

chapter I-5

HIGHWAY VICTIMS INDEMNITY ACT

*Chapter I-5 is replaced by chapter III of title IV of the Automobile Insurance Act (chapter A-25). (1981, c. 7, s. 566).
1981, c. 7, s. 566.*

TABLE OF CONTENTS

DIVISION I
DEFINITIONS..... **2**

DIVISION II
OWNER’S AND DRIVER’S RESPONSIBILITY..... **3**

DIVISION III *Replaced, 1977, c. 68, s. 203.*

DIVISION IV *Replaced, 1977, c. 68, s. 203.*

DIVISION V *Replaced, 1977, c. 68, s. 203.*

DIVISION VI *Replaced, 1977, c. 68, s. 203.*

DIVISION VII *Replaced, 1977, c. 68, s. 203.*

DIVISION VIII
SUSPENSION FOR OFFENCES..... **22**

DIVISION IX
SUSPENSION FOR ACCIDENTS..... **26**

DIVISION X
SUSPENSION FOR UNSATISFIED JUDGMENT..... **31**

DIVISION XI
RECOURSE TO THE FONDS..... **32**

DIVISION XII
UNKNOWN DRIVER OR OWNER..... **39**

DIVISION XIII *Replaced, 1977, c. 68, s. 203.*

DIVISION XIV
CONSTITUTION OF THE FONDS..... **42**

DIVISION XV *Replaced, 1977, c. 68, s. 203.*

REPEAL SCHEDULE

1. (Replaced).

R. S. 1964, c. 232, s. 1; 1969, c. 65, s. 31; 1972, c. 54, s. 32; 1977, c. 68, s. 203.

DIVISION I

DEFINITIONS

2. In this act the following expressions mean:

(1) *replaced;*

(2) *“automobile” : every vehicle propelled by any power other than muscular force, and which is adapted for transportation on the public highways, but not on rails;*

(3) *replaced;*

(4) *replaced;*

(5) *replaced;*

(6) *replaced;*

(7) *replaced;*

(8) *replaced;*

(9) *“Régie” : the Régie de l’assurance automobile du Québec;*

(10) *“Fonds” : the Fonds d’indemnisation established by section 122 of the Automobile Insurance Act (chapter A-25);*

(11) *“owner” : any person who has acquired an automobile and possesses it under an absolute title or a conditional one which gives him the right to become owner thereof or to use same as owner thereof, charged to deliver over:*

R. S. 1964, c. 232, s. 2; 1972, c. 55, s. 183; 1977, c. 5, s. 14; 1977, c. 68, s. 203, s. 204; 1980, c. 38, s. 18.

DIVISION II

OWNER’S AND DRIVER’S RESPONSIBILITY

3. The owner of an automobile is responsible for all damage caused by such automobile or by the use thereof, unless he proves:

(a) *that the damage is not imputable to any fault on his part or on the part of a person in the automobile or of the driver thereof, or*

(b) *that at the time of the accident the automobile was being driven by a third person who obtained possession thereof by theft, or*

(c) *that at the time of an accident that occurred elsewhere than on a public highway the automobile was in possession of a third party for storage, repair or transportation.*

The driver of an automobile is responsible in like manner unless he proves that the damage is not imputable to any fault on his part.

Damage caused, when the automobile is not in motion on a public highway, by apparatus incorporated therein that can be operated independently or by the use of such apparatus is not contemplated by this section.

R. S. 1964, c. 232, s. 3.



Section 3 of this act remains in force, but only for the purposes of the second paragraph of section 201 of the Automobile Insurance Act (chapter A-25). (1977, c. 68, s. 203).

4. (Replaced).

R. S. 1964, c. 232, s. 4; 1977, c. 68, s. 203.

5. (Replaced).

R. S. 1964, c. 232, s. 5; 1977, c. 68, s. 203.

DIVISION III

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

6. (Replaced).

R. S. 1964, c. 232, s. 6; 1977, c. 68, s. 203.

7. (Replaced).

R. S. 1964, c. 232, s. 7; 1977, c. 68, s. 203.

8. (Replaced).

R. S. 1964, c. 232, s. 8; 1977, c. 68, s. 203.

DIVISION IV

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

9. (Replaced).

