

chapter A-3.001, r. 7

Updated to 1 May 2017

## **Regulation respecting financing**

### **Act respecting industrial accidents and occupational diseases**

(chapter A-3.001, s. 454, 1st par., subpars. 4.2 to 12.3, 13, 15 and 16)

## **BOOK I**

### **PRELIMINARY PROVISIONS**

#### **TITLE I**

##### **STATEMENT OF PURPOSE**

**1.** The purpose of this Regulation is to establish the rules allowing the Commission des normes, de l'équité, de la santé et de la sécurité du travail to collect, from employers, the amounts required for the application of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) and the Act respecting occupational health and safety (chapter S-2.1).

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Decision 2010-11-18, s. 1.

#### **TITLE II**

##### **DEFINITIONS**

**2.** In this Regulation,

**“maximum yearly insurable earnings”** means the maximum yearly insurable earnings determined under section 66 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001);

**“insurable wages”** means the gross wages taken into consideration under sections 289 and 289.1 of the Act, up to the maximum yearly insurable earnings;

**“auxiliary worker”** means a worker who contributes to but does not participate directly in activities covered by more than one unit in which the auxiliary worker's employer is classified;

**“exceptional unit”** means one of the classification units 34410, 80020, 90010 and 90020 referred to in Schedule 1.

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Decision 2010-11-18, s. 2; Decision 2013-09-19, s. 1.

## **BOOK II**

### **BEGINNING OF ACTIVITIES AND CLASSIFICATION OF EMPLOYERS**

#### **TITLE I**

##### **BEGINNING OF ACTIVITIES**

**3.** Employers must, within 60 days after beginning their activities, send to the Commission a written notice setting out their identity and the name and address of each of their establishments, along with information on the nature of the activities pursued in each establishment.

Employers who begin their activities following a transaction within the meaning of section 170 must mention that fact in the notice and state the name of their predecessor, the date of the transaction and, if applicable, the fact that the transaction was a merger.

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Decision 2010-11-18, s. 3.

#### **TITLE II**

##### **DETERMINATION OF CLASSIFICATION UNITS AND SECTORS**

**4.** The classification units and the sectors in which they are grouped for a year are those set out in Schedule 1.

Decision 2010-11-18, s. 4.

### **TITLE III**

#### **GENERAL RULES GOVERNING CLASSIFICATION**

**5.** The rules for the classification of employers provided for in this Title and in Title IV apply subject to the special rules set out in Schedule 1.

Decision 2010-11-18, s. 5.

**6.** The Commission classifies each employer in a unit according to the nature of all the employer's activities.

Decision 2010-11-18, s. 6.

**7.** If the activities carried on by an employer are not listed under a classification unit in Schedule 1, the employer is classified in the unit that best corresponds to those activities.

Decision 2010-11-18, s. 8.

**8.** Where an employer has failed to send the required information concerning the nature of its activities, the Commission identifies the classification units to which the activities correspond according to the information available, and classifies the employer in the unit, among those identified, with the highest rate of assessment.

Decision 2010-11-18, s. 8.

**9.** Where various kinds of activities are carried on by an employer, the Commission classifies the employer in more than one unit if

(1) more than one unit exists for those activities;

(2) no unit exists which covers all of the activities; and

(3) subject to the special rule provided under Schedule 1, at least one worker, other than an auxiliary worker, assigned to one of the employer's activities covered by a unit, is not substantially and simultaneously exposed to risks of employment injury from another of the employer's activities.

For the purposes of the first paragraph, the support activities for an activity covered by a unit do not constitute various kinds of activities.

If the employer does not meet the condition set out in subparagraph 3 of the first paragraph, the Commission classifies the employer in the unit for which the rate of assessment is the highest among those that correspond to the activities carried on by the employer.

Decision 2010-11-18, s. 9.

**10.** Where several employers form a related group within the meaning of sections 17 to 21 of the Taxation Act (chapter I-3) and where one employer of this group furnishes administrative or management services mainly to another employer of the same group, the Commission classifies the employer, for all of the employer's administrative or management activities, in the same manner as the other employer.

Decision 2010-11-18, s. 10.

### **TITLE IV**

#### **RULES GOVERNING CLASSIFICATION IN AN EXCEPTIONAL UNIT**

**11.** An employer is also classified in an exceptional unit if, in accordance with Title III, the employer is classified only in units expressly providing for classification in an exceptional unit and if at least one of the employer's workers carries out a task covered by the exceptional unit.

Decision 2010-11-18, s. 11.

**12.** An employer who, in accordance with Title III, is not classified only in units expressly providing for classification in an exceptional unit must be classified in such an exceptional unit if

(1) at least 45% of the insurable wages of the employer's workers for the year prior to the year preceding the assessment year are declared for units expressly providing for classification in that exceptional unit; and

(2) at least one of the employer's workers carries out work covered by that exceptional unit.

An employer who cannot be classified in an exceptional unit for the sole reason that the condition set out in subparagraph 1 of the first paragraph is not met may nevertheless be classified in that unit if, for the year preceding the assessment year, the employer was classified in that unit and if at least 40% of the insurable wages paid to the employer's workers for that preceding year were declared for units expressly providing that the employer could be classified in that exceptional unit.

Where an employer begins activities following a transaction within the meaning of section 170, the insurable wages of the employer's predecessor must be used to calculate the percentages referred to in the first and second paragraphs, if the successor continues all the predecessor's activities following the transaction.

The insurable wages of an auxiliary worker must be excluded when calculating the percentages under this section. In addition, the amount of protection enjoyed pursuant to section 18 of the Act by an employer or an executive officer of the employer who, in addition to sitting on the board of directors, performs work for the employer is considered to be insurable wages declared for the unit that corresponds to the activities in which the person is involved.

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Decision 2010-11-18, s. 12.

## **TITLE V**

### **CHANGE OF ACTIVITIES**

**13.** Employers must send written notice to the Commission of any significant change in the nature of the activities pursued in any of their establishments within 14 days of the change.

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Decision 2010-11-18, s. 13.

## **BOOK III**

### **PAYMENT OF THE ASSESSMENT**

#### **TITLE I**

##### **PERIODIC PAYMENTS**

#### **CHAPTER I**

##### **EMPLOYERS BOUND TO MAKE PAYMENTS, FREQUENCY AND CONDITIONS OF PAYMENT**

**14.** Employers not referred to in the first paragraph of section 315.1 of the Act, and the amount of whose assessment is not established solely pursuant to section 310 of the Act, must pay to the Minister of Revenue, as a periodic payment on account of the assessment to be paid, the amount calculated pursuant to section 19.

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Decision 2010-11-18, s. 14.

**15.** An employer referred to in section 14 must pay the amount calculated pursuant to section 19 in respect of the insurable wages paid to the employer's workers during a given month not later than the fifteenth day of the following month.

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Decision 2010-11-18, s. 15.

**16.** Any amount payable in respect of the insurable wages of a worker pursuant to section 14 by an employer referred to in that section who no longer employs any workers because of a cessation of activities must, if not already paid, be paid to the Minister of Revenue by the employer not later than 7 days after the date on which the employer ceases activities.

Decision 2010-11-18, s. 16.

**17.** An employer referred to in section 14 must submit the prescribed form to the Minister of Revenue with every periodic payment.

Decision 2010-11-18, s. 17.

**18.** An employer who omits to pay an amount owed to the Minister of Revenue pursuant to section 14 or 16 on the date specified in section 15 or 16 must submit the prescribed form to the Minister not later than the twentieth day of the month following the month during which the amount should have been paid to the Minister.

Decision 2010-11-18, s. 18.

## **CHAPTER II**

### **CALCULATION OF THE AMOUNT OF PAYMENT**

**19.** The amount that every employer must pay to the Minister of Revenue as a periodic payment is equal to the product obtained by multiplying the insurable wages paid to the employer's workers during the period covered by the payment by the provisional rate determined by the Commission pursuant to section 315.2 of the Act. The amount must be based on verifiable data.

Decision 2010-11-18, s. 19.

## **TITLE II**

### **STATEMENT OF WAGES**

**20.** This Title establishes the rules on the statement of insurable wages applicable to employers. The rules apply subject to the special rules provided in Schedule 1.

Decision 2010-11-18, s. 20.

**21.** Employers must send to the Commission each year, before 15 March, a statement showing the amount of insurable wages paid to workers during the preceding calendar year.

An employer who ceases activities must, not later than the forty-fifth day following the date on which activities cease, send a statement showing the amount of insurable wages paid to workers between the start of the calendar year and that date.

The employer or a representative of the employer who has personal knowledge of the matters mentioned in a statement must attest to the accuracy of a statement referred to in this section.

Decision 2010-11-18, s. 21; Decision 2011-09-22, s. 1.

**22.** A statement of the insurable wages paid to workers made by an employer under this Title must represent the employer's activities accurately and be based on verifiable data.

Decision 2010-11-18, s. 22.

**23.** An employer classified in more than one unit must declare the insurable wages paid during the preceding calendar year to a worker involved in activities covered by a single unit in respect of that unit.

Decision 2010-11-18, s. 23.

**24.** An employer must declare the insurable wages paid during the preceding calendar year to a worker who, without being an auxiliary worker, participates in several activities covered by more than one unit in which the employer is classified, stating which portion of the insurable wages was paid in respect of each unit.

Despite the first paragraph and subject to the special rule provided under Schedule 1, the employer must declare the insurable wages of that worker in respect of the unit for which the rate of assessment is the highest if the worker is substantially and simultaneously exposed to risks of



employment injury from several activities covered by more than one unit in which the employer is classified.

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Decision 2010-11-18, s. 24.

**25.** An employer classified in more than one unit must declare the insurable wages paid to an auxiliary worker separately from the insurable wages paid to other workers, except in the case of an auxiliary worker covered by an exceptional unit in which the employer is classified, in which case the rule in section 27 applies.

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Decision 2010-11-18, s. 25.

**26.** The insurable wages of an auxiliary worker declared in accordance with section 25 are apportioned by the Commission

(1) on a prorata basis of the insurable wages declared for each unit that expressly provides for classification in an exceptional unit, when the employer is classified in one or more exceptional units and in several other units;

(2) on a prorata basis of the insurable wages declared for each unit that expressly provides for classification in an exceptional unit, when the employer is classified in several units but cannot be classified in an exceptional unit because none of the employer's workers carries out work covered by an exceptional unit;

(3) on a prorata basis of the insurable wages declared for each unit that does not expressly provide for classification in an exceptional unit, when the employer is not classified in an exceptional unit.

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Decision 2010-11-18, s. 26.

**27.** The employer must declare the insurable wages paid to a worker who carries out an activity covered by an exceptional unit in which the employer is classified in respect of that unit.

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Decision 2010-11-18, s. 27.

**28.** An employer who cannot apportion among several units all or part of the insurable wages paid to a worker during a period in the year on the basis of verifiable data must declare the insurable wages, or the portion of the wages that cannot be apportioned, in respect of the unit with the highest rate.

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Decision 2010-11-18, s. 28.

**29.** An employer who does not comply with the obligation of drawing up a document in accordance with sections 35 and 36 must declare all the insurable wages paid to workers in respect of the unit, among those in which the employer is classified, with the highest rate.

An employer who does not include a worker in a document that the employer is required to draw up pursuant to section 35 must declare the insurable wages of that worker for that year in respect of the unit, among those in which the employer is classified, with the highest rate.

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Decision 2010-11-18, s. 29.

### **TITLE III**

#### **OTHER STATEMENTS**

**30.** An educational institution or the school board it comes under, as the case may be, must send to the Commission every year, before 30 June, a statement indicating the number of students contemplated in section 10 of the Act who were under the responsibility of the institution for a training period that began between 1 September of the year preceding the assessment year and 31 August of the assessment year.

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Decision 2010-11-18, s. 30.

**31.** An authority, other than the government, which, during a calendar year, has been assisted by persons referred to in section 12 of the Act, must send to the Commission, before 15 March of the following year, a statement setting out

- (1) the nature and average duration of the participation of such persons in a civil protection activity;
- (2) the number of persons involved during the preceding year.

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Decision 2010-11-18, s. 31.

**32.** The authority responsible for a municipal fire safety service which, during a calendar year, has been assisted by persons referred to in section 12.0.1 of the Act must send to the Commission, before 15 March of the following year, a statement setting out

- (1) the nature and average duration of the work performed by such persons;
- (2) the number of persons involved during the preceding year.

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Decision 2010-11-18, s. 32.

**33.** The government must send to the Commission each year, before 15 March, a statement setting out

- (1) the nature of the work performed by persons referred to in section 11 of the Act or of the activities referred to in section 12 of the Act;
- (2) the number of persons who performed work referred to in section 11 of the Act or who participated in an activity referred to in section 12 of the Act during the preceding year; and
- (3) the average duration of the work referred to in section 11 of the Act or of the activities referred to in section 12 of the Act.

The first paragraph, with the necessary modifications, also applies to a reintegration support fund referred to in section 12.1 of the Act.

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Decision 2010-11-18, s. 33.

#### **TITLE IV**

#### **REGISTERS AND OTHER DOCUMENTS**

**34.** Employers must keep, in Québec, a detailed register of the wages paid to their workers.

The government must keep a detailed register of the names and addresses of the persons referred to in paragraphs 1, 2 and 4 of section 11 and in section 12 of the Act.

An authority other than the government which, during a calendar year, has been assisted by persons referred to in section 12 of the Act must keep a detailed register of the names and addresses of the persons referred to in that section.

An authority responsible for a municipal fire safety service which, during a calendar year, has been assisted by persons referred to in section 12.0.1 of the Act must keep a detailed register of the names and addresses of the persons referred to in that section.

A reintegration support fund referred to in section 12.1 of the Act must keep a detailed register of the names and addresses of the persons referred to in that section.

An educational institution or the school board it comes under, as the case may be, must keep a detailed register of the names and addresses of the persons referred to in section 10 of the Act.

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Decision 2010-11-18, s. 34.

**35.** An employer classified in more than one unit must, before sending a statement under the first paragraph of section 21 and not later than 14 March of the year following the assessment year, draw up a document containing the name and duties each worker employed during the assessment year

that indicates, for each worker, the information on wages that is required when filing a statement, using the form prescribed by the Commission under section 295 of the Act.

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Decision 2010-11-18, s. 35.

**36.** An employer classified in more than one unit among units 69960 or 80030 to 80250 must, before sending a statement of wages under the first paragraph of section 21 and not later than 14 March of the year following the assessment year, draw up a document concerning the contracts to which the employer is a party for work covered by those units and completed in whole or in part during the assessment year, containing

- (1) the number of each contract, or any other means of identifying the contract used by the employer;
- (2) a description of the work performed by the employer's workers during the assessment year in connection with each contract;
- (3) the dates when work began and ended on each contract;
- (4) the amount of each contract;
- (5) for each contract, the numbers of the classification units that cover the work performed during the assessment year by the employer's workers.

The employer must also provide, in the document referred to in section 35 and for each worker assigned to activities covered by those units, verifiable data making it possible to relate the wages declared for those units to the work performed by the workers under the contracts to which the document drawn up under this section refers.

An employer referred to in the first paragraph is exempted from apportioning the insurable wages of the workers to units 69960 and 80030 to 80250, in the document referred to in section 35, if the employer apportions in the document the insurable wages relating to the activities covered by those units for each of the contracts referred to in the first paragraph. This apportionment must be based on a system for periodically monitoring the time worked by the employer's workers on activities covered by those units, making it possible to link the apportionment to the work performed by each worker during the assessment year.

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Decision 2010-11-18, s. 36; Decision 2015-09-17, s. 1.

## **TITLE V**

### **ASSESSMENT**

#### **CHAPTER I**

##### **RATES OF ASSESSMENT**

**37.** The rates of assessment applicable to each unit for a year are those set out in Schedule 1.

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Decision 2010-11-18, s. 37.

**38.** The rates set out in the "General Rate" column of Schedule 1 apply to all enterprises except enterprises under federal jurisdiction, for which the rates of assessment are those set out in the "Special Rate" column.

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Decision 2010-11-18, s. 38.

**39.** The rates of assessment applicable to employers belonging to a sector of activities for which a joint sector-based association has been formed under the Act respecting occupational health and safety (chapter S-2.1) are increased as indicated in Schedule 2 to cover the cost of the subsidy granted to that association for a year.

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Decision 2010-11-18, s. 39.

**40.** The amounts provided for in paragraph 3 of section 310 and in section 313 of the Act are those set out in Schedule 3.

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Decision 2010-11-18, s. 40.

**41.** The rate used to establish the amount payable by a person who only sits as a member of the board of directors of a legal person and who registers in this capacity or as an executive officer in accordance with section 18 of the Act is set out in Schedule 3.

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Decision 2010-11-18, s. 41.

## **CHAPTER II**

### **PERSONALIZED RATE**

**42.** The purpose of this Chapter is to establish the rules allowing a personalized rate of assessment to be fixed and applied to employers for each unit in which they are classified, provided they meet, for an assessment year, the qualification requirements provided for therein.

The purpose of this Chapter is also to determine the framework within which the Commission may make an agreement with a group of employers it considers appropriate, for the purposes of determining, in particular, the special conditions governing the application to the employers of personalized rates and the procedures for calculating such rates.

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Decision 2010-11-18, s. 42.

## **DIVISION I**

### **GENERAL PROVISIONS**

**43.** In this Chapter,

**“first-level reference period”** means the 3 years prior to the year preceding the assessment year;

**“second-level reference period”** means the 3 years prior to the 2 years preceding the assessment year.

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Decision 2010-11-18, s. 43.

**44.** In establishing the amount of insurable wages paid to an employer's workers and the cost of benefits imputed to the employer, the Commission takes into account, with the necessary modifications, the protection provided under section 18 of the Act to the employer or to an executive officer of the employer who, in addition to sitting on the board of directors, does work for the employer.

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Decision 2010-11-18, s. 44.

