, s. 29; O.C. 1209-2011, s. 4.

30. If the qualifying year of a person is the year preceding the beginning of the benefit period and that qualifying period is extended in accordance with section 32, the average of the insurable earnings is established

- (1) by determining the average of the weekly insurable earnings for the calendar year preceding the person's qualifying year;
- (2) by multiplying the amount obtained under paragraph 1 by the number of weeks for which the qualifying period is extended; and
- (3) by adding to the income of the qualifying year the amount obtained under paragraph 2 and by dividing the total by 52.

O.C. 986-2005, s. 30.

31. Despite the first paragraph of section 20 of the Act, the qualifying period of a person whose earnings are derived from a business or are obtained as a family-type resource or intermediate resource is the same year as the year in which the person's benefit period begins if the person's business is in its first calendar year of operation.

For a family-type resource or intermediate resource, the first calendar year of operation is that during which it is subject, for the first time, to an agreement signed under the Act respecting the representation of family-type resources and certain intermediate resources and the

negotiation process for their group agreements (chapter R-24.0.2) or to a decision of the Minister of Health and Social Services made with the authorization of the Conseil du trésor pursuant to the Act respecting health services and social services (chapter S-4.2).

Despite the foregoing, if the insurable earnings obtained as a family-type resource or intermediate resource are received in the year following its obligation to one of the abovementioned texts, the first calendar year of operation is the year during which the insurable earnings are received.

O.C. 986-2005, s. 31; O.C. 1209-2011, s. 5.

31.1. Upon request, the qualifying period of a person is the same as the period that gave the person entitlement to maternity, paternity, parental or adoption benefits under this plan or the employment insurance plan for the event preceding the event for which the person filed a claim for benefits, if the person proves to the Minister's satisfaction that, despite the extension of the qualifying period, he or she was unable to have a number of weeks with insurable earnings during that period greater than 15, because

(1) the person was receiving benefits under this plan or the employment insurance plan in respect of the arrival of a child, or would have received such benefits had there been no waiting period, and was not receiving other insurable earnings during that period; or

(2) the person was receiving indemnities under the Act respecting occupational health and safety (chapter S-2.1) by reason of the fact that the person had ceased to work because continuation of work entailed physical dangers for the person by reason of her pregnancy or physical dangers for the person's unborn child or the child the person was breast-feeding.

O.C. 9-2006, s. 1.

31.1.1. Upon request, in the case of a birth or adoption occurring while at least one parent is entitled to maternity, paternity, parental or adoption benefits for a previous event, the qualifying period of a person is the same as the period that gave the person entitlement to such benefits for the previous event.

O.C. 1074-2009, s. 3.

31.2. The qualifying period of a person who, during the 52 weeks preceding the benefit period, had insurable earnings while being unable to have other insurable earnings for one of the following reasons, is the 52-week period preceding the first week before the benefit period in which the latest inability occurs:

(1) the person was incapable of working, provided that the incapacity

(a) results from illness, injury, quarantine or pregnancy;

(b) results from detention in a prison, a penitentiary or another similar institution;

(c) has given the person entitlement to assistance in the form of employment benefits under a plan established by the Employment Insurance Act (S.C. 1996, c. 23) or under an employment assistance measure implemented by the Minister of Employment and Social Solidarity; or

(d) results from a strike or lock out;

(2) the person was receiving benefits under this plan or the employment insurance plan in respect of the arrival of a child, or would have received such benefits had there been no waiting period;

(3) the person was receiving indemnities under the Act respecting occupational health and safety ([chapter S-2.1](#)) because continuation of the person's work entailed physical dangers

for the person or physical dangers for the person's unborn child or the child the person was breast-feeding;

(4) the person was receiving regular employment insurance benefits or special benefits under the Employment Insurance Act; or

(5) the person was receiving income replacement indemnities, paid under a statute or a wage-loss indemnity plan.

Such a qualifying period is established on request if the person proves to the satisfaction of the Minister that the person was in one of the situations referred to in the first paragraph.

The qualifying period of the person may be extended in the cases and on the conditions set out in section 32 but may not, once extended, exceed the 104th week preceding the benefit period.

This section does not apply where, in the last 26 weeks of the person's qualifying period with insurable earnings, the person was not unable to have other insurable earnings for one of the reasons referred to in the first paragraph.

This section does not apply when income from a business or as a family-type resource or intermediate resource is taken into account.

O.C. 374-2006, s. 2; O.C. 1074-2009, s. 4; O.C. 1209-2011, s. 6; O.C. 677-2012, s. 1.