R. S. 1964, c. 232, s. 9; 1977, c. 68, s. 203.

10. (Replaced).

R. S. 1964, c. 232, s. 10; 1977, c. 68, s. 203.

11. (Replaced).

R. S. 1964, c. 232, s. 11; 1977, c. 68, s. 203.

12. (Replaced).

R. S. 1964, c. 232, s. 12; 1977, c. 68, s. 203.

13. (Replaced).

R. S. 1964, c. 232, s. 13; 1977, c. 68, s. 203.

DIVISION V

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

14. (Replaced).

R. S. 1964, c. 232, s. 14; 1977, c. 68, s. 203.

15. (Replaced).

R. S. 1964, c. 232, s. 15; 1977, c. 68, s. 203.

DIVISION VI

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

16. (Replaced).

R. S. 1964, c. 232, s. 16; 1977, c. 68, s. 203.

17. (Replaced).

R. S. 1964, c. 232, s. 17; 1977, c. 68, s. 203.

18. (Replaced).

R. S. 1964, c. 232, s. 18; 1977, c. 68, s. 203.

19. (Replaced).

R. S. 1964, c. 232, s. 19; 1977, c. 68, s. 203.

20. (Replaced).

R. S. 1964, c. 232, s. 20; 1977, c. 68, s. 203.

DIVISION VII

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

21. (Replaced).

R. S. 1964, c. 232, s. 21; 1971, c. 85, s. 28; 1977, c. 68, s. 203.

DIVISION VIII

SUSPENSION FOR OFFENCES

22. *Upon receipt of a written notice to such effect, the Régie shall forthwith suspend for a period of three months the driver's permit of any person convicted of an offence under any of sections 233 (1), 233 (2), 233 (4), 234, 235 (2) and 236 of the Criminal Code or, if the offence was committed with an automobile, any of sections 203, 204 and 219 of the same Code.*

However, that person, immediately after the declaration finding him guilty or after the sentence, may obtain from the judge who rendered it, an order to the Régie to issue to him a restricted permit if he establishes, to the satisfaction of the judge, that he must drive an automobile in order to carry on his principal means of livelihood.

If that person has not, for a reasonable ground, the proof of which is incumbent on him, made his application at the time provided for in the second paragraph, he may still do so by applying, by way of a motion, to the same judge or to a judge of the same court; if that court does not sit in the district where the person intends to file his motion, it may then be filed with a judge of a civil court, except a municipal court.

The decision is final and without appeal.

The Régie, on receipt of the order, shall issue the restricted permit; the suspension provided for in the first paragraph is then extended to six months.

The restricted permit is issued or maintained only so far as the driver's permit is not cancelled, suspended or not renewed for another cause.

R. S. 1964, c. 232, s. 22; 1976, c. 35, s. 27, s. 31; 1977, c. 68, s. 205; 1978, c. 76, s. 1; 1980, c. 38, s. 18.



The replacement of the second and third paragraphs of section 22 of this act by section 1 of chapter 76 of the statutes of 1978 also applies to an offence committed before 22 December 1978 if, on that date, there has been no ruling on an application for a recommendation to issue a restricted permit made in conformity with the second paragraph of section 22 of this act as enacted by section 205 of chapter 68 of the statutes of 1977. (1978, c. 76, s. 2).

23. (Replaced).

R. S. 1964, c. 232, s. 23; 1977, c. 68, s. 203.

24. Every person liable to suspension of a permit under section 22 or 25 shall also forfeit the right to drive an automobile in Québec for the period of suspension, whether or not he held a permit at the time of suspension.

R. S. 1964, c. 232, s. 24; 1977, c. 68, s. 206.

25. The Régie shall not be bound to reinstate or issue a driver's permit if it is of the opinion that in the circumstances it is not expedient to do so.

The Government may establish by regulation published in the *Gazette officielle du Québec* a point system whereby the Régie must suspend or refuse to issue or to reinstate such permits.

Such regulation may authorize the Régie to summon, by registered or certified letter, any holder of a license to appear before a designated official to show cause why his permit should not be suspended.

The reason for any refusal or suspension of a permit must be stated in writing and sent to the person concerned over the signature of the Régie or an authorized official of the Régie.