## **DIVISION II**

### **QUALIFICATION**

#### **§ 1. — General provisions**

**45.** The Commission fixes a personalized rate applicable to an employer in respect of each unit in which the employer is classified for the assessment year if the aggregate of the total expected compensation cost for the first-level reference period for such units is greater than the qualifying threshold.

For the purposes of this Chapter, the Commission determines a unit's expected compensation cost for the first-level reference period by applying the following formula in respect of each year of the first-level reference period and adding the results obtained:

expected compensation cost for the unit for the year of the first-level	insurable wages paid to the employer's workers in respect of the unit and	first-level experience ratio of the unit for the year as
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reference period = declared by the employer x established pursuant  
 or apportioned by the to section 304.1 of  
 Commission in accordance the Act and set  
 with Title II for the year of out in Schedule 1  
 the first-level reference period

Decision 2010-11-18, s. 45.

## § 2. — *Maintenance of the qualification of a reclassified employer*

**46.** Where an employer who was classified in several units for all or some of its activities is reclassified for all of its activities covered by the units in a single unit or where the employer was classified in one unit for all or some of its activities and it is reclassified in another unit for all the activities covered by that unit, the insurable wages paid to the employer's workers in respect of the units in which the employer was classified are, for the purposes of section 45, for one or more years of the first-level reference period, considered to be insurable wages paid in respect of the unit in which the employer is reclassified.

Decision 2010-11-18, s. 46.

**47.** Where an employer who was classified in one unit for all or some of its activities is reclassified for the same activities in several units, the insurable wages paid to the employer's workers in respect of the activities covered by the units for one or more years of the first-level reference period are, for the purposes of section 45, considered as if they had been declared for the units if they can be broken down in respect of each of those units.

The Commission apportions, where applicable, for any year when the wages cannot be broken down, the insurable wages paid to the employer's workers in respect of each unit in which the employer is reclassified, in the same proportion as the year preceding the year in which the employer was reclassified where it is reclassified in a unit and in at least one exceptional unit and where it satisfies the following conditions:

- (1) for the year preceding the year in which the employer is reclassified, it was classified in at least one unit that expressly provides for the employer's classification in an exceptional unit;
- (2) the insurable wages paid to the employer's workers in respect of the activities covered by the units in which the employer is reclassified can be broken down for the year preceding the year in which the employer is reclassified but cannot be broken down for any of the 4 years prior to the year preceding the year in which it is reclassified.

Where the employer is reclassified in one unit and in at least one exceptional unit, and where the employer was not, for the year preceding the year in which it is reclassified, classified in at least one unit that expressly provides for its classification in an exceptional unit and where for one or more years of the first-level reference period the insurable wages paid to the employer's workers in respect of the activities covered in each unit cannot be broken down, the Commission apportions such wages in respect of the units according to the following percentages for the exceptional units, with the residual percentage being attributed to the other unit:

- (a) in respect of unit 34410: 10%
- (b) *(subparagraph revoked);*
- (c) in respect of unit 90010: 14%
- (d) in respect of unit 90020: 3%
- (e) in respect of unit 80020: 10%

The third paragraph applies only in respect of the assessment year in which the employer was reclassified.

Except in the case of an employer referred to in the second paragraph, where for any year of the first-level reference period preceding the year in which the employer is reclassified in several units,

the insurable wages paid to the employer's workers in respect of each unit cannot be broken down, the Commission apportions the wages in respect of the units in the same proportion as the year in which the employer is reclassified. This paragraph applies only in respect of the assessment years following the year in which the employer is reclassified.

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Decision 2010-11-18, s. 47; Decision 2013-09-19, s. 2.

**§ 3. — *Qualification of an employer who no longer carries on activities covered by a unit***

**48.** Where an employer was classified in one unit for one or more years of the first-level reference period and the employer no longer carries on the activities covered by that unit for the assessment year, the employer is deemed to be still classified in that unit for that year for the purposes of determining the aggregate of the expected compensation cost for the first-level reference period, in accordance with section 45. The Commission must, where applicable and by making the necessary changes, apply the rules prescribed in sections 46 and 47.

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Decision 2010-11-18, s. 48.

**§ 4. — *Qualifying threshold***

**49.** The qualifying threshold for an assessment year is that determined in Schedule 4.

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Decision 2010-11-18, s. 49.

**DIVISION III**  
**FIXING OF THE PERSONALIZED RATE**

**§ 1. — *General provision***

**50.** For the purpose of fixing a personalized rate, the Commission compares an employer's experience with its expected experience, in accordance with the rules prescribed in this Division.

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Decision 2010-11-18, s. 50.

**§ 2. — *Determination of an employer's experience***

***A.- Determination of the compensation cost and the retained compensation cost***

**51.** For the purpose of determining an employer's experience, the Commission takes into account every industrial accident that occurred and every occupational disease that was reported during the first- and second-level reference periods, for which all or part of the cost of benefits was imputed to the employer.

Where the employer is referred to in section 47, and all or part of the insurable wages paid to the employer's workers cannot be broken down in accordance with that section for one or more years for the first- or second-level reference periods and the wages are not apportioned by the Commission in accordance with that section, the Commission does not take into account an industrial accident suffered by one of its workers or an occupational disease reported by one of its workers in a year in respect of which the wages cannot be so broken down or apportioned, if the accident occurred or the disease was contracted while the worker was engaged in the activities of a unit in respect of which all or part of his wages cannot be broken down or apportioned.

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Decision 2010-11-18, s. 51.

**52.** For every accident and disease contemplated in section 51, the Commission determines the compensation cost in accordance with the rules prescribed in this Subdivision. The cost corresponds to the amount required to pay all benefits resulting from the accident or disease except for the portion that is, pursuant to section 327, 328 or 329 of the Act, imputed to another employer, to employers of one, several or all of the units, or to the reserve provided for in paragraph 2 of section 312 of the Act.

The Commission then determines the portion of the compensation cost retained for the purpose of determining the employer's experience, in accordance with the rules prescribed in this Subdivision.

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Decision 2010-11-18, s. 52.

**53.** The compensation cost of an accident or disease contemplated in section 51 is determined as follows:

(1) calculate the aggregate of:

(a) the total obtained by adding together the cost of rehabilitation benefits to which the worker is entitled under Chapter IV of the Act (excluding reimbursements made under section 176 of the Act), the cost of the medical aid benefits to which the worker is entitled under Chapter V of the Act for services rendered or items received in the first- or second-level reference periods, and the cost of services provided by a health professional designated by the Commission under section 204 of the Act for services rendered during such periods;

(b) the total of all income replacement indemnities to which the worker is entitled under Division I of Chapter III of the Act and which relate to a period included in the first- or second-level reference period;

(c) the total of all lump sum death benefits to which beneficiaries are entitled under the second paragraph of section 102 and under section 103 of the Act, where a minor child of a deceased worker reaches the age of majority during the first- or second-level reference periods, even if the decision awarding such benefits has not yet become final;

(d) the total of all indemnities paid in the form of a pension to which beneficiaries are entitled under section 101 and the first paragraph of section 102 of the Act and which relate to a period included in the first- or second-level reference periods;

(e) the total of all expenses reimbursable under section 111 of the Act for services rendered or items received in the first- or second-level reference periods;

(f) the total of all other indemnities to which the beneficiaries are entitled under Division III of Chapter III of the Act where the death occurred during the first- or second-level reference periods, even if the decision awarding such indemnities has not yet become final;

(g) the total amount of all other indemnities to which beneficiaries are entitled under Division IV of Chapter III of the Act for services rendered in the first- or second-level reference periods, or, in the case of a benefit referred to in section 116 of the Act, where the date on which the assessments are payable falls within the same periods;

(2) multiply the aggregate obtained in subparagraph 1 by the applicable factor determined in accordance with Schedule 5;

(3) add the result obtained in subparagraph 2, the total amount of indemnities for bodily injuries to which the beneficiaries are entitled under Division II of Chapter III of the Act where the initial decision granting the indemnities is rendered during the first- or second-level reference period, even if the decision has not yet become final, and the amount of reimbursements made under section 176 of the Act during the first- or second-level reference periods.

The interest applicable to the benefits is not taken into account for the purposes of the first paragraph.

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Decision 2010-11-18, s. 53.

**54.** The Commission determines the retained compensation cost for every accident and disease contemplated in section 51 by applying the following formula:

retained compensation cost =	100% of the compensation cost up to a maximum of 50% of the maximum yearly insurable earnings + 50% of the compensation cost that is greater than
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50% and less than or equal to 100% of the maximum yearly insurable earnings + 25% of the compensation cost that is greater than 100% and less than or equal to 150% of the maximum yearly insurable earnings

For the purposes of the first paragraph and of section 55, the maximum yearly insurable earnings are those determined for the year during which the accident occurred or the disease was reported.

Decision 2010-11-18, s. 54.

### ***B.- Dividing of the retained compensation cost***

**55.** The retained compensation cost determined in accordance with section 54 is divided into a first-level retained compensation cost and a second-level retained compensation cost as follows:

first-level retained = retained compensation cost up to 5% of  
compensation cost the maximum yearly insurable earnings

second-level retained = retained compensation cost less the  
compensation cost first-level retained compensation cost

Decision 2010-11-18, s. 55.

### ***§ 3. — Determination of an employer's expected experience***

**56.** The Commission determines an employer's expected experience using the first-level expected compensation cost calculated in accordance with section 45 and the expected compensation cost for the second-level reference period calculated in accordance with the rules prescribed in this Subdivision.

Decision 2010-11-18, s. 56.

**57.** The expected compensation cost for the second-level reference period is determined for each unit in which the employer is classified for the assessment year by adding the results obtained by applying, for each year in the second-level reference period, the following formula:

expected compensation	insurable wages paid to		second-level experience
cost for each year	the employer's workers		ratio for the unit
of the second-level	in respect of the unit		for the year
reference period	and declared by the		determined pursuant
	employer or apportioned	x	to section 304.1 of
	by the Commission in		the Act and set out
	accordance with Title II		in Schedule 1
	for the year of the		
	second-level reference		
	period		

For the purpose of determining the insurable wages paid to workers with respect to a unit, sections 46 to 48 apply, with the necessary modifications, as though they referred to the second-level reference period.

Decision 2010-11-18, s. 57.

### ***§ 4. — Calculation of an employer's experience indices***

**58.** The Commission compares the employer's experience with its expected experience by calculating the first- and second-level experience indices in accordance with the rules prescribed in this Subdivision.



Decision 2010-11-18, s. 58.

**59.** The Commission determines the first-level experience index by applying the following formula, which takes into account an adjustment factor determined by the Commission after an actuarial valuation in order to take into account the corrections made to the personalized rate of the employers that qualify for that rate:

$$\begin{array}{lcl}
 \text{first-level} & & \\
 \text{experience} & & \\
 \text{index} & = & \frac{\text{sum of first-level retained compensation cost for every industrial accident and occupational disease reported in the first-level reference period}}{\text{sum of first-level expected compensation cost determined in accordance with section 45 for all units in which the employer is classified or deemed classified for the assessment year, in accordance with section 48}} \times \text{employer's first-level adjustment factor}
 \end{array}$$

Decision 2010-11-18, s. 59.

**60.** The Commission determines the second-level experience index by applying the following formula, which takes into account an adjustment factor determined by the Commission after an actuarial valuation in order to take into account the corrections made to the personalized rate of the employers that qualify for that rate:

$$\begin{array}{lcl}
 \text{second-level} & & \\
 \text{experience} & & \\
 \text{index} & = & \frac{\text{sum of second-level retained compensation cost for every industrial accident and occupational disease reported in the second-level reference period}}{\text{sum of second-level expected compensation cost determined in accordance with section 57 for all units in which the employer is classified or deemed classified for the assessment year, in accordance with that section}} \times \text{employer's second-level adjustment factor}
 \end{array}$$

Decision 2010-11-18, s. 60.

#### § 5. — Calculation of an employer's degrees of personalization

**61.** For the purpose of determining the risk-related portion of the first- and second-level unit rate that is affected by the employer's experience, the Commission calculates a percentage of the rate called the "degree of personalization", in accordance with the rules prescribed in this Subdivision.

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Decision 2010-11-18, s. 61.

**62.** The Commission determines an employer's first-level degree of personalization by applying the following formula:

$$\text{first-level degree of personalization} = \frac{\text{sum of expected compensation cost for the first-level reference period determined in accordance with section 45 for all units in which the employer is classified or deemed classified for the assessment year in accordance with section 48}}{\text{sum of expected compensation cost for the first-level reference period determined in accordance with section 45 for all units in which the employer is classified or deemed classified for the assessment year, in accordance with section 48 + the amount set out in Schedule 4}}$$

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Decision 2010-11-18, s. 62.

**63.** The Commission determines an employer's second-level degree of personalization by applying the following formula:

$$\text{second-level degree of personalization} = \frac{\text{sum of expected compensation cost for the second-level reference period determined in accordance with section 57 for all units in which the employer is classified or deemed classified for the assessment year, in accordance with that section}}{\text{sum of expected compensation cost for the second-level reference period determined in accordance with section 57 for all units in which the employer is classified or deemed classified for the assessment year, in accordance with that section + the amount set out in Schedule 4}}$$

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Decision 2010-11-18, s. 63.

#### § 6. — *Calculation of an employer's risk indices*

**64.** The Commission determines the risk indices for each level used to calculate the employer's first- and second-level personalized rates by taking into account the employer's experience indices and its degrees of personalization.

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Decision 2010-11-18, s. 64.

**65.** The Commission determines the first-level risk index by applying the following formula:

$$\text{first-level risk index} = (\text{first-level degree of personalization} \times \text{first-level experience index}) + (1 - \text{first-level degree of personalization})$$

The risk index is limited to the lower of 3 or the result obtained by applying the following formula:

$$[1+(6 \times \text{first-level degree of personalization})]$$

Decision 2010-11-18, s. 65.

**66.** The Commission determines the second-level risk index by applying the following formula:

$$\begin{array}{lcl} \text{second-level} & & (\text{second-level degree of personalization} \times \text{second-level} \\ \text{risk index} & = & \text{experience index}) + (1 - \text{second-level degree of} \\ & & \text{personalization}) \end{array}$$

The risk index is limited to the lower of 3 or the result obtained by applying the following formula:

$$[1+(6 \times \text{second-level degree of personalization})]$$

Decision 2010-11-18, s. 66.

#### § 7. — *Calculation of the personalized rate*

**67.** The Commission fixes an employer's personalized rate for each unit in which the employer is classified for the assessment year by adding the first- and second-level personalized rates according to risk and the uniform fixed rate.

Decision 2010-11-18, s. 67.

**68.** The Commission determines an employer's first-level personalized rate according to risk by applying the following formula:

$$\begin{array}{lcl} \text{first-level personalized} & & \text{first-level risk index} \times \text{first-level} \\ \text{rate according to risk} & = & \text{unit rate according to risk} \end{array}$$

The first-level unit rate according to risk corresponds to the portion of the unit rate applicable to the employer for the assessment year that the Commission associates with first-level risk when the rate is fixed pursuant to section 304 of the Act.

Decision 2010-11-18, s. 68.

**69.** The Commission determines an employer's second-level personalized rate according to risk by applying the following formula:

$$\begin{array}{lcl} \text{second-level personalized} & & \text{second-level risk index} \times \text{second-level} \\ \text{rate according to risk} & = & \text{unit rate according to risk} \end{array}$$

The second-level unit rate according to risk corresponds to the portion of the unit rate applicable to the employer for the assessment year that the Commission associates with the second-level risk at the time of the fixing of the rate under section 304 of the Act.

Decision 2010-11-18, s. 69.

**70.** The uniform fixed rate corresponds to the portion of the unit rate applicable to the employer for the assessment year that corresponds to the financial requirements that are not apportioned according to risk at the time of the fixing of the rate under section 304 of the Act.

Decision 2010-11-18, s. 70.

**71.** Where an employer qualifies for retrospective adjustment of its annual assessment for the assessment year in accordance with Chapter III of this Title, the Commission, before performing the calculation set out in section 67, adjusts the portions of the employer's personalized rate that correspond to the first- and second-level personalized rates according to risk determined under sections 68 and 69 and the uniform fixed rate referred to in section 70, by taking into account the

adjustment factor applicable to each rate determined by the Commission after an actuarial valuation to ensure equitable apportionment of assessments between those employers who qualify for retrospective adjustment of their annual assessments and those who do not so qualify, and to take into account the surpluses or deficits already considered in retrospective adjustments for prior years, by applying the following formulas:

first-level personalized rate according to risk	x	employer's adjustment factor for the first-level unit rate according to risk, determined by the Commission after actuarial valuation
second-level personalized rate according to risk	x	employer's adjustment factor for the second-level unit rate according to risk, determined by the Commission after actuarial valuation
uniform fixed rate	x	employer's adjustment factor for the uniform fixed rate, determined by the Commission after actuarial valuation

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Decision 2010-11-18, s. 71.

#### **DIVISION IV**

#### **FRAMEWORK FOR AGREEMENTS ON THE GROUPING OF EMPLOYERS FOR THE PURPOSE OF APPLYING PERSONALIZED RATES AND THE PROCEDURES FOR CALCULATING THOSE RATES**

##### **§ 1. — *Definition and purpose***

**72.** In this Division,

**“agreement”** means a written agreement made by the Commission with a group of employers under section 284.2 of the Act.

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Decision 2010-11-18, s. 72.

**73.** The purpose of this Division is to determine the framework within which the Commission may make an agreement with a group of employers it considers appropriate, for the purpose of determining, in particular, the special conditions governing the qualification of the employers for personalized rates, and the procedures for calculating such rates.

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Decision 2010-11-18, s. 73.

**74.** A group of employers that is a party to an agreement is called a “prevention mutual group”.

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Decision 2010-11-18, s. 74.