31.3. Where the qualifying period of a person is the calendar year preceding the benefit period and, during that year, the person had insurable earnings derived from a business or as a family-type resource or intermediate resource while being unable to have other insurable earnings for one of the reasons referred to in the first paragraph of section 31.2, the average of the insurable earnings is established as follows:

(1) determine the average of the weekly insurable earnings for the calendar year preceding the qualifying year of the person;

(2) multiply the amount obtained under subparagraph 1 by the number of weeks the person was unable to have other insurable earnings;

(3) determine the weekly average of the insurable earnings from a business or as a family-type resource or intermediate resource for the qualifying year;

(4) multiply the amount obtained under subparagraph 3 by the number of weeks the person was unable to have other insurable earnings;

(5) subtract the amount obtained under subparagraph 4 from the earnings of the qualifying year; and

(6) add the amount obtained under subparagraph 2 to the earnings of the qualifying year calculated under subparagraph 5 and divide the total by 52.

The calculation in the first paragraph is made on request if the person proves to the satisfaction of the Minister that the person was in the situation referred to in that paragraph.

O.C. 374-2006, s. 2; O.C. 1074-2009, s. 5; O.C. 1209-2011, s. 7.

32. The qualifying period of a person may be extended by the number of full weeks comprised in that period and for which the person proves to the Minister's satisfaction that he or she was unable to have insurable earnings for any of the following reasons:

(1) the person was incapable of working, provided that the incapacity

- (a) results from illness, injury, quarantine or pregnancy, even if the person received income replacement indemnities under a statute or a group wage-loss indemnity plan, paid solely by a third party during that period;
 - (b) results from detention in a prison, a penitentiary or another similar institution; or
 - (c) has given the person entitlement to assistance in the form of employment benefits under a plan established by the Employment Insurance Act (S.C. 1996, c. 23) or under an employment assistance measure implemented by the Minister of Employment and Social Solidarity; or
 - (d) results from a strike or lock out;
- (2) the person was receiving benefits under the parental insurance plan or the employment insurance plan in respect of the arrival of a child, or would have received such benefits had there been no waiting period, and was not receiving other insurable earnings during that period;
- (3) the person was receiving indemnities under the Act respecting occupational health and safety ([chapter S-2.1](#)) by reason of the fact that the person had ceased to work because continuation of work entailed physical dangers for the person, the person's unborn child or the child the person was breast-feeding;
- (4) the person was receiving regular employment insurance benefits or special benefits under the Employment Insurance Act; or
- (5) the person was receiving income replacement indemnities.

The qualifying period of a person who, during the extension of the person's qualifying period, is again in a situation referred to in the first paragraph is extended by the number of weeks that the situation lasts, subject to the second paragraph of section 20 of the Act.

This section does not apply to the qualifying period referred to in section 31.

O.C. 986-2005, s. 32.

DIVISION VII

BENEFIT PERIOD

33. The payment of a person's benefits ends when

- (1) the benefit period is over;
- (2) the person is no longer entitled to benefits, in particular because they were paid for the number of weeks provided for in sections 7 to 11, 15 or 17 of the Act;
- (3) the person requests that the payment be suspended or interrupted; or
- (4) the person withdraws his or her initial claim for benefits.

O.C. 986-2005, s. 33.

34. The period during which paternity, parental or adoption benefits may be paid is extended if

- (1) the person's child is hospitalized;
- (2) the person is ill or injured in an accident;
- (3) the person's presence is required, because of a serious illness or a serious accident, with the person's child, spouse, spouse's child, father, mother, father's or mother's spouse or any

other person who is a member of the family for the purposes of the provisions in the Employment Insurance Regulations (SOR/96-332) respecting compassionate care benefits;

(4) the person is entitled to the benefits that were not used by the other parent on the date of the other parent's death, pursuant to section 17 of the Act;

(5) the person is called back into service or the person's parental leave is postponed, pursuant to the regulations made under the National Defence Act (R.S.C. 1985, c. N-5); or

(6) the person's minor child is dead or missing, having been the victim of a probable offence to the Criminal Code (R.S.C. 1985, c. C-46).

The benefit period is extended by the number of full weeks that the situation lasts, except that that number may not exceed

(1) 15 weeks in the case provided for in subparagraph 2 of the first paragraph;

(2) 6 weeks in the case provided for in subparagraph 3 of the first paragraph, that number is however of 41 weeks if the person's presence is required with a child;

(3) 35 weeks in the case provided for in subparagraph 6 of the first paragraph.