R. S. 1964, c. 232, s. 25; 1975, c. 83, s. 84; 1976, c. 35, s. 28; 1980, c. 38, s. 18.

DIVISION IX

SUSPENSION FOR ACCIDENTS

26. Whenever, as a result of an automobile accident, except in the cases where liability insurance is not compulsory under the *Automobile Insurance Act*, any person suffers damage to property in an amount

apparently exceeding two hundred and fifty dollars, the Régie, on receiving written notice to that effect, shall suspend

(a) the driver's permit of every person who was driving an automobile involved in the accident;

(b) the registration of every automobile registered in the name of such driver; and

(c) the driver's permit of every registered owner of an automobile involved in the accident and the registration of every automobile registered in the name of such owner.

The foregoing provisions do not apply in the cases provided for in sections 27 and 28.

The foregoing provisions do not apply either when the only damage to property is damage to the only automobile involved in the accident or the moveable effects it contained.

R. S. 1964, c. 232, s. 26; 1976, c. 35, s. 29; 1977, c. 68, s. 207; 1980, c. 38, s. 18.

27. *If it is proved to the Régie that at the time of the accident an automobile was lawfully parked or was in the possession of a thief, the permit of the owner and the registration of such automobile shall not be suspended, or such suspension if made shall be cancelled.*

R. S. 1964, c. 232, s. 27; 1980, c. 38, s. 18.

28. *If the owner or driver of an automobile involved in an accident furnishes a certificate of insurance or of financial responsibility required by the Automobile Insurance Act (chapter A-25), valid at the time of the accident, the Régie shall not suspend any driver's permit or registration. If a suspension has already been imposed, it must immediately be cancelled and considered to have never taken place.*

R. S. 1964, c. 232, s. 28; 1977, c. 68, s. 208; 1980, c. 38, s. 18.

29. *When the Régie suspends a permit or registration under section 26, it shall not cancel such suspension or grant a new permit or registration so long as the holder has not given to its satisfaction:*

(a) a certificate of insurance or of financial responsibility contemplated in the Automobile Insurance Act; and either

(b) security that he will satisfy any condemnation resulting from the accident, up to an amount deemed sufficient but not exceeding thirty five thousand dollars, in addition to interest and costs, except two hundred dollars deductible from damage to the property of another; or, from 1 March 1978, for accidents that occurred from such date, up to an amount deemed sufficient but not exceeding the amount contemplated in section 87 of the Automobile Insurance Act, or

(c) proof that he has been held not responsible or has satisfied any claim resulting from the accident, up to the amount applicable.

R. S. 1964, c. 232, s. 29; 1977, c. 68, s. 209; 1980, c. 38, s. 18.

30. *Unless otherwise obliged to do so, every person contemplated in section 29 shall no longer be required to give security or a certificate of insurance or of financial responsibility contemplated in the Automobile Insurance Act*

(a) if prescription is acquired; or

(b) when he has furnished a proof of payment of the damages caused in the accident; or

(c) when he has been exonerated by a final judgment of all responsibility for such damage resulting from the accident.

R. S. 1964, c. 232, s. 30; 1977, c. 68, s. 210.

DIVISION X

SUSPENSION FOR UNSATISFIED JUDGMENT

31. *When a final judgment rendered in Québec or elsewhere in Canada for damage of one hundred dollars or more resulting from bodily injuries or death arising out of an automobile accident that occurred after 30 September 1961, or for damage to the property of another arising out of such accident and exceeding two hundred dollars, or if the accident occurred on or after 1 March 1978, for damage to the property of another arising out of such accident and exceeding two hundred and fifty dollars, has not been satisfied within the delay for execution, the Régie shall suspend every driver's permit and every registration of an automobile in the name of the debtor.*

Such suspension shall remain in force and shall deprive the debtor of the right to drive or to have an automobile registered in his name, in Québec, so long as he has not satisfied the judgment up to the amount of thirty-five thousand dollars, in addition to interest and costs, except two hundred dollars deductible from damage to the property of another or, from 1 March 1978 for accidents that occurred from such date, up to the amount prescribed in section 87 of the Automobile Insurance Act (chapter A-25), or is not paying the same regularly in instalments to the satisfaction of the Régie.