##### **§ 2. — *Prevention, rehabilitation and return to work***

**75.** Every agreement must have as its goal to promote the prevention of employment injuries and for that purpose must contain concrete measures to prevent employment injuries that employers must undertake to implement during the term of the agreement.

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Decision 2010-11-18, s. 75.

**76.** Every agreement must also have as its goal to encourage the rehabilitation and return to work of workers having suffered an employment injury.

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Decision 2010-11-18, s. 76.

##### **§ 3. — *Qualification and calculation of rates***

**77.** All agreements made for a given year must, for all employers that are parties thereto, contain the same special conditions governing the qualification of employers for personalized rates and the same procedures for calculating those rates.

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Decision 2010-11-18, s. 77.

#### § 4. — *Miscellaneous*

**78.** The employers in a group who wish to enter into an agreement must, before 1 October of the year preceding the beginning of the application of the proposed agreement, so inform the Commission and send to it a list of the employers in the group and a concise statement explaining how such a grouping would help to achieve the goals set out in sections 75 and 76.

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Decision 2010-11-18, s. 78.

**79.** Where the Commission agrees to enter into an agreement with a group of employers, it must inform them of its acceptance in writing before 31 December of the year preceding the beginning of the application of the agreement.

The employers must sign the agreement and return it to the Commission not later than 31 December of the year preceding the beginning of its application or within 30 days of the date on which it informs them of its acceptance, whichever date is later. The Commission then signs the agreement.

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Decision 2010-11-18, s. 79.

**80.** The term of an agreement must be fixed, and the dates on which it begins and ends must coincide with the beginning and end of a year.

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Decision 2010-11-18, s. 80.

**81.** Subject to the discretion granted to the Commission by section 284.2 of the Act, an agreement whose term is longer than one year may provide that an employer that was not a party thereto may become a party during the term, on the terms and conditions stipulated in the agreement.

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Decision 2010-11-18, s. 81.

**82.** Where the Commission refuses to enter into an agreement with the employers in a group, it must inform them in writing of the reasons for its refusal as soon as possible.

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Decision 2010-11-18, s. 82.

### **CHAPTER III**

#### **RETROSPECTIVE ADJUSTMENT OF THE ASSESSMENT**

##### **DIVISION I**

##### **GENERAL PROVISIONS**

**83.** The purpose of this Chapter, as provided for in section 314 of the Act, is to prescribe the rules pertaining to retrospective adjustment of the assessment of an employer who qualifies for the assessment year.

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Decision 2010-11-18, s. 83.

**84.** In this Chapter,

**“reference period”** means the assessment year and the 3 following years.

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Decision 2010-11-18, s. 84.

**85.** In establishing the amount of insurable wages paid to an employer's workers and the cost of the benefits imputed to the employer, the Commission takes into account, with the necessary modifications, the protection provided under section 18 of the Act to the employer or to an executive

officer of the employer who, in addition to sitting on the board of directors, does work for the employer.

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Decision 2010-11-18, s. 85.

**86.** For the purpose of any calculation performed under this Chapter, where an employer is classified in several units, the aggregate of the results obtained for all such units must be taken into account.

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Decision 2010-11-18, s. 86.

## **DIVISION II**

### **QUALIFICATION**

**87.** An employer qualifies for retrospective adjustment of its annual assessment as provided for in section 314 of the Act for an assessment year if the product obtained by multiplying the insurable wages paid to the employer's workers during the year prior to the year preceding the assessment year with respect to the unit in which the employer is classified for the prior year by that unit rate according to risk for the prior year, is equal to or greater than the qualifying threshold determined in accordance with section 93 for the year prior to the year preceding the assessment year.

In this Division, "unit rate according to risk" means that portion of the general unit rate that corresponds to the financial requirements that the Commission apportions according to risk at the time the rate is fixed under section 304 of the Act.

For the purposes of this Division, the insurable wages paid with respect to the unit include the wages of auxiliary workers, as apportioned by the Commission in accordance with section 26 with respect to that unit.

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Decision 2010-11-18, s. 87.

**88.** An employer may also apply to qualify for retrospective adjustment of its annual assessment for an assessment year if the employer satisfies either of the following conditions:

(1) the product obtained by multiplying the insurable wages paid to the employer's workers during the assessment year by the unit rate according to risk for the unit in which the employer is classified for that year is equal to or greater than the qualifying threshold determined in accordance with section 93 for the assessment year; or

(2) the employer qualifies for retrospective adjustment of its assessment for the year preceding the assessment year and the product obtained by multiplying the insurable wages paid to the employer's workers during the year prior to the year preceding the assessment year by the unit rate according to risk for the unit in which the employer is classified for that prior year is equal to at least 75% of the qualifying threshold determined in accordance with section 93 for the year prior to the year preceding the assessment year.

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Decision 2010-11-18, s. 88.

**89.** An employer who qualifies for retrospective adjustment of its assessment for an assessment year pursuant to section 87 may request that the qualification be determined anew for the assessment year using the condition provided for in paragraph 1 of section 88.

An employer who does not qualify for retrospective adjustment of its annual assessment for an assessment year but who becomes qualified for that year under section 87 after the date prescribed for notifying the Commission of the election referred to in section 101, is deemed to have made an application under the first paragraph unless the employer has made an application under section 88 for that year.

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Decision 2010-11-18, s. 89.

**90.** Where an employer that qualifies for retrospective adjustment of its assessment for an assessment year intends to make an agreement with the Commission in accordance with section 284.2 of the Act in connection with the application of personalized rates and the procedure for

calculating such rates, the employer may, if it satisfies the following conditions, apply for an exemption from retrospective adjustment for that assessment year:

- (1) the employer was a party to such an agreement during at least 3 of the 4 years preceding the assessment year and the employer was not qualified for retrospective adjustment of its assessment during the 3 years preceding the assessment year;
- (2) the product obtained by multiplying the insurable wages paid to the employer's workers during the year prior to the year preceding the assessment year with respect to the unit in which the employer is classified for the prior year by that unit's rate according to risk for the prior year, is less than twice the qualifying threshold determined in accordance with section 93 for the year prior to the year preceding the assessment year.

That employer will not qualify for retrospective adjustment of its assessment for that assessment year if the employer is a party to such an agreement throughout the assessment year.

Decision 2010-11-18, s. 90; Decision 2011-12-15, s. 1.

**91.** An employer may not avail itself of the provisions of section 90 for more than 3 consecutive years.

Decision 2010-11-18, s. 91.

**92.** An application made by an employer under section 88 and under the first paragraph of section 89 must reach the Commission before 15 December of the year preceding the assessment year, and the application is irrevocable for that assessment year from that date forward.

An application for a given assessment year made under paragraph 1 of section 88 by an employer beginning its activities after the date prescribed in the first paragraph must reach the Commission before the date on which the employer begins its activities, and the application is irrevocable for that assessment year from that date forward.

An application made by an employer under section 90 must reach the Commission before 1 October of the year preceding the assessment year, and the application is irrevocable for that assessment year from that date forward.

Decision 2010-11-18, s. 92.

**93.** The qualifying threshold for the year prior to the year preceding 2011 is \$298,600.

For every subsequent year, the qualifying threshold is determined by applying the following formula and rounding off the result to the nearest \$100:

$$\begin{array}{ccccccc}
 \text{qualifying} & & \text{qualifying} & & \text{maximum yearly} & & \text{average general rate} \\
 \text{threshold} & & \text{threshold} & & \text{insurable} & & \text{adjusted according} \\
 \text{for the} & & \text{for the} & & \text{earnings for} & & \text{to risk for the year} \\
 \text{year} & = & \text{preceding} & \times & \text{the year} & \times & \\
 & & \text{year} & & & & \\
 & & & & \text{maximum yearly} & & \text{average general rate} \\
 & & & & \text{insurable} & & \text{adjusted according} \\
 & & & & \text{earnings for} & & \text{to risk for the} \\
 & & & & \text{the preceding year} & & \text{preceding year}
 \end{array}$$

The average adjusted rate according to risk is the rate established by the Commission at the time the rates of assessment applicable to the classification units are fixed for an assessment year in accordance with section 304 of the Act.

Decision 2010-11-18, s. 93.

### **DIVISION III**

#### **RETROSPECTIVE ADJUSTMENT OF THE EMPLOYER'S ANNUAL ASSESSMENT**

## § 1. — *General provision*

**94.** The Commission must retrospectively adjust an employer's annual assessment after the expiry of the reference period, in accordance with the rules provided for in this Division.

Decision 2010-11-18, s. 94.

## § 2. — *Determination of the adjusted assessment*

**95.** The Commission determines, in accordance with this Subdivision, an employer's adjusted assessment by taking into account every industrial accident that has occurred and every occupational disease that has been reported in that year, when the cost of the benefits resulting from the accident or disease was imputed to the employer in whole or in part.

Decision 2010-11-18, s. 95.

### **A.- *Determination of the total cost***

**96.** For each accident and disease contemplated in section 95, the Commission determines the compensation cost in accordance with the rules provided for in this Subdivision. The cost corresponds to the amount required to pay all benefits resulting from the accident or disease with the exception of the portion imputed, pursuant to section 327, 328 or 329 of the Act, to another employer, to the employers of one, several, or all the units, or to the reserve provided for in paragraph 2 of section 312 of the Act.

The Commission then applies, in accordance with this Subdivision, the factors used to determine the total cost of such accidents or diseases.

Decision 2010-11-18, s. 96.

**97.** The compensation cost of an accident or disease contemplated in section 95 is determined as follows:

(1) calculate the aggregate of:

(a) the total obtained by adding the cost of the rehabilitation benefits to which the worker is entitled under Chapter IV of the Act (with the exception of reimbursements made under section 176 of the Act), the cost of medical aid benefits to which the worker is entitled under Chapter V of the Act for services rendered or items received during the reference period, and the cost of services provided by a health professional designated by the Commission under section 204 of the Act in respect of services rendered during that period;

(b) the total of all income replacement indemnities to which the worker is entitled under Division I of Chapter III of the Act and which relate to a period included in the reference period;

(c) the total of all lump sum death benefits to which beneficiaries are entitled under the second paragraph of section 102 and under section 103 of the Act, where a minor child reaches the age of majority in the reference period, even if the decision granting such benefits has not yet become final;

(d) the total of all indemnities paid in the form of a pension to which beneficiaries are entitled under section 101 and the first paragraph of section 102 of the Act and which relate to a period included in the reference period;

(e) the total of all expenses reimbursable under section 111 of the Act for services rendered or items received during the reference period;

(f) the total of all other indemnities to which beneficiaries are entitled under Division III of Chapter III of the Act where the death occurred during the reference period, even if the decision granting the indemnities has not yet become final;

(g) the total of all other indemnities to which the beneficiaries are entitled under Division IV of Chapter III of the Act for services rendered during the reference period, or, in the case of a benefit contemplated in section 116 of the Act, where the date on which the assessments are payable falls within the same period;



(2) multiply the result obtained in subparagraph 1 by the factor determined in accordance with Division III of Schedule 6;

(3) add the result obtained in subparagraph 2, the total amount of indemnities for bodily injuries to which the beneficiaries are entitled under Division II of Chapter III of the Act where the initial decision granting the indemnities was rendered during the reference period, even if the decision has not yet become final, and the reimbursements made under section 176 of the Act during the reference period.

The interest applicable to the benefits is not taken into account for the purposes of the first paragraph.

Decision 2010-11-18, s. 97.

**98.** The compensation cost determined in accordance with section 97 is increased by the amount obtained by multiplying the cost by the unit share for the unit in which the employer is classified. The unit share is established by applying the following formula:

$$\text{unit share} = \frac{\text{aggregate compensation cost determined on the basis of the cost of benefits imputed to all employers in the employer's unit or to all employers in several units that include the employer's unit, excluding the cost of benefits imputed to employers in all units}}{\text{aggregate compensation cost determined on the basis of the cost of benefits imputed to each employer in the unit in which the employer is classified}}$$

Decision 2010-11-18, s. 98.

**99.** The total cost of an accident or disease referred to in section 95 is obtained by applying the following formula which allows for the coverage of financial requirements apportioned by the Commission according to risk at the time the rate applicable to the classification units is fixed for the assessment year pursuant to section 304 of the Act, which financial requirements are established on the basis of the Commission's financial statements, excluding however, the cost related to the distribution of surpluses or the recovery of deficits financed according to risk if such surpluses and deficits were previously considered in retrospective adjustments for prior years. The formula also allows for the coverage of the amount required to finance the employer's portion of the cost of benefits imputed to employers in all units and the taking into account of the corrections to retrospective adjustments of qualifying employers, and ensures equitable apportionment of assessments between those employers who qualify for retrospective adjustment of their assessments and other employers:

$$\text{total cost of an accident or disease} = \frac{\text{cost of compensation as increased under section 98}}{\text{factor established by the Commission after an actuarial valuation}} \times$$

Decision 2010-11-18, s. 99.

### ***B.- Application of the assumption limit to the total cost***

**100.** For the purpose of determining the employer's adjusted assessment, the total cost of an accident or disease contemplated in section 95 may not exceed the assumption limit elected by the employer or determined in accordance with this Subdivision.

Decision 2010-11-18, s. 100.

**101.** An employer who qualifies for retrospective adjustment of its assessment or who applies to qualify pursuant to section 88 in respect of an assessment year, must send to the Commission, by 15 December of the year preceding the assessment year, a notice stating that, in respect of that

assessment year, the employer elects to assume the total cost of benefits payable in respect of an accident or disease contemplated in section 95, up to a limit per claim of 1 1/2, 2, 2 1/2, 3, 4, 5, 6, 7, 8 or 9 times the maximum yearly insurable earnings for the assessment year.

An employer beginning its activities after the date prescribed in the first paragraph of section 92 who applies for retrospective adjustment of its assessment pursuant to paragraph 1 of section 88 must send the notice referred to in the first paragraph before the date on which the employer begins its activities.

Failing such notice, the employer is deemed to have elected the limit of 1 1/2, 2, 2 1/2, 3, 4, 5, 6, 7, 8 or 9 times the maximum yearly insurable earnings for the assessment year, on the basis of the election applicable to the preceding year. However, where no such limit applied to the employer for that year, it is deemed to have elected a limit equal to 1 1/2 times the maximum yearly insurable earnings.

Decision 2010-11-18, s. 101.

**102.** Where an employer does not qualify for retrospective adjustment of its annual assessment for an assessment year but subsequently qualifies for that year after the time limit prescribed for notifying the Commission of the employer's election, the employer is deemed to have elected a limit of 1 1/2 times the maximum yearly insurable earnings for that assessment year. However, where the employer qualified for retrospective assessment of its assessment for the year preceding the assessment year, the employer is then deemed to have elected a limit equal to 1 1/2, 2, 2 1/2, 3, 4, 5, 6, 7, 8 or 9 times the maximum yearly insurable earnings for the assessment year, on the basis of the election applicable to the previous year.

Decision 2010-11-18, s. 102.

**103.** The notice given by an employer pursuant to the first paragraph of section 101 is irrevocable in respect of an assessment year from 15 December of the year preceding the assessment year.

The notice given by an employer pursuant to the second paragraph of the said section is irrevocable in respect of an assessment year, from the date the employer begins its activities.

Decision 2010-11-18, s. 103.

### ***C.- Calculation of the risk-related portion of the adjusted assessment***

**104.** The Commission calculates the risk-related portion of the employer's adjusted assessment by adding the following elements:

(1) the total cost of the accidents and diseases contemplated in section 95 as limited under Subdivision B;

(2) the cost of insurance determined by applying the following formula:

$$\begin{array}{lcl} \text{cost of} & & \text{product obtained by multiplying} \\ \text{insurance} & = & \text{the insurable wages paid to the} \\ & & \text{employer's workers during} \\ & & \text{the assessment year by the} \\ & & \text{risk-related portion of the rate} \\ & & \text{applicable to the employer} \\ & & \text{for that year pursuant to} \\ & & \text{section 305 of the Act} \end{array} \quad \times \quad \begin{array}{l} \text{insurance premium} \\ \text{determined for the} \\ \text{assessment year pursuant} \\ \text{to section 105 and} \\ \text{Schedule 7} \end{array}$$

However, the total amount may not exceed 1 1/2 times the product obtained by multiplying the insurable wages paid to the employer's workers during the assessment year by the risk-related portion of the rate applicable to the employer for that year pursuant to section 305 of the Act.

Decision 2010-11-18, s. 104.

**105.** The insurance premium used for the purposes of the calculation in section 104 is a percentage established using the table in Schedule 7. The percentage is determined by taking into account the amount of the risk-related portion of the assessment for the assessment year and the assumption limit for the cost of benefits applicable to the employer for that year.

The amount of the risk-related portion of the assessment is obtained by applying the following formula:

$$\begin{array}{lcl} \text{amount of an} & \text{insurable wages paid} & \text{risk-related portion} \\ \text{employer's} & \text{to the employer's workers} & \text{of the rate} \\ \text{risk-related} & \text{during the assessment year} & \text{applicable to the} \\ \text{portion of} & & \text{employer for that} \\ \text{the assessment} & & \text{year pursuant to} \\ \text{for an} & & \text{section 305 of} \\ \text{assessment year} & & \text{the Act} \end{array} \quad = \quad \times$$

Decision 2010-11-18, s. 105.

**106.** The percentages shown in the table in Schedule 7 are applicable to the precise amount of the risk-related portion of the assessment corresponding to each percentage. However, when the amount of the assessment falls between 2 assessment levels shown in the table, the percentage is calculated by linear interpolation, and the result is rounded off to the nearest hundredth of a percent.

Decision 2010-11-18, s. 106.