In the case provided for in subparagraph 4 of the first paragraph, the benefit period is extended by the number of weeks required to attain the maximum number of weeks of benefits to which the parent is entitled, subject to the parent's right to request an extension of that period pursuant to the first and second paragraphs.

If a person is again in the situation referred to in subparagraph 1 of the first paragraph during the extension of the benefit period, the benefit period is extended by the number of weeks that the situation lasts, subject to the third paragraph of section 23 of the Act.

O.C. 986-2005, s. 34; O.C. 841-2007, s. 6; O.C. 129-2011, s. 1; O.C. 936-2013, s. 1.

35. On request, a person must provide the Minister with any document justifying an extension of the benefit period for the reasons referred to in the first paragraph of section 34.

O.C. 986-2005, s. 35.

DIVISION VIII

PAYMENT OF BENEFITS

36. For the purposes of the third paragraph of section 7 of the Act, the payment of maternity benefits may end after the expiry of the period provided for in the second paragraph of that section, if the person so requests and if

(1) the person has an accident or an illness unrelated to pregnancy;

(2) the person's presence is required, because of a serious illness or a serious accident, with the person's child, spouse, spouse's child, father, mother, father's or mother's spouse or any other person who is a member of the family for the purposes of the provisions in the Employment Insurance Regulations (SOR/96-332) respecting compassionate care benefits; or

(3) the person's minor child is dead or missing, having been the victim of a probable offence to the Criminal Code (R.S.C. 1985, c. C-46).

The benefit period is extended by the number of full weeks that the situation lasts, except that that number may not exceed

(1) 15 weeks in the case provided for in subparagraph 1 of the first paragraph;

(2) 6 weeks in the case provided for in subparagraph 2 of the first paragraph, that number is however of 41 weeks if the person's presence is required with a child;

(3) 35 weeks in the case provided for in subparagraph 3 of the first paragraph.

O.C. 986-2005, s. 36; O.C. 841-2007, s. 7; O.C. 936-2013, s. 2.

37. For the purposes of section 8 of the Act, the payment of benefits may end after the expiry of the prescribed 18 weeks if the person who so requests is in one of the situations referred to in the first paragraph of section 36.

Payment is suspended for the time referred to in the second paragraph of section 36, but it must end on the expiry of the thirty-ninth week following a termination of pregnancy.

O.C. 986-2005, s. 37.

38. On request, a person must provide the Minister with any document justifying a suspension of benefit payments for the reasons referred to in the first paragraph of section 36.

O.C. 986-2005, s. 38.

39. Payment for a week of benefits is made by cheque or by direct deposit into the bank account of the recipient.

The recipient must inform the Minister should he or she wish to terminate the direct deposit of benefits.

No payment is made if the amount payable is less than \$1.

O.C. 986-2005, s. 39.

40. Where a claim for benefits is filed on behalf of a person unable to manage his or her affairs, the Minister must authorize the payment of the benefits to the person acting in the name of the unable person if that latter person meets the requirements of the law.

Where a claim for payment of benefits is made by the liquidator of the succession of a deceased person, the Minister must authorize payment of the benefits to the liquidator.

O.C. 986-2005, s. 40; O.C. 1074-2009, s. 6.

41. If the recipient is entitled to earnings during a week of benefits, an amount corresponding to the fraction of the earnings to which the recipient is entitled during the week in excess of \$50, or in excess of 25% of the weekly benefits if they are \$200 or more, is deducted from the benefits payable.

Despite the first paragraph, all the earnings payable to a female recipient are deducted from maternity benefits.

O.C. 986-2005, s. 41.

42. For the purposes of section 41, "earnings" means the amounts payable to recipients and derived from the following sources:

- (1) work income within the meaning of section 43 of the Act;
- (2) amounts payable in respect of wages, benefits or other remuneration;

(3) full income replacement indemnities that a recipient has received or is entitled to receive for an industrial accident or an occupational disease, other than a lump sum or pension paid in full and final settlement of a claim;

(4) full income replacement indemnities that a recipient has received or, on application, is entitled to receive under the plan established by the Automobile Insurance Act (chapter A-25) in respect of the actual or presumed loss of income from employment due to injury;

(4.1) income replacement indemnities that a person received or is entitled to receive under the Act respecting occupational health and safety (chapter S-2.1) by reason of the fact that the person had ceased to work because continuation of work entailed physical dangers for the person or for the person's unborn child or the child the person was breast-feeding;

(5) *(paragraph revoked)*;

(6) *(paragraph revoked)*.

O.C. 986-2005, s. 42; O.C. 374-2006, s. 3; O.C. 841-2007, s. 8.

