

The Insurance Policy for all Quebecers

IN THE EVENT OF INJURY OR DEATH
DUE TO AN AUTOMOBILE ACCIDENT



PLEASE NOTE:

Though “estate” is the more common term, “succession” is used throughout this publication, as it is the term used in Québec legislation.

This is not a text of law. For questions of a legal nature, please refer to the *Automobile Insurance Act*.

saaq.gouv.qc.ca

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Introduction

Under Québec's public automobile insurance plan, all Québec residents are covered for injury or death due to a traffic accident, regardless of:

- » **who is at fault;**
- » **where the accident occurs in the world.**

The main goal of the automobile insurance plan is to ensure fair compensation for all accident victims, while keeping administrative costs down.

This document has been prepared to give you a clear picture of the way the plan operates and the coverage it provides.

Keep it in a safe place: it's your insurance policy.

You will find a **Compensation Table** at the end of this brochure, showing the maximum amounts payable by the Société de l'assurance automobile du Québec (SAAQ) in connection with a traffic accident.

KEEP THIS DOCUMENT
IN A SAFE PLACE:
IT'S YOUR
INSURANCE POLICY.

Coverage

WHO IS COVERED BY THE PLAN?

All Québec residents who are injured or killed in a traffic accident, whether as:

- » a driver;
- » a passenger;
- » a pedestrian;
- » a cyclist;
- » a motorcyclist; or
- » any other road user.

IS THE PERSON AT FAULT ENTITLED TO COMPENSATION?

Anyone who sustains bodily injury in an accident is compensated **regardless of whether or not that person is responsible for the accident**. Suing for damages in civil court to cover bodily injury is therefore eliminated.

However, people who commit driving-related *Criminal Code* offences (e.g. impaired driving, hit-and-run, dangerous driving) are still subject to prosecution under the *Criminal Code*.

Furthermore, if a person is imprisoned for a driving-related *Criminal Code* offence referred to in the *Automobile Insurance Act*, the SAAQ reduces the amount of any income replacement indemnity paid during that period. For example, this indemnity is reduced by 75% if the person has no dependants. If the incarcerated accident victim has dependants, the reduction is set according to the number of dependants that he or she has, and the indemnity is paid directly to them.

WHAT ABOUT PROPERTY DAMAGE?

The *Automobile Insurance Act* requires that you hold third-party liability insurance of at least \$50,000 for property damage. This protection, available from private insurers, covers any property damage that might be caused to another party.

Accident victims who sustain property damage may sometimes find themselves without coverage, for example because of a hit-and-run or the insolvency of the person responsible for the accident. The SAAQ compensates those accident victims for property damage if the accident occurred in Québec, under certain conditions. The coverage provided by the SAAQ in no way replaces third-party liability insurance for collision, theft, multiple risks or damage to property other than the vehicle. Rather, it supplements the compensation plan administered by the SAAQ for bodily injury sustained in a traffic accident.

In the case of a hit-and-run or insolvency, the SAAQ may pay up to \$10,000 in compensation for property damage, on top of interest and legal fees. Such compensation is subject to a deductible of \$500 or more.

ARE QUÉBEC RESIDENTS COVERED OUTSIDE QUÉBEC?

Whether or not they are at fault, Québec residents injured in a traffic accident while they are outside Québec are entitled to the same compensation as if the accident had occurred in Québec.

However, Québec residents **who are responsible for the accident** may be sued in the courts of the jurisdiction where the accident occurred for compensation of bodily injury and property damage. In this case, they are protected by their third-party liability insurance, which is mandatory for travel elsewhere in Canada and in the United States. You should check with your private insurer to make sure that your insurance protection is sufficient to cover such damages. If you plan on driving elsewhere in the world, you should choose the proper policy to ensure sufficient protection.

Québec residents who are not responsible for the accident can sue the party responsible for the accident, provided such recourse is possible under the laws of the jurisdiction in which the accident occurred.