#### ***D.- Calculation of the adjusted assessment***

**107.** The Commission determines the employer's adjusted assessment by adding the following elements:

- (1) the risk-related portion of the employer's adjusted assessment as calculated under section 104;
- (2) the portion of the employer's adjusted assessment that is used to finance the joint sector-based associations insofar as applicable to the employer;
- (3) the employer's portion of the cost of the financial requirements not apportioned according to risk, which portion is determined by applying the following formula:

$$\begin{array}{lcl} \text{insurable wages paid} & & \text{factor established by the Commission} \\ \text{to the employer's} & & \text{after an actuarial valuation and} \\ \text{workers during the} & & \text{which reflects the financial requirements} \\ \text{assessment year} & & \text{not apportioned according to risk} \\ \hline & \times & \\ 100 & & \end{array}$$

Decision 2010-11-18, s. 107.

**108.** For the purposes of this Division and of Division IV, for employers to which a specific unit rate applies, the cost of requirements not financed by the rate is excluded from the cost of the financial requirements considered in applying the provisions contained in the said Divisions.

Decision 2010-11-18, s. 108.

#### ***§ 3. — Calculation of retrospective adjustment of the assessment***

**109.** The Commission calculates the employer's retrospective adjustment of the assessment by calculating the difference between the assessment adjusted in accordance with section 107 and the assessment calculated using the rate applicable to the employer under section 305 of the Act for the assessment year, by taking into account, where applicable, the provisional adjustments provided for in Division IV.

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Decision 2010-11-18, s. 109.

## **DIVISION IV**

### **PROVISIONAL ADJUSTMENTS**

#### **§ 1. — *Initial provisional adjustment***

**110.** The Commission, upon the expiry of the second year of the reference period, provisionally adjusts an employer's assessment by performing the calculations provided for in Division III, taking into account the following distinctions:

(1) in applying section 97, the compensation cost is the cost determined for the first 2 years of the reference period, and, for the purposes of subparagraph 2 of the first paragraph of that section, the applicable factor is the factor determined under Division I of Schedule 6. The cost is calculated on the basis of the information for those years that is available on 31 January of the year following the second year of the reference period; and

(2) in applying section 99, the formula also ensures that the aggregate risk-related portion of the adjusted assessments of all employers who qualify for retrospective adjustment of their assessment for that year approximates the total amount that the Commission anticipates receiving at the time of retrospective adjustment.

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Decision 2010-11-18, s. 110.

#### **§ 2. — *Second provisional adjustment***

**111.** The Commission, upon the expiry of the third year of the reference period, provisionally adjusts an employer's assessment at the request of the employer by performing the calculations provided for in Division III, taking into account the following distinctions and the provisional adjustment provided for in section 110:

(1) in applying section 97, the compensation cost is the cost determined for the first 3 years of the reference period, and, for the purposes of subparagraph 2 of the first paragraph of that section, the applicable factor is the factor determined under Division II of Schedule 6. The cost is calculated on the basis of the information for those years that is available on 31 January of the year following the third year of the reference period; and

(2) in applying section 99, the formula also ensures that the aggregate risk-related portion of the adjusted assessment of all employers who qualify for retrospective adjustment of their assessment for that year approximates the total amount that the Commission anticipates receiving at the time of retrospective adjustment.

An application made by an employer under this section must reach the Commission before 15 December of the third year of the reference period and is irrevocable from that date forward.

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Decision 2010-11-18, s. 111.

## **DIVISION V**

### **BANKRUPTCY OF AN EMPLOYER OR CESSATION OF AN EMPLOYER'S ACTIVITIES**

#### **§ 1. — *Bankruptcy of an employer***

**112.** The bankruptcy of an employer that occurs within the first 21 months of the reference period renders the employer ineligible for retrospective adjustment of its assessment for the assessment year. Where the employer qualifies for a personalized rate for that year, the Commission applies section 71 as if the employer qualified for retrospective adjustment of its assessment for that year.

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Decision 2010-11-18, s. 112.

**113.** The Commission calculates retrospective adjustment of the assessment of an employer who qualifies for an adjustment for an assessment year and whose bankruptcy occurs after the 21st month of the reference period in accordance with the rules set out in this Subdivision on the basis of the date on which the bankruptcy occurred.

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Decision 2010-11-18, s. 113.

**114.** Where the bankruptcy of an employer occurs

(1) after the 21st month of the reference period, retrospective adjustment of the assessment for the assessment year is calculated upon the expiry of the second year of the reference period, in accordance with section 110. If the Commission has already made an initial provisional adjustment, that adjustment constitutes retrospective adjustment of the assessment;

(2) after the 33rd month of the reference period, retrospective adjustment of the assessment for the assessment year is calculated upon the expiry of the third year of the reference period, in accordance with section 111, even if the employer has not requested it. If the Commission has already made the second provisional adjustment, that adjustment constitutes retrospective adjustment of the assessment;

(3) after the 45th month of the reference period, retrospective adjustment of the assessment for the assessment year is calculated upon the expiry of the reference period, in accordance with section 109, if the adjustment has not already been made.

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Decision 2010-11-18, s. 114.

**§ 2. — Cessation of an employer's activities**

**115.** An employer who no longer employs any workers because its activities have ceased may request that the Commission apply all the rules prescribed in this Subdivision.

An application made by an employer under this section must reach the Commission not later than the sixtieth day following the date of the cessation of the employer's activities, and is irrevocable from that date forward.

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Decision 2010-11-18, s. 115.

**116.** In calculating retrospective adjustment of the assessment of an employer applying under section 115 who, for a given assessment year, qualifies for such adjustment, the Commission applies the rules prescribed in this Subdivision and bases its calculation on the date of the cessation of its activities.

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Decision 2010-11-18, s. 116.

**117.** Where the cessation of the employer's activities occurs:

(1) in the first 21 months of the reference period, retrospective adjustment of the assessment corresponds to 20% of the product obtained by multiplying the insurable wages paid to its workers during the assessment year by the risk-related portion of the rate applicable to it for that year pursuant to section 305 of the Act;

(2) after the 21st month of the reference period, retrospective adjustment of the assessment for the assessment year is calculated after the expiry of the second year of the reference period by adding the initial provisional adjustment calculated in accordance with section 110 and the amount corresponding to 15% of the product obtained by multiplying the insurable wages paid to its workers during the assessment year by the risk-related portion of the rate applicable to it for that year pursuant to section 305 of the Act;

(3) after the 33rd month of the reference period, retrospective adjustment of the assessment for the assessment year is calculated after the expiry of the third year of the reference period by adding the second provisional adjustment calculated in accordance with section 111 and the amount corresponding to 10% of the product obtained by multiplying the insurable wages paid to its workers during the assessment year by the risk-related portion of the rate applicable to it for that year pursuant to section 305 of the Act;

(4) after the 45th month of the reference period, retrospective adjustment of the assessment for the assessment year is, if the adjustment has not already been made, calculated in accordance with section 109 after the expiry of the reference period.

Decision 2010-11-18, s. 117.

## **DIVISION VI**

### **GROUP OF EMPLOYERS**

#### *§ 1. — Parent company or partnership and subsidiaries*

**118.** In this Subdivision,

**“control”** means

(1) to hold shares, other than as a creditor, representing more than 50% of the votes needed to elect the majority of the directors of a joint stock company;

(2) to hold more than 50% of the votes needed to make decisions pertaining to a general partnership or a limited partnership;

**“subsidiary”** means a company or partnership controlled by a parent company or partnership directly or through its subsidiaries;

**“group”** means the group formed by a parent company or partnership and its subsidiaries;

**“company or partnership”** means a joint stock company, a general partnership or a limited partnership;

**“parent company or partnership”** means a legal person established under Part III of the Companies Act (chapter C-38), a cooperative established under the Cooperatives Act (chapter C-67.2), a cooperative of financial services established under the Act respecting financial services cooperatives (chapter C-67.3), a corporation incorporated or continued under the Canada Not-for-profit Corporations Act (S.C. 2009, c. 23) or a company or partnership that is not a subsidiary and that directly or through its subsidiaries, controls each of the companies or partnerships forming a group.

Decision 2010-11-18, s. 118; Decision 2013-02-21, s. 1.

**119.** For an assessment year, the employers belonging to the group may apply to be considered a single employer for the purpose of retrospective adjustment of the assessment.

Decision 2010-11-18, s. 119.

**120.** An application under section 119 must be signed by all the employers in the group and submitted using the form containing all the elements required by this section, as made available by the Commission, in particular on its website.

All the employers in the group must apply, for the assessment year, to be considered as a single employer for the purposes of retrospective adjustment of the assessment for that year. They must state that they form a group within the meaning of section 118, designate one of their number to send a notice to the Commission under section 101 stating the limit for the assumption of costs, and designate a person to act as the contact person for the group with the Commission.

The application must be accompanied by the following documents:

(1) a resolution from each employer in the group authorizing the application and designating one person to sign the application on the employer's behalf;

(2) a resolution from the parent company or partnership authorizing the application submitted by its subsidiaries, if the parent company or partnership is not an employer;

(3) a resolution from the parent company or partnership or an affidavit by an officer of that company or partnership attesting to the composition of the group and to its control of its subsidiaries; the resolution or statement may not be dated prior to 1 August of the year preceding the assessment year and must attest to the composition and to the control on the date of the resolution or affidavit.

Decision 2010-11-18, s. 120; I.N. 2016-01-01 (NCCP).

**121.** Within 45 days after receiving a request from the Commission, a group of employers must send the Commission a suretyship using the form containing all the elements required by this section, as made available by the Commission, in particular on its website. The suretyship must be signed by all the employers in the group.

Under the suretyship, the employers solidarily stand surety in favour of the Commission for the assessment due by the group, including the adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year by each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer under section 305 of the Act for the assessment year, and any interest owed to the Commission. The employers must, however, waive the benefits of discussion and division.

An employer who ceases to belong to the group continues to stand surety for the assessment for the part of the year during which it belonged to the group.

An employer is not required to stand surety for another member of the group where the employer is prohibited from doing so by the Act under which it was constituted.

Failure by the group to send the suretyship, as well as any other document required under this Subdivision, to the Commission within the prescribed time limit leads to the revocation of the application submitted under section 119.

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Decision 2010-11-18, s. 121.

**122.** The group may, in place of the suretyship required under section 121, submit to the Commission an insurance contract, a suretyship contract or a guarantee contract issued by a legal person governed by the Bank Act (S.C. 1991, c. 46), the Savings and Credit Unions Act (chapter C-4.1), the Act respecting trust companies and savings companies (chapter S-29.01) or the Act respecting Insurance (chapter A-32), under which that legal person undertakes to pay the assessment owed by the group, including adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year of each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer pursuant to section 305 of the Act, and any interest owed to the Commission.

The contract must remain in force until the expiry of the second year following the year of retrospective adjustment of the assessment provided for in section 109.

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Decision 2010-11-18, s. 122.

**123.** An application under section 119 must be filed with the Commission prior to 1 October of the year preceding the assessment year and is irrevocable from 1 January of the assessment year.

The Commission rules on the admissibility of the application on the basis of the information included therein on 30 September of the year preceding the assessment year and on the basis of the information in the Commission's possession at that time.

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Decision 2010-11-18, s. 123.

**124.** A subsidiary in bankruptcy or being wound up at the time of the application provided for in section 119 is deemed to be not controlled by its parent company or partnership.

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Decision 2010-11-18, s. 124.

**125.** An employer that, after the date of the resolution or statement prescribed in subparagraph 3 of the third paragraph of section 120, becomes a subsidiary of the parent company or partnership of a group of employers who have submitted an application under section 119 is considered to form part of the group for that assessment year from the date on which the employer becomes a subsidiary. The same applies to a subsidiary that later becomes an employer, from the same date.

The election made by the group under section 101 is applicable to the employer.

Decision 2010-11-18, s. 125.

**126.** An employer who has submitted an application under section 119 and who ceases to be controlled by the parent company or partnership after the date of the resolution or statement prescribed in subparagraph 3 of the third paragraph of section 120 is considered to no longer form part of the group from the date on which the employer ceases to be so controlled.

If the employer then qualifies for retrospective adjustment of the assessment under section 87 for the assessment year, it is deemed to have elected the assumption limit applicable to the group unless the employer sends to the Commission the notice provided for in section 101 within the prescribed period.

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Decision 2010-11-18, s. 126.

**127.** A group of employers that qualifies for retrospective adjustment of the assessment pursuant to an application submitted under section 119 and that ceases to qualify for retrospective adjustment for a year may not submit a new application under that section before the expiry of a 5 year period from that year.

Despite the foregoing, the first paragraph does not apply to a group of employers that ceases to qualify for retrospective adjustment because it no longer satisfies the requirements of section 87, except if it does not submit an application under section 119, for one year, as soon as it once again meets the requirements of section 87.

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Decision 2010-11-18, s. 127.

**128.** Employers considered to be one and the same employer for the purposes of retrospective adjustment of the assessment for a given year must provide, prior to 1 March of the following year, a report from an independent auditor attesting to the composition of the group, to the parent company or partnership's control of its subsidiaries during the assessment year, and to any change in the group having occurred during that year.

If the employers fail to file the report referred to in the first paragraph within the prescribed time, the Commission appoints an auditor for the purpose of providing the report.

The expenses incurred by the Commission for that purpose are apportioned prorata among the employers of the group according to the insurable wages paid for the assessment year to the workers of each employer and are added to the elements taken into account in determining the adjusted assessment of each employer in accordance with section 107.

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Decision 2010-11-18, s. 128; Decision 2014-09-18, s. 1, 2, et 3.

**129.** A group that files an application under section 119 is deemed to have made an application under section 88. However, the group is not entitled to have its qualification for retrospective adjustment of its assessment determined on the basis of paragraph 1 of section 88.

Section 89 does not apply to a group.

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Decision 2010-11-18, s. 129.

**130.** To apportion the retrospectively adjusted assessment among the employers in the group, the Commission calculates the adjusted assessment of each employer.

The risk-related portion of each employer's adjusted assessment is then multiplied by the result obtained by applying the following formula:

$$\frac{\text{risk-related portion of the group's adjusted assessment}}{\text{aggregate risk-related portions of the adjusted assessment of each employer in the group}}$$



Decision 2010-11-18, s. 130.

§ 2. — *Public health and social services institutions*

**131.** In this Subdivision,

**“board of directors”** means a board of directors established under sections 119 to 125, 127 or 128 of the Act respecting health services and social services (chapter S-4.2);

**“group”** means all the institutions administered by the same board of directors;

**“institution”** means a public institution referred to in section 98 of the Act respecting health services and social services.

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Decision 2010-11-18, s. 131.

**132.** For an assessment year, the employers belonging to the group may apply to be considered as a single employer for the purposes of retrospective adjustment of the assessment.

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Decision 2010-11-18, s. 132.

**133.** An application under section 132 must be signed by all the employers in the group and submitted using the form containing all the elements required by this section, as made available by the Commission, in particular on its website.

All the employers in the group must apply, for the assessment year, to be considered as a single employer for the purposes of retrospective adjustment of the assessment for that year. They must state that they form a group within the meaning of section 131, designate one of their number to send a notice to the Commission under section 101 stating the limit for the assumption of costs, and designate a person to act as the contact person for the group with the Commission.

The application must be accompanied by the following documents:

(1) a resolution from the board of directors authorizing the filing of the application in respect of all the employers in the group and designating one person to sign the application on the group's behalf;

(2) a resolution from the board of directors, attesting to the composition of the group; the resolution may not be dated prior to 1 August of the year preceding the assessment year and must attest to the composition on the date of the resolution.

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Decision 2010-11-18, s. 133.

**134.** An application under section 132 must be filed with the Commission before 1 October of the year preceding the assessment year and is irrevocable from 1 January of the assessment year.

The Commission rules on the admissibility of the application on the basis of the information contained therein on 30 September of the year preceding the assessment year and on the basis of the information in the Commission's possession at that time.

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Decision 2010-11-18, s. 134.

**135.** An employer who, after the date of the resolution provided for in subparagraph 2 of the third paragraph of section 133, comes under the administration of the board of directors of a group that has submitted an application under section 132 is considered part of that group for the assessment year from the date on which such administration begins. The same applies to an institution that is administered by that board of directors and that subsequently becomes an employer, from the same date.

The election made by the group under section 101 is applicable to the employer and the institution.

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Decision 2010-11-18, s. 135.

**136.** An employer who, after the date of the resolution provided for in subparagraph 2 of the third paragraph of section 133, ceases to be administered by the board of directors of the group is no longer considered part of that group, from the date on which that administration ceases.

If the employer qualifies for retrospective adjustment of the assessment under section 87 for the assessment year, it is deemed to have elected the limit applicable to the group unless the notice provided for in section 101 reaches the Commission within the prescribed time limit.

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Decision 2010-11-18, s. 136.

**137.** A group of employers that qualifies for retrospective adjustment of the assessment pursuant to an application under section 132 and that ceases to qualify for a year cannot submit a new application under that section before the expiry of a 5-year period from that year.

Despite the foregoing, the first paragraph does not apply to a group of employers that ceases to qualify for retrospective adjustment because it no longer meets the requirements of section 87, unless it does not submit an application under section 132, for one year, as soon as it meets the requirements of section 87.

For the purpose of this section, any group having the same board of directors as the group that ceased to qualify for retrospective adjustment is deemed to be the same group.

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Decision 2010-11-18, s. 137.

**138.** The employers in the group must file, prior to 1 March of the year following the assessment year, a resolution of the board of directors attesting to the composition of the group during the assessment year and to any change in the group having occurred during that year.

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Decision 2010-11-18, s. 138.

**139.** A group that makes an application under section 132 is deemed to have made an application under section 88. However, the group is not entitled to have its qualification for retrospective adjustment of its assessment determined on the basis of paragraph 1 of section 88.

Section 89 does not apply to a group.

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Decision 2010-11-18, s. 139.

**140.** To apportion the retrospectively adjusted assessment among the employers in the group, the Commission calculates the adjusted assessment of each employer.

The risk-related portion of each employer's adjusted assessment is then multiplied by the result obtained by applying the following formula:

$$\frac{\text{risk-related portion of the group's adjusted assessment}}{\text{aggregate risk-related portions of the adjusted assessment of each employer in the group}}$$

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Decision 2010-11-18, s. 140.