R. S. 1964, c. 232, s. 31; 1976, c. 35, s. 30; 1977, c. 68, s. 211; 1980, c. 38, s. 18.

DIVISION XI

RECOURSE TO THE FONDS



Sections 32 to 37 of this act remain in force, but only for the purposes of the second paragraph of section 201 of the Automobile Insurance Act (chapter A-25). (1977, c. 68, s. 203).

32. *Any creditor under a final judgment rendered in Québec awarding damages of one hundred dollars or more resulting from bodily injuries or death and arising out of an automobile accident that occurred in Québec after the 30th of September 1961, or for damage to the property of another in excess of two hundred dollars and arising out of such an accident, may apply to the Fonds within a delay of one year to satisfy such judgment.*

R. S. 1964, c. 232, s. 36.

33. *The creditor shall apply to the Fonds by a sworn declaration:*

(a) establishing that the judgment has in no way been satisfied or indicating, if need be, the amount paid, the value of the thing given in payment or of the services rendered in partial indemnification;

(b) establishing that no insurer will benefit by the amount claimed; and

(c) disclosing any other possible claim arising out of the same accident.

R. S. 1964, c. 232, s. 37.

34. *Within seven days of receipt of the application accompanied by an authentic copy of the judgment, the Fonds shall satisfy the judgment, up to thirty-five thousand dollars, in addition to interest and costs, but deducting from such amount any sum or value received by the creditor and deducting from any amount due for damage to property the sum of two hundred dollars.*

If, however, there is a possibility of claims exceeding the whole of the prescribed amount, the Fonds may defer payment to the extent deemed necessary until the other claims are liquidated.

R. S. 1964, c. 232, s. 38; 1977, c. 68, s. 212.

35. *The application to the Fonds transfers to it all the creditor's rights without restriction.*

Such conveyance shall be notified to the prothonotary or clerk of the court which rendered the judgment by the filing of a certificate from the Fonds establishing that it is subrogated in the rights of the creditor and the Fonds shall then be entitled to execute in its own name.

R. S. 1964, c. 232, s. 39.

36. *The following persons cannot make application to the Fonds:*

(a) an insurer to whom a recourse contemplated by section 3, 31 or 32 has been assigned or who is subrogated in such recourse;

(b) a person entitled to compensation under the Workmen's Compensation Act (chapter A-3) in consequence of the accident concerned;

(c) the child or the consort of the debtor;

(d) for articles which were being transported in the debtor's automobile at the time of the accident, the owner of such articles;

(e) any person, including Her Majesty, subrogated in the rights of the persons mentioned above or to whom the same have been assigned;

(f) any person domiciled in a state, province or territory where residents of Québec do not enjoy rights equivalent to those granted by this Division.

R. S. 1964, c. 232, s. 40.

37. *No application can be made to the Fonds in respect of a judgment rendered by default to appear or to plead, on confession of judgment, by consent, or in the absence of the defendant or his attorney, unless thirty days' notice of the plaintiff's intention so to proceed has been given to the Fonds. The Fonds may then intervene in the case and set up any ground of defence that the defendant might have set up without regard to any consent or confession of judgment.*

R. S. 1964, c. 232, s. 41.

38. *When the Fonds has made a payment towards satisfaction of a judgment, no permit or registration shall be issued to the debtor or reinstated unless he*

(a) has given a certificate of insurance or of financial responsibility contemplated in the Automobile Insurance Act; and

(b) has repaid to the Fonds the total amount disbursed with interest, or is paying the same regularly in instalments agreed to by the Fonds.

The Régie shall again suspend the permit or registration on receipt of notice from the Fonds of default of payment by instalments.

R. S. 1964, c. 232, s. 42; 1977, c. 68, s. 213; 1980, c. 38, s. 18.

DIVISION XII

UNKNOWN DRIVER OR OWNER

39. *Any person having a claim that could be the basis of an application to the Fonds who cannot ascertain the identity of the driver or owner of the automobile that caused the accident may give the Fonds a detailed notice thereof.*

Failing settlement within sixty days, such person may take action against the Fonds and the Fonds must satisfy the judgment to the same extent as if it had been rendered against the author of the accident.

R. S. 1964, c. 232, s. 43.



Section 39 of this act remains in force, but only for the purposes of the second paragraph of section 201 of the Automobile Insurance Act (chapter A-25). (1977, c. 68, s. 203).