Before suing, however, Québec residents must notify the SAAQ, which has a right of priority that it may decide to exercise. Moreover, Québec residents should first inform themselves about the legal fees they might incur and weigh these against any sum of money they could be awarded.

Before signing any document or accepting any money following a traffic accident outside Québec, it is very important to contact the SAAQ and your private insurer.

WHAT ABOUT NON-RESIDENTS INVOLVED IN A TRAFFIC ACCIDENT IN QUÉBEC?

The public automobile insurance plan covers non-residents travelling on Québec roads **in a vehicle registered in Québec** in the event of injury or death.

If their vehicle is not registered in Québec, non-residents qualify for compensation in inverse proportion to their share of responsibility for the accident. Therefore, the greater their share of responsibility, the lower the compensation they will receive from the SAAQ (e.g. a non-resident bearing 20% of responsibility will be entitled to 80% of the benefits provided under the plan). However, if the person's home jurisdiction has entered into a reciprocal agreement with the SAAQ, the terms of that agreement will be applied.

How to File for Compensation with the SAAQ

File a claim for compensation as soon as possible after the accident, or have someone else file it for you.

You may use our online services to file your claim:

saaq.gouv.qc.ca/claim-compensation

If you prefer to file your claim for compensation using a paper form, you must first call the SAAQ at **1-888-810-2525**.

The SAAQ will provide all the necessary documentation, including the ***Claim for Compensation*** form. This form is also available in all SAAQ service centres and on the SAAQ's website.

The SAAQ provides assistance and information free of charge as needed to assist in preparing a claim.

TIME LIMIT

You have **three years** from the date of the accident or the first signs of accident-related bodily injury to file a claim for compensation. You also have three years from the date of death to file a claim for death benefits. However, the sooner you file your claim, the sooner your claim will be processed.

YOU HAVE THREE YEARS
TO FILE A CLAIM
FOR COMPENSATION.

Compensation Paid by the SAAQ

The SAAQ pays various types of indemnities to people injured in a traffic accident and to the surviving families of accident victims who die as a result of a traffic accident. These indemnities are not taxable, although they may affect some income tax credits or social program benefits.

Benefits may take the form of a pension paid at regular intervals, a lump sum or the reimbursement of accident-related expenses.

ANNUAL INDEXATION OF INDEMNITIES

To keep up with the cost of living, income replacement indemnities are indexed each year on the anniversary date of the accident. Many other indemnities are indexed on January 1 every year.

DEPENDING ON THE
SITUATION, ACCIDENT
VICTIMS MAY BE ENTITLED
TO ONE OR MORE
INDEMNITIES.

Compensation for Accident Victims

DISABILITY AND ENTITLEMENT TO COMPENSATION

Any injury sustained in a traffic accident that prevents the accident victim from resuming employment or regular activities may entitle that person to various types of compensation as long as the disability persists.

Entitlement to compensation is based on the connection between the traffic accident and the injuries sustained, the injury-related consequences that the accident victim experiences following the accident and that person's fitness to resume employment or regular activities.

Types of indemnities

Depending on the situation, accident victims or their families may be entitled to one or more of the following indemnities:

- » income replacement indemnity;
- » lump-sum indemnity for the loss of a school year or term;
- » indemnity for impairment;
- » death benefits:
 - to a surviving spouse,
 - to dependants,
 - to a disabled dependant (additional amount),
 - to the succession when the accident victim leaves behind no spouse or dependants,
 - to the succession, for payment of funeral expenses (lump-sum indemnity to cover funeral expenses);
- » compensation for care expenses:
 - indemnity for care expenses,
 - reimbursement of care expenses;
- » indemnity for substitute labour costs (family business).

Accident victims may also be entitled to the reimbursement of their medical and paramedical expenses.

The SAAQ may also take certain steps to contribute to the rehabilitation of an accident victim.

Most indemnities can be deposited directly into a claimant's bank account. The **Compensation Table** included at the end of this brochure shows the maximum amounts payable.