### § 3. — *Cree bands and subsidiaries*

**141.** In this Subdivision,

“**Cree band**” means a band incorporated under section 12 of the Cree-Naskapi (of Quebec) Act (S.C., 1984, c. 18);

“**control**” means to hold shares, other than as a creditor, representing more than 50% of the votes needed to elect the majority of the directors of a joint stock company;

**“subsidiary”** means a joint stock company controlled by one or more Cree bands directly or through their subsidiaries;

**“group”** means the group formed by all Cree Bands, their subsidiaries, the Oujé-Bougoumou Eenou Companeé and the Oujé-Bougoumou Eenouch Association and such legal persons as may be the successors, in whole or in part, of the Oujé-Bougoumou Eenou Companeé or the Oujé-Bougoumou Eenouch Association.

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Decision 2010-11-18, s. 141.

**142.** For an assessment year, the employers belonging to the group may apply to be considered as a single employer for the purpose of retrospective adjustment of the assessment.

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Decision 2010-11-18, s. 142.

**143.** An application under section 142 must be signed by all the employers in the group and submitted using the form containing all the elements required by this section, as made available by the Commission, in particular on its website.

All the employers in the group must apply, for the assessment year, to be considered as a single employer for the purposes of retrospective adjustment of the assessment for that year. They must state that they form a group within the meaning of section 141, designate one of their number to send a notice to the Commission under section 101 stating the limit for the assumption of costs, and designate a person to act as the contact person for the group with the Commission.

The application must be accompanied by the following documents:

- (1) a resolution from each employer in the group authorizing the filing of the application and designating one person to sign the application on its behalf;
- (2) a resolution from each Cree band authorizing the application to be submitted by their subsidiaries;
- (3) a report from an independent auditor attesting to the composition of the group and to the control of the Cree bands over their subsidiaries; the report may not be dated prior to 1 August of the year preceding the assessment year and must attest to the composition and control on the date of the report.

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Decision 2010-11-18, s. 143; Decision 2014-09-18, s. 1 and 2.

**144.** Within 45 days after receiving a request from the Commission, the group of employers must send the Commission a suretyship using the form containing all the elements required by this section, as made available by the Commission, in particular on its website. The suretyship must be signed by all the employers in the group.

Under the suretyship, the employers solidarily stand surety in favour of the Commission for the assessment due by the group, including the adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year by each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer under section 305 of the Act for the assessment year, and any interest owed to the Commission. The employers must, however, waive the benefits of discussion and division.

An employer who ceases to belong to the group continues to stand surety for the assessment for the part of the year during which it belonged to the group.

An employer is not required to stand surety for another member of the group where the employer is prohibited from doing so by the Act under which it was constituted as a legal person.

Failure by the group to send the suretyship to the Commission, as well as any other document required under this Subdivision, within the prescribed time limit leads to the revocation of the application submitted under section 142.

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Decision 2010-11-18, s. 144.

**145.** The group may, in place of the suretyship required under section 144, submit to the Commission an insurance contract, a suretyship contract or a guarantee contract issued by a legal person governed by the Bank Act (S.C. 1991, c. 46), the Act respecting trust companies and savings companies (chapter S-29.01) or the Act respecting Insurance (chapter A-32), under which that legal person undertakes to pay the assessment owed by the group, including adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year of each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer pursuant to section 305 of the Act, and any interest owed to the Commission.

The contract must remain in force until the expiry of the second year following the year of retrospective adjustment of the assessment provided for in section 109.

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Decision 2010-11-18, s. 145.

**146.** An application under section 142 must be filed with the Commission prior to 1 October of the year preceding the assessment year and is irrevocable from 1 January of the assessment year.

The Commission rules on the admissibility of the application on the basis of the information included therein on 30 September of the year preceding the assessment year and on the basis of the information in the Commission's possession at that time.

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Decision 2010-11-18, s. 146.

**147.** For the purposes of this Subdivision, a subsidiary in bankruptcy or being wound up at the time of the application provided for in section 142 is deemed to be not controlled by one or more Cree bands.

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Decision 2010-11-18, s. 147.

**148.** An employer who, after the date of the report provided for in subparagraph 3 of the third paragraph of section 143, becomes a subsidiary of one or more Cree bands or succeeds, in whole or in part, Oujé-Bougoumou Eénou Compagnie or Oujé-Bougoumou Eénou Association, is considered to form part of the group for that assessment year from the date on which the employer becomes a subsidiary of or succeeds those legal persons. The same applies to a subsidiary of a Cree band that later becomes an employer, from the same date.

The election made by the group under section 101 is applicable to the employer.

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Decision 2010-11-18, s. 148; Decision 2014-09-18, s. 2.

**149.** An employer who has submitted an application under section 142 and who ceases to be a subsidiary of one or more Cree bands after the date of the report prescribed in subparagraph 3 of the third paragraph of section 143 is considered to no longer form part of the group from the date on which the employer ceases to be so controlled.

If the employer then qualifies for retrospective adjustment of the assessment under section 87 for the assessment year, it is deemed to have elected the assumption limit applicable to the group unless the employer sends to the Commission the notice provided for in section 101 within the prescribed period.

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Decision 2010-11-18, s. 149; Decision 2014-09-18, s. 2.

**150.** A group of employers that qualifies for retrospective adjustment of the assessment pursuant to an application submitted under section 142 and that ceases to qualify for retrospective adjustment for a year may not submit a new application under that section before the expiry of a 5-year period from that year.

Despite the foregoing, the first paragraph does not apply to a group of employers that ceases to qualify for retrospective adjustment because it no longer satisfies the requirements of section 87, unless it does not submit an application under section 142 for the first year in which it once again meets the requirements of section 87.

Decision 2010-11-18, s. 150.

**151.** Employers considered to be one and the same employer for the purposes of retrospective adjustment of the assessment for a given year must provide, prior to 1 March of the following year, a report from an independent auditor attesting to the composition of the group, to the Cree bands' control of their subsidiaries during the assessment year, and to any change in the group having occurred during that year.

Decision 2010-11-18, s. 151; Decision 2014-09-18, s. 1 and 2.

**152.** A group that makes an application under section 142 is deemed to have made an application under section 88. However, the group is not entitled to have its qualification for retrospective adjustment of the assessment determined on the basis of paragraph 1 of section 88.

Section 89 does not apply to such a group.

Decision 2010-11-18, s. 152.

**153.** To apportion the retrospectively adjusted assessment among the employers in the group, the Commission calculates the adjusted assessment of each employer.

The risk-related portion of each employer's adjusted assessment is then multiplied by the result obtained by applying the following formula:

$$\frac{\text{risk-related portion of the group's adjusted assessment}}{\text{aggregate risk-related portions of the adjusted assessment of each employer in the group}}$$

Decision 2010-11-18, s. 153.

#### § 4. — *Reintegration support fund*

**154.** In this Subdivision,

**“fund”** means a reintegration support fund established pursuant to section 74 of the Act respecting the Québec correctional system (chapter S-40.1);

**“group”** means the group formed by all the funds;

**“Minister”** means the Minister responsible for the administration of the Act respecting the Québec correctional system.

Decision 2010-11-18, s. 154.

**155.** For an assessment year, the employers belonging to the group may apply to be considered a single employer for the purpose of retrospective adjustment of the assessment.

Decision 2010-11-18, s. 155.

**156.** An application under section 155 must be signed by all the employers in the group and submitted using the form containing all the elements required by this section, as made available by the Commission, in particular on its website.

All the employers in the group must apply, for an assessment year, to be considered as a single employer for the purposes of retrospective adjustment of the assessment for that year. They must state that they form a group within the meaning of section 154, designate one of their number to send a notice to the Commission under section 101 stating the limit for the assumption of costs, and designate a person to act as the contact person for the group with the Commission.

The application must be accompanied by the following documents:

(1) a resolution from each employer in the group authorizing the application and designating one person to sign the application on its behalf;

(2) a certificate from the Minister or the Minister's designated representative attesting to the composition of the group; the certificate may not be dated prior to 1 August of the year preceding the assessment year and must attest to the composition on the date of the certificate.

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Decision 2010-11-18, s. 156.

**157.** Within 45 days after receiving a request from the Commission, a group of employers must send the Commission a suretyship using the form containing all the elements required by this section, as made available by the Commission, in particular on its website. The suretyship must be signed by all the employers in the group.

Under the suretyship, the employers solidarily stand surety in favour of the Commission for the assessment due by the group, including the adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year by each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer under section 305 of the Act for the assessment year, and any interest owed to the Commission. The employers must, however, waive the benefits of discussion and division.

An employer who ceases to belong to the group continues to stand surety for the assessment for the part of the year during which it belonged to the group.

Failure by the group to send the suretyship to the Commission, as well as any other document required under this Regulation, within the prescribed time limit leads to the revocation of the application submitted under section 155.

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Decision 2010-11-18, s. 157.

**158.** The group may, in place of the suretyship required under section 157, submit to the Commission an insurance contract, a suretyship contract or a guarantee contract issued by a legal person governed by the Bank Act (S.C. 1991, c. 46), the Savings and Credit Unions Act (chapter C-4.1), the Act respecting trust companies and savings companies (chapter S-29.01) or the Act respecting Insurance (chapter A-32), under which that legal person undertakes to pay the assessment owed by the group, including adjustments, up to a maximum of 50% of the amount corresponding to the sum of the product of the insurable wages paid for the assessment year of each employer in the group multiplied by the risk-related portion of the assessment rate applicable to the employer for the assessment year pursuant to section 305 of the Act, and any interest owed to the Commission.

The contract must remain in force until the expiry of the second year following the year of retrospective adjustment of the assessment provided for in section 109.

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Decision 2010-11-18, s. 158.

**159.** An application under section 155 must be filed with the Commission prior to 1 October of the year preceding the assessment year and is irrevocable from 1 January of the assessment year.

The Commission rules on the admissibility of the application on the basis of the information included therein on 30 September of the year preceding the assessment year and on the basis of the information in the Commission's possession at that time.

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Decision 2010-11-18, s. 159.

**160.** For the purposes of this Subdivision, an employer in bankruptcy or being wound up at the time of the application provided for in section 155 is deemed not to belong to the group.

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Decision 2010-11-18, s. 160.

**161.** Where a Fund becomes an employer after the date of the certificate prescribed in subparagraph 2 of the third paragraph of section 156, it is considered to be an employer belonging to the group for the assessment year, from the date on which it becomes an employer.

The election made by the group under section 101 is applicable to the Fund.

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Decision 2010-11-18, s. 161.

**162.** A group of employers that qualifies for retrospective adjustment of the assessment pursuant to an application submitted under section 155 and that ceases to qualify for retrospective adjustment for a year may not submit a new application under that section before the expiry of a 10-year period from that year.

Despite the foregoing, the first paragraph does not apply to a group of employers that ceases to qualify for retrospective adjustment because it no longer satisfies the requirements of section 87, except if it does not submit an application under section 155 for the first year in which it once again meets the requirements of section 87.

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Decision 2010-11-18, s. 162.

**163.** Employers considered to be one and the same employer for the purposes of retrospective adjustment of the assessment for a given year must provide, prior to 1 March of the following year, a certificate from the Minister or a person designated by the Minister attesting to the composition of the group during the assessment year and to any change in the group having occurred during that year.

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Decision 2010-11-18, s. 163.

**164.** A group that makes an application under section 155 is deemed to have made an application under section 88. However, the group is not entitled to have its qualification for retrospective adjustment of its assessment determined on the basis of paragraph 1 of section 88.

Section 89 does not apply to such a group.

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Decision 2010-11-18, s. 164.

**165.** To apportion the retrospectively adjusted assessment among the employers in the group, the Commission calculates the adjusted assessment of each employer.

The risk-related portion of each employer's adjusted assessment is then multiplied by the result obtained by applying the following formula:

$$\frac{\text{risk-related portion of the group's adjusted assessment}}{\text{aggregate risk-related portions of the adjusted assessment of each employer in the group}}$$


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Decision 2010-11-18, s. 165.

#### **§ 5. — Bankruptcy of an employer that is part of a group**

**166.** The bankruptcy of an employer that is part of a group referred to in Subdivisions 1 and 3, which occurs within the first 21 months of the reference period, renders the employer ineligible for retrospective adjustment of its assessment for the assessment year, and the employer is assessed for that year at the rate that would otherwise have applied to it under section 305 of the Act.

The employer is deemed never to have been part of the group for the purpose of calculating, for the assessment year, any adjustment of the assessment of the other employers in the group.

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Decision 2010-11-18, s. 166.

**167.** The Commission calculates retrospective adjustment of the assessment of an employer who is part of a group for an assessment year and whose bankruptcy occurs after the 21st month of the reference period using the rules set out in sections 113 and 114, with the necessary modifications.

The employer is deemed never to have been part of the group for the purpose of calculating, for the assessment year, any adjustment of the assessment of the other employers in the group subsequent to the adjustment made under the first paragraph.

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Decision 2010-11-18, s. 167.

**168.** Section 167 does not operate so as to reduce the obligations stipulated in the suretyship signed by the employers in a group or in the contract that takes the place of the suretyship pursuant to sections 121, 122, 144 and 145.

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Decision 2010-11-18, s. 168.

## **CHAPTER IV**

### **USE OF EMPLOYER EXPERIENCE**

#### **DIVISION I**

##### **STATEMENT OF PURPOSE**

**169.** The purpose of this Chapter is to prescribe in what cases and on what terms and conditions the Commission may determine the experience of an employer in order to reflect the risk to which the workers are exposed following a transaction defined in section 170, and to prescribe the special assessment procedures applicable to the employer.

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Decision 2010-11-18, s. 169.

#### **DIVISION II**

##### **DEFINITION**

**170.** For the purposes of section 314.3 of the Act and for the purposes of this Chapter, a transaction is regarded as a legal transaction following which the insured risk of an initial employer (the predecessor) is transferred to another employer (the successor) who continues, in whole or in part, the activities of the initial employer. It also includes a merger following which the insured risk of the merging employers (the predecessors) continues in respect of the employer created by the merger (the successor) who continues, in whole or in part, the activities of the merging employers.

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Decision 2010-11-18, s. 170.

#### **DIVISION III**

##### **GENERAL PROVISIONS**

**171.** For the purpose of determining if a successor qualifies for a personalized rate or for retrospective adjustment of the assessment, and in order to fix its assessment under Chapters II and III, the Commission, in accordance with the rules prescribed in this Chapter, uses the predecessor's experience related to employment injury risk insured by the Commission with respect to the activities covered by a transaction where, after the transaction, the risk is transferred to the successor.

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Decision 2010-11-18, s. 171.

**172.** For the purposes of this Chapter, a transaction occurs on the date on which the successor actually continues, in whole or in part, the predecessor's activities, if that date is not the same as that of the legal transaction pursuant to which the activities are continued.

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Decision 2010-11-18, s. 172.

**173.** For the purposes of Subdivision 2 of Division IV and of Division V of this Chapter, the Commission takes into account, in determining the insurable wages paid to an employer's workers and with the necessary modifications, the protection provided for in section 18 of the Act by an employer or an executive officer of the employer who, in addition to sitting on the board of directors, performs work for the employer.

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Decision 2010-11-18, s. 173.



**174.** For the purposes of this Chapter, the insurable wages paid in respect of a unit include the wages apportioned by the Commission in respect of that unit pursuant to section 26.

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Decision 2010-11-18, s. 174.

#### **DIVISION IV**

#### **DETERMINATION OF EMPLOYER EXPERIENCE RELATED TO EMPLOYMENT INJURY RISK USED TO QUALIFY FOR A PERSONALIZED RATE, AND METHOD OF CALCULATING THAT RATE**

##### **§ 1. — *Qualification for a personalized rate and determination of a successor's risk indices***

**175.** To fix a successor's assessment, the Commission determines, in accordance with the rules prescribed in this Subdivision, the successor's qualification for a personalized rate, as well as the first- and second-level risk indices that apply, pursuant to Chapter II, to the first- and second-level unit rates according to risk for each unit in which the successor is classified.

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Decision 2010-11-18, s. 175.

##### ***A.- Assessment and qualification for a personalized rate of a successor commencing its activities following a transaction***

**176.** A successor commencing its activities following a transaction qualifies for a personalized rate for the year in which that transaction takes place if the predecessor qualified, for that year, for such a rate pursuant to Chapter II. The first- and second-level risk indices used, where applicable, to fix the personalized rate are those that applied to the predecessor on the date on which the transaction took place.

For subsequent years, the successor's qualification for a personalized rate, as well as its first- and second-level risk indices, are determined in accordance with Chapter II by adding the predecessor's actual and expected experience for any period prior to the date on which the transaction took place falling within in the first- and second-level reference periods. However, where a predecessor was party to an agreement referred to in Division IV of Chapter II, its actual and expected experience include, for the period commencing on the date on which the transaction took place and ending at the end of the year in which it took place, the actual and expected experience of the prevention mutual group to which it belonged for that year.

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Decision 2010-11-18, s. 176.

**177.** For the purposes of this Chapter, where the predecessor ceased activities before the date on which the transaction took place, its qualification for a personalized rate on the date on which the transaction took place is determined in accordance with Chapter II as if it had not ceased activities, and the risk indices applicable to it on that date are those that would have applied to it under that Chapter had it not ceased activities.

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Decision 2010-11-18, s. 177.

##### ***B.- Assessment and qualification for a personalized rate of a successor that was an employer before the date on which a transaction took place***

**178.** A successor that was an employer before the date on which a transaction took place qualifies for a personalized rate for the year in which the transaction took place, where, pursuant to Chapter II, it or the predecessor qualified for such a rate on the date on which the transaction took place.