43. For the purposes of section 41, the following are not taken into account:

(1) compensation paid to a victim of a criminal act;

(2) an indemnity paid because of illness, disability, pregnancy, birth, adoption, for the care of a person referred to in subparagraph 3 of section 34 and in subparagraph 2 of section 36, if that indemnity does not reduce the accumulated sick leave or vacation leave credits, severance pay or any other accumulated credits from that employment; and

(3) an employment assistance allowance paid by the Minister of Employment and Social Solidarity.

O.C. 986-2005, s. 43.

43.1. For the purposes of section 41, the earnings of a recipient are allocated as follows:

(1) earnings payable for the performance of services are allocated to the period in which the services were performed;

(2) earnings paid without the performance of services or without regard to the services are allocated to the period for which they are payable;

(3) earnings paid that are from commissions are allocated

i. if they arise out of a transaction, to the week in which the transaction occurred;

ii. to the period in which the services that gave rise to the commission were performed; and

iii. to the period for which the earnings are payable, in any other case;

(4) earnings paid for holidays, including vacation and statutory holidays, are allocated

i. if the earnings are paid for a specific period, to that period; and

ii. if the earnings are paid in a lump sum without regard to a specific period, to the period for which they are payable;

(5) income replacement indemnities referred to in paragraphs 3 to 4.1 of section 42 are allocated to the period for which they are payable, except indemnities that are paid following the realization of a right, which are allocated to the period for which they are paid; and

(6) any other earnings paid are allocated

- i. to the period for which they are payable;
- ii. if they are not paid for a specific period, to the week in which they are paid; and
- iii. if they arise out of a transaction, to the week in which the transaction occurred.

Where the period for which earnings are payable does not coincide with a week, the earnings are allocated to any week that is wholly or partly in the period in the proportion that the number of days concerned during the week is of the number of days concerned during the period.

O.C. 841-2007, s. 9.

DIVISION IX

BENEFIT INCREASES

44. For the purposes of this Division,

- (1) “spouse” has the meaning assigned by the Taxation Act (chapter I-3). It includes the person who will be the father or mother of the child to be born or adopted and who, at the time the first claim for benefits is filed under the plan, cohabits with the person who files the claim;
- (2) the family is composed only of the parent and that parent’s spouse at the time the first claim for benefits under the plan is filed in respect of the same event;
- (3) “net family income”, for a year, is equal to the total income for the year, calculated in accordance with Part I of the Taxation Act, of the parent and the parent’s spouse at the time the first claim referred to in subparagraph 2 is filed.

However, if at the time the first claim referred to in subparagraph 2 is filed, the persons who are or will be the father and mother of the child to be born or adopted are not spouses, the net family income of those persons is established taking into account the family of each of those persons at the time they respectively file their first claim for benefits in respect of the same event.

O.C. 986-2005, s. 44.

45. For the purposes of subparagraph 3 of the first paragraph of section 44, if the claim for maternity, paternity, parental or adoption benefits is filed within the first 6 months of the year, the net family income considered is that of the second taxation year preceding the claim.

If the claim for benefits is filed within the 6 last months of the year, the net family income considered is that of the taxation year preceding the claim.

O.C. 986-2005, s. 45.

46. Where the net family income is lower than \$25,921, the weekly benefits are, on request, increased by the lump sum corresponding to the net family income determined under this section.

| Net family income | Weekly lump sum |
|--------------------------|------------------------|
| \$20,921.00 or less | \$67.00 |

| | |
|----------------------------|---------|
| \$20,921.01 to \$21,250.00 | \$66.80 |
| \$21,250.01 to \$21,500.00 | \$61.30 |
| \$21,500.01 to \$21,750.00 | \$57.20 |
| \$21,750.01 to \$22,000.00 | \$53.15 |
| \$22,000.01 to \$22,250.00 | \$49.20 |
| \$22,250.01 to \$22,500.00 | \$45.40 |
| \$22,500.01 to \$22,750.00 | \$41.55 |
| \$22,750.01 to \$23,000.00 | \$37.90 |
| \$23,000.01 to \$23,250.00 | \$34.35 |
| \$23,250.01 to \$23,500.00 | \$30.90 |
| \$23,500.01 to \$23,750.00 | \$27.55 |
| \$23,750.01 to \$24,000.00 | \$24.30 |
| \$24,000.01 to \$24,250.00 | \$21.15 |
| \$24,250.01 to \$24,500.00 | \$18.10 |
| \$24,500.01 to \$24,750.00 | \$15.15 |
| \$24,750.01 to \$25,000.00 | \$12.25 |
| \$25,000.01 to \$25,250.00 | \$9.40 |
| \$25,250.01 to \$25,500.00 | \$6.75 |
| \$25,500.01 to \$25,750.00 | \$4.15 |
| \$25,750.01 to \$25,920.99 | \$1.70 |

O.C. 986-2005, s. 46.