DIVISION XIII

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

40. *(Replaced).*

R. S. 1964, c. 232, s. 44; 1977, c. 68, s. 203.

41. *(Replaced).*

R. S. 1964, c. 232, s. 45; 1977, c. 68, s. 203.

DIVISION XIV

CONSTITUTION OF THE FONDS

42. *(Replaced).*

R. S. 1964, c. 232, s. 46; 1977, c. 68, s. 203.

43. *(Replaced).*

R. S. 1964, c. 232, s. 47; 1977, c. 68, s. 203.

44. *(Replaced).*

R. S. 1964, c. 232, s. 48; 1977, c. 68, s. 203.

45. *The Fonds has the following powers:*

(a) replaced;

(b) to pay, to the extent prescribed, the unsatisfied judgments awarding damages arising out of automobile accidents or the claims susceptible of giving rise to such judgments;

(c) to obtain subrogation in the rights of any person indemnified;

(d) to intervene in any action resulting from an automobile accident;

(e) to indemnify the victims of automobile accidents when the author thereof is unknown;

(f) to transact or compromise with claimants;

(g) replaced;

(h) replaced;

(i) replaced.

R. S. 1964, c. 232, s. 49; 1977, c. 5, s. 14; 1977, c. 68, s. 203.



Paragraphs b, c, d, e and f of section 45 of this act remain in force, but only for the purposes of the second paragraph of section 201 of the Automobile Insurance Act (chapter A-25). (1977, c. 68, s. 203).

46. *(Replaced).*

R. S. 1964, c. 232, s. 50; 1977, c. 68, s. 203.

47. *(Replaced).*

R. S. 1964, c. 232, s. 51; 1977, c. 68, s. 203.

48. *(Replaced).*

R. S. 1964, c. 232, s. 52; 1977, c. 68, s. 203.

49. *(Replaced).*

R. S. 1964, c. 232, s. 53; 1977, c. 68, s. 203.

50. *(Replaced).*

R. S. 1964, c. 232, s. 54; 1977, c. 68, s. 203.

51. *(Replaced).*

R. S. 1964, c. 232, s. 55; 1977, c. 68, s. 203.

52. *(Replaced).*

R. S. 1964, c. 232, s. 56; 1977, c. 68, s. 203.

53. *(Replaced).*

R. S. 1964, c. 232, s. 57; 1977, c. 68, s. 203.

54. *(Replaced).*

R. S. 1964, c. 232, s. 58; 1977, c. 68, s. 203.

55. *(Replaced).*

R. S. 1964, c. 232, s. 59; 1969, c. 65, s. 32; 1972, c. 54, s. 32; 1977, c. 68, s. 203.

56. *(Replaced).*

R. S. 1964, c. 232, s. 60; 1966-67, c. 72, s. 23; 1974, c. 70, s. 473; 1975, c. 76, s. 11; 1977, c. 68, s. 203.

57. *(Replaced).*

R. S. 1964, c. 232, s. 61; 1977, c. 68, s. 203.

58. *(Replaced).*

R. S. 1964, c. 232, s. 62; 1977, c. 68, s. 203.

59. *(Replaced).*

R. S. 1964, c. 232, s. 63; 1977, c. 68, s. 203.

60. *(Replaced).*

R. S. 1964, c. 232, s. 64; 1977, c. 68, s. 203.

61. *(Replaced).*

R. S. 1964, c. 232, s. 65; 1977, c. 68, s. 203.

62. *(Replaced).*

R. S. 1964, c. 232, s. 66; 1977, c. 68, s. 203.

63. *(Replaced).*

R. S. 1964, c. 232, s. 67; 1977, c. 68, s. 203.

64. *(Replaced).*

R. S. 1964, c. 232, s. 68; 1977, c. 68, s. 203.

65. *(Replaced).*

R. S. 1964, c. 232, s. 69; 1969, c. 65, s. 33; 1972, c. 54, s. 32; 1977, c. 68, s. 203.

DIVISION XV

Replaced, 1977, c. 68, s. 203.

1977, c. 68, s. 203.

66. *(Replaced).*

R. S. 1964, c. 232, s. 70; 1965 (1st sess.), c. 80, a. 1; 1972, c. 55, s. 183; 1977, c. 68, s. 203.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 232 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter I-5 of the Revised Statutes.