The first- and second-level risk indices that apply to the successor from the date on which the transaction took place correspond respectively to the weighted average, determined pursuant to Subdivision 2, of the first-level risk index of the successor and of the predecessor, and to the weighted average, determined under the same Subdivision, of the second-level risk index of the successor and of the predecessor determined pursuant to Chapter II.

The first- and second-level risk indices of an employer that did not qualify for a personalized rate before the transaction are equal to 1.

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Decision 2010-11-18, s. 178.

**179.** For each subsequent year, the qualification for a personalized rate, as well as the first- and second-level risk indices of a successor referred to in section 178, are determined as follows:

(1) by determining the qualification for a personalized rate, as well as, where applicable, its first- and second-level risk indices, in accordance with Chapter II. The indices are equal to 1 where the successor does not, for that year, qualify for a personalized rate;

(2) by re-determining the qualification and, where applicable, the first- and second-level risk indices of the successor in accordance with Chapter II by using, for any period prior to the date on which the transaction took place falling within the first- and second-level reference periods, the predecessor's actual and expected experience. However, where a predecessor was party to an agreement under Division IV of Chapter II, its actual and expected experience include, for the period commencing on the date on which the transaction took place and ending at the end of the year in which the transaction took place, the actual and expected experience of the prevention mutual group to which it belonged for that year.

The indices are equal to 1 where the successor does not qualify for a personalized rate for the assessment year under this paragraph;

(3) if the successor qualifies for a personalized rate under paragraph 1 or 2, by determining, in accordance with Subdivision 2, the weighted average of the first-level risk index determined under paragraph 1 and of that determined under paragraph 2 and by determining, in accordance with that Subdivision, the weighted average of the second-level risk index determined under paragraph 1 and of that determined under paragraph 2.

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Decision 2010-11-18, s. 179.

**180.** Where the predecessor fails to provide to the Commission the information on the predecessor that allows the determination of the first- and second-level risk indices of the successor in accordance with sections 178 and 179, the indices are determined in accordance with sections 181 and 182.

For the purpose of those sections, the first- and second-level risk indices of a successor or predecessor are equal to 1 if either one does not qualify, pursuant to Chapter II, for a personalized rate for a given year or, where applicable, in accordance with the method prescribed in paragraph 2 of section 179.

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Decision 2010-11-18, s. 180.

**181.** For the year in which the transaction took place, where the second-level risk index applicable to a successor on the date on which the transaction took place is equal to, or greater than, the second-level risk index applicable to its predecessor on that date, the first- and second-level risk indices that apply to the successor from the date on which the transaction took place correspond to those applicable to the successor on that date.

Where the second-level risk index applicable to a predecessor on the date on which the transaction took place is greater than the second-level risk index that applied to the successor on that date, the first- and second-level risk indices that apply to the successor from the date on which the transaction took place correspond respectively to the weighted average, determined under Subdivision 2, of the first-level risk index that applied to the successor on the date on which the transaction took place and of that applicable to the predecessor on that date, and to the weighted average, determined under the same Subdivision, of the second-level risk index applicable to the successor on the date on which the transaction took place, as well as that applicable to the predecessor on that date.

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Decision 2010-11-18, s. 181.

**182.** For each subsequent year, the first- and second-level risk indices applicable to the successor referred to in the first paragraph of section 181 are calculated in accordance with Chapter II.

Where the successor is subject to the second paragraph of section 181, section 179 applies to it for the purposes of determining its first- and second-level risk indices.

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Decision 2010-11-18, s. 182.

**183.** Sections 178 and 181 do not apply to a successor that qualifies for retrospective adjustment of its assessment for the year in which the transaction took place unless it applies to qualify before the date on which the transaction took place. Any such application becomes irrevocable as of that date.

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Decision 2010-11-18, s. 183.

**184.** For the purposes of Subdivisions A and B, where a number of transactions occur simultaneously, they are treated as successive transactions. In such a case, where a successor is subject to section 176, that section applies to only one of the transactions and the rules prescribed in Subdivision B apply to the other transactions.

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Decision 2010-11-18, s. 184.

### ***C.- Assessment and qualification for a personalized rate of a successor following a merger***

**185.** Where the transaction is a merger, the successor qualifies for a personalized rate for each unit in which it is classified for the year in which the transaction took place, where at least one of the predecessors party to the merger qualified for such a rate pursuant to Chapter II.

The first- and second-level risk indices that apply to the successor as of the date on which the transaction took place correspond respectively to the weighted average, determined in accordance with Subdivision 2, of the first-level risk indices of the predecessors and to the weighted average of their second-level risk indices calculated for that year in accordance with Chapter II.

The first- and second-level risk indices of a predecessor that did not qualify for a personalized rate on the date on which the transaction took place are equal to 1.

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Decision 2010-11-18, s. 185.

**186.** For each subsequent year, the qualification for a personalized rate, as well as the first- and second-level risk indices of a successor referred to in section 185, are determined as follows:

(1) by determining, with respect to each predecessor and in accordance with Chapter II, the successor's qualification for a personalized rate, as well as, where applicable, the first- and second-level risk indices using, for any period prior to the date on which the transaction took place and which falls within the first- and second-level reference periods, the predecessor's actual and expected experience. If the successor does not qualify for one year following any such determination, the successor's first- and second-level risk indices corresponding to that determination are equal to 1;

(2) if, for the subsequent year, the successor qualifies for a personalized rate in respect of at least one of the determinations made under paragraph 1, by determining, in accordance with Subdivision 2, the weighted average of the first-level risk indices determined under that paragraph, and the weighted average, determined in accordance with the same Subdivision, of the second-level risk indices determined under that paragraph.

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Decision 2010-11-18, s. 186.

### ***§ 2. — Method of weighting***

**187.** The weighting provided for in sections 178 and 179 and in the second paragraph of section 181 is, subject to the exceptions provided for in sections 189 to 193, determined on the basis of the successor's assessment according to risk calculated at the unit rate for the year preceding the year in which the transaction took place and of the predecessor's assessment according to risk calculated at the unit rate for that year.

The weighting provided for in sections 185 and 186 is, subject to the exceptions provided for in sections 189 to 193 and after making the necessary modifications, determined on the basis of each

predecessor's assessment according to risk calculated at the unit rate for the year preceding the year in which the transaction took place.

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Decision 2010-11-18, s. 187.

**188.** For the purposes of this Chapter, the assessment according to risk calculated at the unit rate that corresponds to the product obtained by multiplying that portion of the general unit rate in which the employer is classified for the relevant year corresponding to the financial requirements that the Commission apportions according to first- or second-level risk at the time the rate is fixed under section 304 of the Act by the insurable wages paid to the employer's workers in respect of that unit.

However, except for the situation referred to in the second paragraph of section 181, when a successor pursues a predecessor's activities in part only, the predecessor's assessment according to risk calculated at the unit rate is obtained using the insurable wages paid to its workers in respect of those activities and the corresponding unit rates for those activities.

For the purposes of the transaction referred to in the first paragraph, where a successor or predecessor is classified in more than one unit, the aggregate results obtained for each unit are taken into consideration.

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Decision 2010-11-18, s. 188.

**189.** For the purposes of this Subdivision, where a predecessor or successor was involved in another transaction between 1 January of the year preceding the year in which the transaction took place and the actual date on which the transaction took place, its assessment according to risk calculated at the unit rate for the year preceding the year in which the transaction took place is increased by the assessment according to risk calculated at the predecessor's unit rate in respect of that other transaction, for the period commencing on 1 January of the year preceding the year in which the transaction took place and ending on the date on which that other transaction took place or, at the latest, by 31 December of that year.

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Decision 2010-11-18, s. 189.

**190.** When the predecessor or the successor was not classified in the same unit or units for the year preceding the year in which the transaction took place and for the year in which the transaction actually took place because of a change in the nature of its activities, the weighted average of the successor's first- and second-level risk indices is based on its assessment according to risk calculated at the unit rate for the period commencing on 1 January of the year in which that transaction took place and ending on the date on which that transaction took place and on the predecessor's assessment according to risk calculated at the unit rate for the same period.

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Decision 2010-11-18, s. 190.

**191.** Where the predecessor or successor has commenced its activities during the period commencing on 1 January and ending on 30 June of the year preceding the year in which the transaction took place, and in respect of which section 176 does not therefore apply, the weighted average of the successor's first- and second-level risk indices is based on its assessment according to risk calculated at the unit rate and on the predecessor's assessment according to risk calculated at the unit rate for the period during which the successor and predecessor were both employers in the year preceding the year in which the transaction took place.

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Decision 2010-11-18, s. 191.

**192.** Where the predecessor or successor commenced its activities after 30 June of the year preceding the year in which the transaction took place, and in respect of which section 176 does not therefore apply, the weighted average of the successor's first- and second-level risk indices is based on its assessment according to risk calculated at the unit rate and on the predecessor's assessment according to risk calculated at the unit rate for the period during which the successor and predecessor were both employers in the year preceding the year in which the transaction took place and the year in which the transaction took place up to the date on which the transaction actually took place.

Decision 2010-11-18, s. 192.

**193.** Where the predecessor or successor commenced its activities after 1 January of the year preceding the year in which the transaction took place following another transaction to which section 176 applied, the weighted average of the successor's first- and second-level risk indices is based on its assessment according to risk calculated at the unit rate for the year preceding the year in which that transaction took place, increased, where applicable, by the assessment according to risk of the predecessor involved in the other transaction, calculated at the unit rate, for the period commencing on 1 January of the year in which that transaction took place and ending on the date of that other transaction, and on the predecessor's assessment according to risk calculated at the unit rate for that year, increased, where applicable, by the assessment according to risk of the predecessor involved in the other transaction, calculated at the unit rate, for the period commencing on 1 January of the year in which that transaction took place up to the date of that other transaction.

Decision 2010-11-18, s. 193.

### § 3. — *Determination of a successor's personalized rate*

**194.** The first- and second-level risk indices of a successor qualifying for a personalized rate in accordance with the rules set out in this Chapter, calculated in accordance with Subdivisions 1 and 2, are deemed to be the indices determined in accordance with Chapter II and are used to fix the personalized rate applicable to the insurable wages paid to the successor's workers from the date on which the transaction took place, in respect of each unit in which the successor is classified.

Decision 2010-11-18, s. 194.

## **DIVISION V**

### **EXPERIENCE APPLICABLE FOR THE PURPOSE OF DETERMINING IF A SUCCESSOR QUALIFIES FOR RETROSPECTIVE ADJUSTMENT OF THE ASSESSMENT AND OF FIXING ITS ASSESSMENT**

### § 1. — *General provision*

**195.** The rules set out in Chapter III apply, taking into account the special rules set out in this Division, for the purpose of determining if the successor qualifies for retrospective adjustment of the assessment and of fixing its assessment under that Chapter.

Decision 2010-11-18, s. 195.

### § 2. — *Definition*

**196.** In this Division,

**"unit rate according to risk"** means the rate according to risk for the unit as defined in section 87.

Decision 2010-11-18, s. 196.

§ 3. — *Assessment and qualification of a successor for retrospective adjustment of the assessment following a transaction if the predecessor was qualified or had applied for qualification and if the successor was not qualified and had not applied for qualification for the year in which the transaction took place*

**197.** Where, under section 87, the successor was not qualified for to retrospective adjustment of its assessment for the assessment year in which the transaction took place and had not applied for qualification for that year under section 88, but where the predecessor was qualified or had applied for qualification for that year, the successor is qualified for retrospective adjustment of its assessment if the product obtained by multiplying the insurable wages paid to its workers for the period commencing on the date on which the transaction took place and ending on 31 December of the year in which the transaction took place by the unit rate according to risk for the unit in which the successor is classified for that period, is at least equal to the qualifying threshold for that year.

Decision 2010-11-18, s. 197.

**198.** However, a successor referred to in section 197 may apply to have its qualification for retrospective adjustment of its assessment determined pursuant to section 87 if the predecessor provides the Commission with a statement of the insurable wages paid to its workers for the year in which the transaction took place and the 2 preceding years, in respect of the activities covered by the transaction, provided the application was made before the date on which the transaction took place. In such a case, the insurable wages paid to the successor's workers during the year prior to the year preceding the assessment year include the insurable wages paid to the predecessor's workers for that year in respect of the activities that are covered by the transaction.

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Decision 2010-11-18, s. 198.

**199.** A successor contemplated in section 197 or 198 is deemed to have elected the assumption limit applicable to the predecessor, unless the successor sends to the Commission a notice indicating its election of the assumption limit pursuant to section 101 not later than the date on which the transaction took place. The notice becomes irrevocable as of that date.

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Decision 2010-11-18, s. 199.

**200.** The Commission retrospectively adjusts the portion of the assessment of a successor that qualifies for retrospective adjustment of its assessment under section 197 or 198, in relation to the period commencing on the date on which the transaction took place and ending on 31 December of that year, in accordance with Chapter III. Where applicable, the personalized rate applicable to the successor, for that part of the year, is calculated by making the adjustments provided for in section 71.

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Decision 2010-11-18, s. 200.

**201.** For each of the 2 assessment years subsequent to the year in which the transaction took place, a successor referred to in section 197 qualifies for retrospective adjustment of its assessment if the product obtained by multiplying the insurable wages paid to its workers for any such subsequent year by the unit rate according to risk for the unit in which it is classified for that year is at least equal to the qualifying threshold for that year.

Despite the foregoing, where the successor has made an application under section 198, it qualifies for retrospective adjustment of its assessment for each of the subsequent 2 assessment years if it satisfies the requirements prescribed in Chapter III. In such a case, the insurable wages paid to its workers during the year prior to the year preceding the assessment year include the insurable wages paid to the predecessor's workers for that year in respect of the activities that were covered by the transaction.

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Decision 2010-11-18, s. 201.

**202.** Where a number of transactions occur simultaneously and where the assumption limits applicable to the predecessors under section 101 are not the same, the successor is deemed to have elected the assumption limit applicable to the predecessor with the highest assessment according to risk calculated at the unit rate, as defined in section 188, for the year prior to the year preceding the year in which the transaction took place.

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Decision 2010-11-18, s. 202.

**§ 4. — *Assessment and qualification of a successor for retrospective adjustment of its assessment if the transaction is a merger***

**203.** Where the transaction consists of a merger and where at least one predecessor qualifies for retrospective adjustment of its assessment under section 87 for the year in which the transaction took place and where it has not applied for re-determination of its qualification for that year under section 89, the successor qualifies for retrospective adjustment of its assessment.

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Decision 2010-11-18, s. 203.

**204.** Where such a transaction took place and where the predecessors that qualified for retrospective adjustment of their assessments under section 87 for the year in which the transaction

took place have applied for the re-determination of their qualification for that year pursuant to section 89, but where at least one other predecessor has made an application to qualify under section 88 for that year, the successor qualifies for retrospective adjustment of the assessment if it satisfies the requirements for qualification set out in section 88. In such a case, the Commission takes into account, for the purposes of section 88, the insurable wages paid to its workers, as well as the wages paid to all the workers of the predecessors that qualified for retrospective adjustment of their assessments for that year, or applied for qualification, declared for the years referred to in that section in respect of the unit in which the predecessors were classified for those assessment years. The unit rates according to risk for those units are used in respect of those wages for the purpose of performing the calculations referred to in paragraphs 1 and 2 of section 88.

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Decision 2010-11-18, s. 204.

**205.** Where such a transaction took place and where none of the predecessors applied to qualify for retrospective adjustment of its assessment under section 88 for the year in which the transaction took place and where all the predecessors that qualified for the adjustment for that year applied for the re-determination of their qualification pursuant to section 89, the successor qualifies for retrospective adjustment of its assessment, and the qualification is re-determined pursuant to section 89. In such a case, the Commission takes into account the insurable wages paid to the successor's workers as well as the wages paid to all the workers of the predecessors that qualified for retrospective adjustment of their assessments for that year, declared for the assessment year in which the transaction took place in respect of the unit in which the predecessors are classified for that year. The unit rates according to risk for the units are used in respect of those wages for the purpose of performing the calculation in paragraph 1 of section 88.

This section does not apply where none of the predecessors qualifies for retrospective adjustment of their assessments pursuant to section 87 for the year in which the transaction took place.

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Decision 2010-11-18, s. 205.

**206.** For the purposes of this Subdivision, where the assumption limits applicable to the predecessors pursuant to section 101 are not the same, the successor is deemed to have elected the assumption limit applicable to the predecessor with the highest assessment according to risk calculated at the unit rate for the year prior to the year preceding the year in which the transaction took place.

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Decision 2010-11-18, s. 206.

**207.** Where the successor qualifies for retrospective adjustment of the assessment for the year in which the transaction took place pursuant to the rules set out in this Subdivision, the assessment of the successor and of the predecessors is retrospectively adjusted in accordance with Chapter III as if they were a single employer.

However, the successor's assessment for the period prior to the date on which the transaction took place involving a predecessor that did not qualify for retrospective adjustment of the assessment or had not applied for qualification, is the assessment fixed at the rate applicable to the predecessor before that date.

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Decision 2010-11-18, s. 207.

**208.** For subsequent assessment years, the successor qualifies for retrospective adjustment of its assessment if it satisfies the requirements set out in Chapter III. In such a case, the insurable wages paid to the successor's workers for the year prior to the year preceding the assessment year includes the wages paid to the predecessor's workers in respect of their activities, and the rate applicable is the unit rate according to risk for the unit in respect of which the wages have been declared pursuant to the Act.

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Decision 2010-11-18, s. 208.

## **DIVISION VI**

### **NOTIFICATION TO THE COMMISSION**

**209.** Where the successor was an employer before the date of the transaction, it must notify the Commission of the transaction not later than the date on which it sends a statement pursuant to section 21.

The successor must identify its predecessor, the date on which the transaction occurred and, if applicable, the fact that the transaction consisted of a merger.

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Decision 2010-11-18, s. 209.