47. Despite section 46, the increased weekly benefits may not exceed 80% of the average weekly earnings of the person who filed a claim for benefits.

O.C. 986-2005, s. 47.

48. The weekly lump sum is paid to either parent, as they choose. The amount paid as such to a parent may not be claimed by the other parent.

If they make no choice or disagree, the weekly lump sum for unused weeks is paid to the parent who first receives benefits in connection with the birth or adoption. If both parents receive their benefits beginning in the same week, the weekly lump sum is granted to the parent with the higher average weekly earnings.

Despite the first paragraph, the weekly lump sum is paid to each parent if custody of the child is shared, provided that each parent is entitled to the increase and receives benefits.

O.C. 986-2005, s. 48.

49. The net family income considered for the increase is not affected by a change in the composition of the family or by a new calculation made pursuant to section 26.

O.C. 986-2005, s. 49.

DIVISION X

CHANGE OF SITUATION

50. The Minister considers having been informed of a change of situation if the Minister receives information likely to affect a person's eligibility, communicated pursuant to section 84 of the Act.

O.C. 986-2005, s. 50.

DIVISION XI

RECOVERY

51. Subject to an agreement or deduction under section 30 of the Act, the debtor of a recoverable amount must repay to the Minister every month, as of the date of issue of the certificate provided for in section 31 of the Act, an amount sufficient to repay the debt within not more than 36 months.

The amount repaid every month may not be lower than \$56.

However, if the recoverable amount is owing because of a false statement, the amount to be repaid may not be less than \$112 per month or, in the case of more than one false statement, \$224 per month.

O.C. 986-2005, s. 51.

52. The recoverable amount must be repaid in full, without delay or further formality or notice, as soon as the debtor fails to comply with section 51 or with the agreement reached with the Minister pursuant to section 30 of the Act.

O.C. 986-2005, s. 52.

53. For the purposes of section 30 of the Act, the Minister is to deduct from each payment an amount equal to 20% of the amount of the benefits to be paid to the debtor. That amount corresponds to the benefits established under Division II of Chapter II of the Act, with the

necessary modifications, less the income tax deductions payable under the Taxation Act (chapter I-3) and the Income Tax Act (R.S.C. 1985, c. 1, (5th Suppl.)).

However, where an amount is owing because of a false statement, the Minister is to deduct from each payment an amount equal to 50% of the amount of the benefits to be paid to the debtor.

O.C. 986-2005, s. 53.

DIVISION XII

TRANSITIONAL AND FINAL

54. (Revoked).

O.C. 986-2005, s. 54; O.C. 1074-2009, s. 7.

54.1. (Revoked).

O.C. 374-2006, s. 4; O.C. 1074-2009, s. 7.

55. Despite section 4 of the Act respecting the parental insurance plan (chapter A-29.011), the office of judge or presiding justice of the peace appointed in accordance with the Courts of Justice Act (chapter T-16) or the Act respecting municipal courts (chapter C-72.01) will become covered by the parental insurance plan only upon the requirements of Part VI.4 of the Courts of Justice Act being met as regards the inclusion in the judges' conditions of employment of a parental insurance plan providing for indemnities or benefits supplementary to the basic plan established by the Act respecting parental insurance.

The Order in Council establishing such a supplementary plan will determine the date as of which that office is to become covered by the Act respecting parental insurance.

O.C. 986-2005, s. 55.

56. (Omitted).

O.C. 986-2005, s. 56.

TRANSITIONAL

2012

(O.C. 677-2012) SECTION 2. Section 1 of this Regulation applies to claims for benefits received from the date of coming into force of this Regulation.

REFERENCES

O.C. 986-2005, 2005 G.O. 2, 4742
 O.C. 9-2006, 2006 G.O. 2, 243A
 O.C. 374-2006, 2006 G.O. 2, 1461
 O.C. 841-2007, 2007 G.O. 2, 2632
 O.C. 1074-2009, 2009 G.O. 2, 3530
 O.C. 129-2011, 2011 G.O. 2, 659
 O.C. 1209-2011, 2011 G.O. 2, 3663
 O.C. 677-2012, 2012 G.O. 2, 2333
 O.C. 936-2013, 2013 G.O. 2, 2723
 S.Q. 2016, c. 25, s. 45