## **TITLE VI**

### **TIME LIMIT TO PAY THE ASSESSMENT**

**210.** Employers must pay the amount of their assessment to the Commission before the 21st day of the month following the date on which the notice of assessment was sent.

For the purposes of this section, the date on which a notice of assessment is sent is presumed to be the date indicated on the notice.

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Decision 2010-11-18, s. 210.

## **BOOK IV**

### **INTEREST**

#### **TITLE I**

##### **STATEMENT OF PURPOSE**

**211.** The purpose of this Book is to determine in what cases, and on what terms and conditions the Commission or an employer is required to pay interest, as well as the rules for setting rates of interest.

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Decision 2010-11-18, s. 211.

#### **TITLE II**

##### **DEFINITIONS**

**212.** In this Book,

“**quarter**” means one of the following periods:

- (1) the period beginning on 1 January and ending on 31 March;
- (2) the period beginning on 1 April and ending on 30 June;
- (3) the period beginning on 1 July and ending on 30 September;
- (4) the period beginning on 1 October and ending on 31 December.

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Decision 2010-11-18, s. 212.

#### **TITLE III**

##### **INTEREST APPLICABLE TO AN EMPLOYER’S ANNUAL ASSESSMENT**

#### **CHAPTER I**

##### **INTEREST IN THE EVENT OF DEFAULT**

**213.** An employer that fails to send a statement pursuant to section 21 or 33, or that fails to pay an assessment within the prescribed time limit, is required to pay interest to the Commission.

The interest is determined as follows:

- (1) where the employer fails to send a statement to the Commission within the prescribed time under section 21 or 33, interest is payable on the assessment determined on the basis of the insurable wages that are declared late or evaluated pursuant to section 307 of the Act, as well as on



the penalty imposed pursuant to section 321.2 or 321.3 of the Act, if any. The interest is calculated from the day following the date prescribed for filing the statement to the day on which the statement is received by the Commission;

(2) where the employer fails to pay an assessment, a penalty or interest within the prescribed time, interest is payable on the outstanding balance appearing on the assessment notice and is calculated from the day following the date on which the notice is issued to the 20th day of the following month. For each subsequent month, if the failure persists, interest is payable on the balance outstanding on the 21st day of that subsequent month, and is calculated from the 21st day of the preceding month to the 20th day of the subsequent month.

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Decision 2010-11-18, s. 213.

## **CHAPTER II**

### **INTEREST FOLLOWING A RE-DETERMINATION, ADJUSTMENT OR CHANGE TO AN EMPLOYER'S ASSESSMENT**

**214.** The Commission or the employer, as the case may be, is required to pay interest

(1) when the Commission adjusts the amount of the employer's assessment in accordance with the rules in Chapter III of Title V of Book III;

(2) when the Commission re-determines the employer's assessment or a penalty imposed pursuant to section 321.2 or 321.3 of the Act, in accordance with the rules of Book V;

(3) when a final decision made pursuant to section 358.3 of the Act or by the Administrative Labour Tribunal has the effect of modifying a notice of assessment.

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Decision 2010-11-18, s. 214.

**215.** Interest is payable on the difference between the amount of the annual assessment or penalty determined following the re-determination, adjustment or modification referred to in section 214, and the amount determined when the assessment or penalty was last determined, adjusted or modified.

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Decision 2010-11-18, s. 215.

**216.** When an employer is required to pay interest under this Chapter, the interest is calculated from the day following the date of issue of the first notice for the annual assessment to the date of issue of the notice concerning the re-determination, adjustment or modification referred to in section 214.

When the employer fails to send a statement pursuant to section 21 or 33 for an assessment year within the prescribed time, the interest for that assessment year is calculated from the day following the time limit for sending the statement to the date of issue of the notice concerning the re-determination, adjustment or modification referred to in section 214.

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Decision 2010-11-18, s. 216.

**217.** When the Commission is required to pay interest to an employer under this Chapter, the interest is calculated from the 21st day of the month following the day of sending of the first notice for the annual assessment to the date of issue of the notice concerning the re-determination, adjustment or modification referred to in section 214.

When the employer fails to send a statement pursuant to section 21 or 33 for an assessment year within the prescribed time, the interest for that assessment year is calculated from the 21st day of the month following the time limit for sending the statement to the date of issue of the notice concerning the re-determination, adjustment or modification referred to in section 214.

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Decision 2010-11-18, s. 217.

## **CHAPTER III**

### **INTEREST FOLLOWING A PENALTY**

**218.** An employer on which a penalty is imposed pursuant to section 321.2 or 321.3 of the Act after the date of the first annual notice of assessment issued in accordance with section 305 of the Act for the assessment year in respect of which the penalty is imposed must pay interest on the penalty to the Commission. The interest is calculated from the day following the date of issue of the notice to the date of issue of the notice of assessment imposing the penalty.

When the employer fails to send a statement pursuant to section 21 or 33 within the prescribed time, interest is calculated from the day following the time limit for sending the statement to the date of issue of the notice of assessment imposing the penalty.

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Decision 2010-11-18, s. 218.

#### **TITLE IV**

##### **DETERMINATION OF THE RATE OF INTEREST**

**219.** The rate of interest applicable for the purposes of Chapters II and III of Title III is determined for each quarter of a calendar year, as follows:

(1) by establishing the arithmetic mean of the prime business rate as published by the Bank of Canada on the last Wednesday of each of the months falling within the 3-month period ending in the second month of the preceding quarter;

(2) by rounding off the result obtained in paragraph 1 to the nearest whole number, the half being rounded down to the nearest whole number.

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Decision 2010-11-18, s. 219.

**220.** The rate of interest applicable for the purposes of Chapter I of Title III is the rate determined under section 219, increased by 2 percentage points.

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Decision 2010-11-18, s. 220.

**221.** For the purpose of calculating interest, the rates determined pursuant to sections 219 and 220 are apportioned daily. Once determined in this manner, the rates take effect on the first day of the quarter.

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Decision 2010-11-18, s. 221.

#### **TITLE V**

##### **CAPITALIZATION OF INTEREST**

**222.** The interest prescribed in this Book is capitalized daily.

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Decision 2010-11-18, s. 222.

#### **BOOK V**

##### **RE-DETERMINATION OF EMPLOYER CLASSIFICATIONS, OF EMPLOYER ASSESSMENTS AND OF IMPUTATIONS OF THE COST OF BENEFITS**

#### **TITLE I**

##### **STATEMENT OF PURPOSE**

**223.** The purpose of this Book is to provide for the circumstances in which, time within which and conditions subject to which the Commission may re-determine the classification, the imputation of the cost of benefits and, at a higher or lower level, the assessment, penalty and interest payable by an employer, as well as the standards applicable to the re-determination.

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Decision 2010-11-18, s. 223.

#### **TITLE II**

##### **RE-DETERMINATION OF EMPLOYER CLASSIFICATIONS AND IMPUTATIONS OF THE COST OF BENEFITS**

**224.** The Commission may, on its own initiative and in order to rectify an error, re-determine the classification of an employer assigned pursuant to Book II or the imputation of the cost of benefits under Division VI of Chapter IX of the Act, within 6 months of its decision, if the decision has not been the subject of a decision rendered pursuant to section 358.3 of the Act. However, any such re-determination must be made

(1) in respect of an employer classification, not later than 31 December of the fifth year following the assessment year to which it relates;

(2) in respect of the imputation of the cost of benefits, not later than 31 December of the fifth year following the year during which the accident occurred or the disease was reported.

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Decision 2010-11-18, s. 224.

**225.** The Commission may also, on its own initiative or following an application by the employer, re-determine the classification or the imputation of the cost of benefits if the Commission's decision was rendered before an essential fact became known.

An application submitted by an employer under the first paragraph must reach the Commission within 6 months of the employer becoming aware of the essential fact, but before the expiry of the time limits prescribed in paragraphs 1 and 2 of section 224.

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Decision 2010-11-18, s. 225.

**226.** A re-determination of the classification or imputation of the cost of benefits carried out on the initiative of the Commission pursuant to the first paragraph of section 225 must be made within 6 months of the Commission becoming aware of the essential fact but before the expiry of the time limits prescribed in paragraphs 1 and 2 of section 224.

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Decision 2010-11-18, s. 226.

**227.** The Commission re-determines the classification of an employer made in accordance with section 8 if, within 6 months of the classification, the employer sends the Commission information allowing the Commission to reclassify the employer if the initial decision has not been the subject of a decision rendered pursuant to section 358.3 of the Act.

Where the Commission reclassifies an employer pursuant to the first paragraph, the employer remains liable for payment of the penalty and applicable interest resulting from its delay.

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Decision 2010-11-18, s. 227.

### **TITLE III**

#### **RE-DETERMINATION OF EMPLOYER ASSESSMENTS**

##### **CHAPTER I**

###### **RE-DETERMINATION OF THE ASSESSMENT FOLLOWING AN EMPLOYER'S RECLASSIFICATION**

**228.** The Commission re-determines an employer's assessment when it has been reclassified for an assessment year pursuant to Title II.

The Commission also re-determines an employer's assessment when the employer's classification for an assessment year has been modified by a final decision rendered pursuant to section 358.3 of the Act or by the Administrative Labour Tribunal.

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Decision 2010-11-18, s. 228.

##### **CHAPTER II**

###### **RE-DETERMINATION OF THE ASSESSMENT FOLLOWING A MODIFICATION TO THE IMPUTATION OF THE COST OF BENEFITS PAYABLE AS THE RESULT OF AN INDUSTRIAL ACCIDENT OR OCCUPATIONAL DISEASE**

**229.** The Commission re-determines an employer's assessment when the imputation of the cost of benefits payable as the result of an industrial accident or an occupational disease taken into account for the purpose of fixing its assessment in accordance with Chapter II, III or IV of Title V of Book III is re-determined in accordance with Title II.

The Commission also re-determines an employer's assessment when the imputation is modified by a decision rendered pursuant to section 326 or 329 of the Act or by a final decision rendered pursuant to section 358.3 of the Act or by the Administrative Labour Tribunal.

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Decision 2010-11-18, s. 229.

### **CHAPTER III**

#### **RE-DETERMINATION OF THE ASSESSMENT FOLLOWING A FURTHER DECISION REGARDING THE COST OF BENEFITS PAYABLE AS THE RESULT OF AN INDUSTRIAL ACCIDENT OR OCCUPATIONAL DISEASE**

**230.** The Commission may re-determine an employer's assessment following a decision of the Commission or of the Administrative Labour Tribunal that recognizes the existence of an industrial accident or occupational disease, the cost of the benefits of which would have been used to fix the assessment in accordance with Chapters II, III and IV of Title V of Book III, if that decision is rendered not later than 31 December of the fifth year following the year during which the accident occurred or the occupational disease was reported.

The Commission may also re-determine an employer's assessment following a decision of the Commission or of the Administrative Labour Tribunal that modifies the cost of the benefits payable as the result of an industrial accident or occupational disease which, in accordance with Chapters II, III and IV of Title V of Book III, is used to fix its assessment, if the decision is rendered not later than 31 December of the fifth year following the year during which the accident occurred or the occupational disease was reported.

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Decision 2010-11-18, s. 230.

**231.** The Commission may, following an application by an employer and despite section 230, re-determine its assessment after the expiry of the time limit prescribed in that section when a decision of the Commission or of the Administrative Labour Tribunal that modifies the cost of the benefits payable as the result of an industrial accident or occupational disease, which cost is used to fix its assessment in accordance with Chapters II, III and IV of Title V or Book III, is rendered after the expiry of the time limit and following an application for review submitted under section 358 of the Act or an application for reconsideration of a decision submitted under the second paragraph of section 365 of the Act, before the expiry of the time limit.

Where the Commission receives an application under the first paragraph, it re-determines each assessment of the employer that is affected by the decision. The Commission also takes into account any modification to the cost of benefits payable as the result of an industrial accident or occupational disease covered by the decision and used to determine its assessment, if the modification occurred before the date of the decision.

The application referred to in the first paragraph must reach the Commission within 6 months of the decision.

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Decision 2010-11-18, s. 231.

### **CHAPTER IV**

#### **OTHER INSTANCES OF RE-DETERMINATION OF THE ASSESSMENT**

**232.** The Commission may, on its own initiative and in order to rectify an error related to the elements used to fix the assessment of an employer other than the elements referred to in Chapters I to III, re-determine the assessment within 6 months of the date of the notice of assessment, but not later than 31 December of the fifth year following the assessment year, if the notice has not been the subject of a decision rendered pursuant to section 358.3 of the Act.

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Decision 2010-11-18, s. 232.

**233.** The Commission may, on its own initiative, re-determine the assessment of an employer if its decision was rendered before an essential fact related to the elements used to determine the assessment became known, other than the elements referred to in Chapters I to III, within 6 months of the Commission becoming aware of the essential fact, but not later than 31 December of the fifth year following the assessment year.

The Commission may also, following an application by an employer, re-determine its assessment if its decision was rendered before an essential fact related to the elements used to determine the assessment became known and if the application reaches the Commission within 6 months of the employer becoming aware of the essential fact, but not later than 31 December of the fifth year following the assessment year.

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Decision 2010-11-18, s. 233.

**234.** Despite section 233, the Commission may not re-determine an employer's assessment in order to take into account a modification to the insurable wages paid to the employer's workers and used to determine the assessment in accordance with Chapters II, III and IV of Title V of Book III, when the modification occurred after 31 December of the fifth year following the assessment year during which the wages were paid.

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Decision 2010-11-18, s. 234.

**235.** The Commission re-determines an employer's assessment made in accordance with section 307 of the Act if the employer sends it information, not later than 31 December of the fifth year following the assessment year to which it relates, that allows the Commission to assess the employer and if the notice of assessment has not been the subject of a decision rendered pursuant to section 358.3 of the Act.

When the Commission re-determines an employer's assessment pursuant to the first paragraph, the employer remains liable for payment of the penalty and interest resulting from its delay.

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Decision 2010-11-18, s. 235.

## **CHAPTER V**

### **BANKRUPTCY, WINDING-UP OR CESSATION OF AN EMPLOYER'S ACTIVITIES**

**236.** Despite the provisions of Chapters I to IV and except where an employer has, in filing a statement or providing information required under the Act, negligently misrepresented the facts, made a deliberate omission or committed fraud, the Commission may not re-determine an employer's assessment in the following circumstances:

- (1) where the employer has ceased its activities, where it is subject to adjustment of its assessment and where the adjustment was calculated in accordance with sections 115 to 117;
- (2) after the dissolution or voluntary or forced winding up of the employer;
- (3) after discharge by the trustee in bankruptcy in the event of the employer's bankruptcy.

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Decision 2010-11-18, s. 236.

## **TITLE IV**

### **RE-DETERMINATION OF INTEREST AND PENALTIES**

**237.** The Commission re-determines the interest payable when it re-determines an employer's assessment pursuant to this Book.

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Decision 2010-11-18, s. 237.

**238.** The Commission may, on its own initiative and in order to rectify an error, re-determine the penalty provided for in section 319 of the Act within 6 months of the date of the notice of assessment imposing the penalty but not later than 31 December of the fifth year following the assessment year to which the penalty relates, if the notice has not been the subject of a decision rendered pursuant to section 358.3 of the Act.

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Decision 2010-11-18, s. 238.

**239.** The Commission may, on its own initiative and in order to rectify an error, re-determine a penalty imposed pursuant to section 321.2 or 321.3 of the Act within 6 months of the date of the notice of assessment imposing the penalty but not later than 31 December of the fifth year following the assessment year to which the penalty relates, if the notice has not been the subject of a decision rendered pursuant to section 358.3 of the Act.

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Decision 2010-11-18, s. 239.

**240.** The Commission may, on its own initiative, re-determine a penalty imposed pursuant to section 321.2 or 321.3 of the Act if its decision was rendered before becoming aware of an essential fact relating to the wages that must be used to determine the amount of a periodic payment and that relate to the year of that payment, within 6 months of becoming aware of the essential fact, but not later than 31 December of the fifth year following the assessment year to which the penalty relates.

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Decision 2010-11-18, s. 240.

## **TITLE V**

### **FRAUD**

**241.** The time limits provided for in sections 224 to 226, 230 and 232, in the first paragraph of section 233, in section 234 and in sections 238 to 240 do not apply where an employer has, in filing a statement or providing information required under the Act, negligently misrepresented the facts, made a deliberate omission or committed fraud.

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Decision 2010-11-18, s. 241.

## **TRANSITIONAL AND FINAL**

**242.** This Regulation replaces the Regulation respecting insurance premiums for the year 2011 adopted by the Commission de la santé et de la sécurité du travail by resolution A-59-10 dated 16 September 2010 and the Regulation respecting experience ratios for the year 2011 adopted by the Commission de la santé et de la sécurité du travail by resolution A-58-10 dated 16 September 2010.

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Decision 2010-11-18, s. 242.

**243.** This Regulation replaces the Regulation respecting interest adopted by the Commission de la santé et de la sécurité du travail under resolution A-112-98 dated 19 November 1998 (1998, G.O. 2, 4492), the Regulation respecting the classification of employers, the statement of wages and the rates of assessment adopted by the Commission de la santé et de la sécurité du travail under resolution A-73-97 dated 16 October 1997 (1997, G.O. 2, 5330), the Regulation respecting personalized rates adopted by the Commission de la santé et de la sécurité du travail under resolution A-86-98 dated 17 September 1998 (1998, G.O. 2, 3997), the Regulation respecting retrospective adjustment of the assessment adopted by the Commission de la santé et de la sécurité du travail under resolution A-85-98 dated 17 September 1998 (1998, G.O. 2, 4156), the Regulation respecting the use of employer experience (O.C. 529-99, 99-05-05), the General Regulation respecting the agreements on the grouping of employers for the purposes of applying personalized rates and the procedures for calculating those rates (O.C. 1296-97, 97-10-01) and the Regulation respecting the re-determination of employer classifications, of employer assessments and of imputations of the cost of benefits (O.C. 1486-98, 98-11-27).

Despite the foregoing, those regulations continue to apply for an assessment year prior to the year 2011.

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Decision 2010-11-18, s. 243.

**244.** *(Omitted).*

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Decision 2010-11-18, s. 244.

## **SCHEDULE 1**

(ss. 4, 5, 20, 37, 45 and 53)

## CLASSIFICATION UNITS, RATES OF ASSESSMENT AND EXPERIENCE RATIOS FOR THE YEAR 2017

### Special classification rules

(1) The Commission does not take into account the condition stated in subparagraph 3 of the first paragraph of section 9 for the purpose of classifying an employer in more than one of the units 80030 to 80250.

(2) An employer who meets the conditions set out in Title IV of Book II allowing it to be classified in unit 90020 and unit 80020 is classified in the latter unit.

(3) An employer who does not meet the conditions set out in sections 11 and 12 is classified in unit 90020 if at least one of the employer's workers carries out a task covered by that unit during the assessment year, if the employer is classified in at least one unit that expressly provides for classification in that exceptional unit and if the employer meets the conditions set out in one of the following paragraphs:

(1) the aggregate of the insurable wages of the employer's workers declared for the year prior to the year preceding the assessment year in respect of units giving entitlement to unit 80020 and of the insurable wages declared for that year in respect of units giving entitlement to unit 90020 is equal to or greater than 45% of the insurable wages of the employer's workers for that year;

(2) the employer employed no worker during the year prior to the year preceding the assessment year and is classified only in units giving entitlement to unit 80020 and in units giving entitlement to unit 90020 for the assessment year;

(3) the employer was classified in one of the exceptional units 80020 or 90020 for the year preceding the assessment year and the aggregate of the insurable wages of the employer's workers declared for the year prior to the year preceding the assessment year in respect of units giving entitlement to unit 80020 and of the insurable wages declared for that year in respect of units giving entitlement to unit 90020 is equal to or greater than 40% of the insurable wages of the employer's workers for that year.

The insurable wages of an auxiliary worker must be excluded when calculating percentages under this section. In addition, the amount of protection enjoyed pursuant to section 18 of the Act by an employer or an executive officer of the employer who, in addition to sitting on the board of directors, performs work for the employer is considered to be insurable wages declared for the unit that corresponds to the activities in which the person is involved.

(4) The Commission does not take into account the classification of an employer in unit 65150 or the wages declared in respect of that unit for the purpose of determining an employer's entitlement to an exceptional unit pursuant to sections 11 and 12 and sections 2 and 3 of these Special classification rules.

(5) An employer classified in a unit that covers the manufacture of goods cannot be classified in a unit that covers the trade in those goods or in goods that the employer does not manufacture unless the employer operates at least one store located elsewhere than on the production site of the goods the employer manufactures.

(6) An employer who hires out the services of the workers it employs is classified, for that activity, in the units that cover the activities of the workers concerned where the hiring out is not expressly covered by a classification unit.

### Special rules for declaring wages

(1) The second paragraph of section 24 does not apply to an employer for the purpose of declaring the insurable wages paid during the preceding calendar year to a worker who, without being an auxiliary worker, participated in several activities covered by more than one of units 80030 to 80250.

(2) The Commission does not take into account the insurable wages declared with respect to unit 65150 for the purpose of apportioning the wages of an auxiliary worker pursuant to paragraph 3 of section 26.

(3) An employer classified in both a unit that covers the manufacture of goods and in a unit that covers the trade in such goods, or in goods that the employer does not manufacture, must declare the wages of a worker who works in that trade with respect to the unit that covers the manufacture of the goods, except if the worker works in the trade in a store that the employer operates elsewhere than on the production site of the goods that the employer manufactures. The employer must declare the wages of the worker who works in that trade in that store with respect to the unit that covers the trade in the goods.

## Sectors

(1) In accordance with section 297 of the Act, the classification units are grouped in sectors.

(2) The primary sector comprises units 10110 to 14030.

(3) The manufacture sector comprises units 15010 to 36350, including exceptional unit 34410.

(4) The transportation and storage sector comprises units 55010 to 55090.

(5) The service sector comprises units 54010 to 54440, 57010 to 77030 and exceptional units 90010 and 90020.

(6) The construction sector comprises units 80020 to 80250.



Decision 2010-11-18, Sch. 1; Decision 2011-09-22, s. 2; Decision 2012-09-20, s. 1; Decision 2013-09-19, s. 3; Decision 2014-09-18, s. 4; Decision 2015-09-17, s. 2; Decision 2016-09-15, s. 1

## SCHEDULE 2

(s. 39)

### RATES PERTAINING TO THE FINANCING OF JOINT SECTOR-BASED ASSOCIATIONS FOR THE YEAR 2017

	Rate
ACTIVITY SECTORS	
The social affairs sector	0,022
The textile and knitting sector	0,090
The automobile service sector	0,068
The transportation and storage sectors	0,055
The provincial administration sector	0,046
The printing and allied industries sector, the metal fabricating industries sector, the electrical products industries sector and the clothing industries sector	0,052
The transportation equipment and machinery industries sector	0,058
The mining and mining services sector	0,097
The municipal affairs sector	0,040
The construction sector	0,031

Decision 2010-11-18, Sch. 2; Decision 2011-09-22, s. 2; Decision 2012-09-20, s. 1; Decision 2013-09-19, s. 3; Decision 2014-09-18, s. 4; Decision 2015-09-17, s. 2; Decision 2016-09-15, s. 1



## SCHEDULE 3

(ss. 40 and 41)

LUMP SUM UNDER PARAGRAPH 3 OF SECTION 310 OF THE ACT, AMOUNT UNDER SECTION 313 OF THE ACT AND RATE APPLICABLE TO THE PROTECTION OF A MEMBER OF A BOARD OF DIRECTORS FOR THE YEAR 2017

The lump sum used to establish the assessment of the employer of a student referred to in section 10 of the Act, pursuant to paragraph 3 of section 310 of the Act, is set, for the year 2017, at \$6 per trainee.

The amount referred to in section 313 of the Act is set for the year 2017 at \$65.

The rate used to establish the amount payable by a person who only sits on the board of directors of a legal person and who registers in this capacity or as an executive officer pursuant to section 18 of the Act is that of unit 65110.

Decision 2010-11-18, Sch. 3; Decision 2011-09-22, s. 2; Decision 2012-09-20, s. 1; Decision 2013-09-19, s. 3; Decision 2014-09-18, s. 4; Decision 2015-09-17, s. 2; Decision 2016-09-15, s. 1

### NOTE

#### YEAR 2016

*LUMP SUM UNDER PARAGRAPH 3 OF SECTION 310 OF THE ACT, AMOUNT UNDER SECTION 313 OF THE ACT AND RATE APPLICABLE TO THE PROTECTION OF A MEMBER OF A BOARD OF DIRECTORS FOR THE YEAR 2016*

*The lump sum used to establish the assessment of the employer of a student referred to in section 10 of the Act, pursuant to paragraph 3 of section 310 of the Act, is set, for the year 2016, at \$6 per trainee.*

*The amount referred to in section 313 of the Act is set for the year 2016 at \$65.*

*The rate used to establish the amount payable by a person who only sits on the board of directors of a legal person and who registers in this capacity or as an executive officer pursuant to section 18 of the Act is that of unit 65110.*

## SCHEDULE 4

(ss. 49, 62 and 63)

The qualifying threshold for the year 2017 is \$1,080.

The amount used for the calculation in section 62 for the year 2017 is \$3,240.

The amount used for the calculation in section 63 for the year 2017 is \$151,200.

Decision 2010-11-18, Sch. 4; Decision 2011-09-22, s. 2; Decision 2012-09-20, s. 1; Decision 2013-09-19, s. 3; Decision 2014-09-18, s. 4; Decision 2015-09-17, s. 2; Decision 2016-09-15, s. 1

### NOTE

*The qualifying threshold for the year 2016 is \$1,060.*

*The amount used for the calculation in section 62 for the year 2016 is \$3,180.*

*The amount used for the calculation in section 63 for the year 2016 is \$148,400.*

## SCHEDULE 5

(s. 53)

(1) For the purpose of applying section 53 in respect of an accident that occurred or a disease that was reported in the year prior to the year preceding the assessment year, the Commission applies the following factor: 1.

(2) For the purpose of applying section 53 in respect of an accident that occurred or a disease that was reported in the year prior to the 2 years preceding the assessment year, the Commission determines the category applicable to the accident or disease from among the following categories and applies the corresponding factor indicated:

(1) Death: accident or disease resulting in death in the year in which the accident occurred or the disease was reported, or in the following year:

$$1 + (0.300 \times A);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity for the final quarter of the year prior to the year preceding the assessment year:

$$1 + (0.200 \times A);$$

(3) Active: accident or disease that gives rise to an income replacement indemnity for the final quarter of the year prior to the year preceding the assessment year:

$$1 + (3.400 \times A);$$

where A corresponds to the coefficient determined by the Commission after an actuarial valuation for the purposes of this section to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections to the compensation cost of employment injuries that may be made outside the first- and second-level reference periods.

(3) For the purpose of applying section 53 in respect of an accident that occurred or a disease that was reported in the year prior to the 3 years preceding the assessment year, the Commission determines the category applicable to the accident or disease from among the following categories and applies the corresponding factor indicated:

(1) Death: accident or disease resulting in death in the year in which the accident occurred or the disease was reported, or during the 2 following years:

$$1 + (0.210 \times B);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity in respect of the year prior to the year preceding the assessment year:

$$1 + (0.120 \times B);$$

(3) Active: accident or disease that gives rise to income replacement indemnities for the year prior to the year preceding the assessment year:

(a) where there are no income replacement indemnities that relate to either one of the final 2 quarters of that year:

$$1 + (0.450 \times B);$$

(b) where the income replacement indemnities relate to either one of the final 2 quarters of that year:

$$1 + (2.160 \times B);$$

where B corresponds to the coefficient determined by the Commission after an actuarial valuation for the purpose of this section to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections to the compensation cost of employment injuries that may be made outside the first- and second-level reference periods.

(4) For the purpose of applying section 53 in respect of an accident that occurred or a disease that was reported in the year prior to the 4 years preceding the assessment year, the Commission determines the category applicable to the accident or disease from among the following categories and applies the corresponding factor indicated:

(1) Death: accident or disease resulting in death in the year in which the accident occurred or the disease was reported, or during the 3 following years:

$$1 + (0.150 \times C);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity for the 2 years prior to the year preceding the assessment year:

$$1 + (0.100 \times C);$$

(3) Active: accident or disease that gives rise to income replacement indemnities for the 2 years prior to the year preceding the assessment year:

(a) where the income replacement indemnities relate to only one quarter of the 2 years:

$$1 + (0.275 \times C);$$

(b) where the income replacement indemnities relate to 2 quarters of the 2 years:

$$1 + (0.450 \times C);$$

(c) where the income replacement indemnities relate to 3 quarters of the 2 years:

$$1 + (0.625 \times C);$$

(d) where the income replacement indemnities relate to 4 quarters of the 2 years:

$$1 + (0.800 \times C);$$

(e) where the income replacement indemnities relate to 5 quarters of the 2 years:

$$1 + (0.975 \times C);$$

(f) where the income replacement indemnities relate to 6 quarters of the 2 years:

$$1 + (1.150 \times C);$$

(g) where the income replacement indemnities relate to 7 quarters of the 2 years:

$$1 + (1.325 \times C);$$

(h) where the income replacement indemnities relate to 8 quarters of the 2 years:

$$1 + (1.500 \times C);$$

where C corresponds to the coefficient determined by the Commission after an actuarial valuation for the purpose of this section to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections to the compensation cost of employment injuries that may be made outside the first- and second-level reference periods.

(5) For the purposes of this Schedule, "quarter" means a quarter as defined in section 241.

(6) For the purposes of this Schedule, an income replacement indemnity does not include an income replacement indemnity provided for in section 61 of the Act.

Decision 2010-11-18, Sch. 5.

## **SCHEDULE 6**

(ss. 97, 110 and 111)

### **DIVISION 1**

(1) For the purpose of applying section 110, the Commission determines the category applicable to an accident or disease from among the following categories and applies the corresponding factor indicated below:

(1) Death: accident or disease resulting in death before the end of the second year of the reference period:

$$1 + (0.300 \times A);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity for the final quarter of the second year of the reference period:

$$1 + (0.200 \times A);$$

(3) Active: accident or disease that gives rise to income replacement indemnities for the final quarter of the second year of the reference period:

$$1 + (3.400 \times A);$$

where A corresponds to the coefficient determined by the Commission after an actuarial valuation for the purposes of this Division to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections that may be made to the compensation cost for employment injuries outside the first 2 years of the reference period.

## **DIVISION II**

(2) For the purpose of applying section 111, the Commission determines the category applicable to an accident or disease from among the following categories and applies the corresponding factor indicated below:

(1) Death: accident or disease resulting in death before the end of the third year of the reference period:

$$1 + (0.210 \times B);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity for the third year of the reference period:

$$1 + (0.120 \times B);$$

(3) Active: accident or disease that gives rise to income replacement indemnities for the third year of the reference period:

(a) where no income replacement indemnity relates to either one of the final 2 quarters of that year:

$$1 + (0.450 \times B);$$

(b) where the income replacement indemnities relate to either one of the final 2 quarters of that year:

$$1 + (2.160 \times B);$$

where B corresponds to the coefficient determined by the Commission after an actuarial valuation for the purposes of this Division to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections that may be made to the compensation cost of employment injuries outside the first 3 years of the reference period.

## **DIVISION III**

(3) For the purpose of applying section 97, the Commission determines the category applicable to an accident or disease from among the following categories and applies the corresponding factor indicated below:

(1) Death: accident or disease resulting in death before the end of the reference period:

$$1 + (0.150 \times C);$$

(2) Inactive: accident or disease that does not give rise to an income replacement indemnity for the last 2 years of the reference period:

$$1 + (0.100 \times C);$$

(3) Active: accident or disease that gives rise to income replacement indemnities for the last 2 years of the reference period:

(a) where the income replacement indemnities relate to only one quarter of the 2 years:

$$1 + (0.275 \times C);$$

(b) where the income replacement indemnities relate to 2 quarters of the 2 years:

$$1 + (0.450 \times C);$$

(c) where the income replacement indemnities relate to 3 quarters of the 2 years:

$$1 + (0.625 \times C);$$

(d) where the income replacement indemnities relate to 4 quarters of the 2 years:

$$1 + (0.800 \times C);$$

(e) where the income replacement indemnities relate to 5 quarters of the 2 years:

$$1 + (0.975 \times C);$$

(f) where the income replacement indemnities relate to 6 quarters of the 2 years:

$$1 + (1.150 \times C);$$

(g) where the income replacement indemnities relate to 7 quarters of the 2 years:

$$1 + (1.325 \times C);$$

(h) where the income replacement indemnities relate to 8 quarters of the 2 years:

$$1 + (1.500 \times C);$$

where C corresponds to the coefficient determined by the Commission after an actuarial valuation for the purposes of this Division to ensure that the factor takes into account the cost, on 1 July of the assessment year, of the employment injuries for that year as established on the basis of the Commission's financial statements and any corrections that may be made to the compensation cost of employment injuries outside the reference period.

#### **DIVISION IV**

(4) For the purposes of this Schedule, "quarter" means a quarter as defined in section 241.

(5) For the purposes of this Schedule, an income replacement indemnity does not include an income replacement indemnity provided for in section 61 of the Act.

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Decision 2010-11-18, Sch. 6.

#### **SCHEDULE 7**

(ss. 104, 105 and 106)

TABLE OF PREMIUMS FOR THE YEAR 2017

(PERCENTAGE)




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Decision 2010-11-18, Sch. 7; Decision 2011-09-22, s. 2; Decision 2012-09-20, s. 1; Decision 2013-09-19, s. 3; Decision 2014-09-18, s. 4; Decision 2015-09-17, s. 2; Decision 2016-09-15, s. 1

NOTE**TABLE OF PREMIUMS FOR THE YEAR 2016**

(percentage)

PDF

## TRANSITIONAL

2013

**(Decision 2013-02-21) SECTION 2.** The definition of “parent company or partnership” in section 118 of the Regulation also includes a corporation incorporated under Part II of the Canada Corporations Act (R.S.C. 1970, c. C-32) until it is continued under the Canada Not-for-profit Corporations Act (S.C. 2009, c. 23).

**SECTION 3.** For the 2013 assessment year, an application made under section 119 of the Regulation by a group whose parent company or partnership is a person covered by sections 1 and 2 of this Regulation must be filed not later than 11 January 2013.

The group must send within the same period to the Commission de la santé et de la sécurité du travail the election of limit provided for in the first paragraph of section 101 of the Regulation, failing which it is deemed to have elected the limit of 1 1/2 times the maximum yearly insurable earnings for that same year.

As soon as they are filed, the application and election of limit made by the group for the 2013 assessment year become irrevocable.

2011

**(Decision 2011-12-15) SECTION 2.** For the 2012 assessment year, an application made by an employer under section 90 must reach the Commission not later than the forty-fifth day following the date of coming into force of this Regulation (15 February 2012) and the application is irrevocable for that assessment year from that date forward.

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REFERENCES

Decision 2010-11-18, 2010 G.O. 2, 3190  
Decision 2011-09-22, 2011 G.O. 2, 2672  
Decision 2011-12-15, 2011 G.O. 2, 3803  
Decision 2012-09-20, 2012 G.O. 2, 2844  
Decision 2013-02-21, 2013 G.O. 2, 488  
Decision 2013-09-19, 2013 G.O. 2, 2797  
Decision 2014-09-18, 2014 G.O. 2, 2050  
Decision 2015-09-17, 2015 G.O. 2, 2499  
S.Q. 2015, c. 15, s. 237  
Decision 2016-09-15, 2016 G.O. 2, 3491