Occupational categories

Entitlement to compensation for disability is based on dividing accident victims into categories:

- » full-time employees;
- » temporary or part-time employees;
- » individuals who are unemployed but able to work;
- » individuals under age 16;
- » students age 16 or over who attend an educational institution on a full-time basis;
- » individuals age 64 or over who are employed;
- » individuals age 65 or over who are not employed;
- » individuals permanently unable to hold employment.

Employment held by a self-employed or salaried worker is classified as full-time, part-time or temporary, as the case may be.

INCOME REPLACEMENT INDEMNITY

This indemnity is paid by the SAAQ in compensation for real loss of income by accident victims who become unable to hold employment or perform regular activities.

These people may be:

- » people holding full-time employment at the time of the accident;
- » people holding temporary or part-time employment at the time of the accident;
- » people who, during the first 180 days after an accident, would have been employed were it not for the accident;
- » people who, during the first 180 days after the accident, were deprived of Employment Insurance benefits (formerly called Unemployment Insurance benefits) or an employment assistance allowance from the Ministère du Travail, de l'Emploi et de la Solidarité sociale to which they would normally have been entitled.

Income replacement indemnities are paid every 14 days for the period of disability (**except** for the first seven days after the accident, including the day of the accident).



The amount of the income replacement indemnity is generally calculated on the basis of the employment held by the accident victim at the time of the accident.

Beginning on the 181st day after the accident

To avoid penalizing, in the longer term, accident victims who did not suffer a real loss of income due to the accident because they were not holding full-time employment (they held temporary or part-time employment or were unemployed), their disability is reassessed from the 181st day following the accident on the basis of their ability to work. This covers:

- » people who held temporary or part-time employment at the time of the accident;
- » people under age 65 at the time of the accident, who were not employed but were able to work;
- » people who were not employed at the time of the accident, but who would have held employment had the accident not occurred, or who were deprived of Employment Insurance benefits.

As of the 181st day following the accident, these accident victims may receive an income replacement indemnity based on a hypothetical employment they would have been fit to hold.

When determining this employment, the SAAQ takes into account, in particular, the accident victim's:

- » physical and intellectual abilities;
- » training;
- » work experience.

The employment determined for an accident victim must be full-time, unless the person does not have the physical or intellectual capacities to hold such an employment.

As of the date that is 12 months following the date of the accident

The nature of an accident victim's injuries or impairment may grant entitlement to an income replacement indemnity that is calculated based on a gross income that must not be less than the average weekly earnings of Québec workers.

The injuries and impairment granting entitlement to such an indemnity are prescribed by regulation and include the following:

- » complete paraplegia or tetraplegia;
- » a traumatic brain injury resulting in one or more functional alterations of the brain, as determined by regulation, for which the combined percentages for impairment add up to at least 50%;
- » at least two amputations of different limbs, as determined by regulation;
- » a loss of vision;
- » third-degree burns causing functional impairment or impairment to the esthetic of the face, for which the combined percentages for impairment add up to at least 75%;
- » an affective or mental disorder resulting in, at a minimum, a major disruption of personal and social functioning or an altered sense of reality;
- » a combination of different types of impairment determined by regulation, for which the combined percentages for impairment add up to at least 85%.

Duration

An income replacement indemnity is generally paid to accident victims for the duration of the disability period resulting from the accident, as long as they comply with the conditions relating to their occupational category.

Full-time, temporary or part-time employees are entitled to income replacement indemnity payments for as long as they are unable, because of accident-related injuries, to resume the employment they held when the accident occurred or to hold the hypothetical employment determined for them on the 181st day after the accident.

People under age 16 who also held employment at the time of the accident are entitled to an income replacement indemnity as long as that employment would have remained available and they are unfit to hold it because of the injuries sustained. However, payment of such an indemnity ends at the end of the school year in which they turn 16.

People age 16 or over who attend an educational institution on a full-time basis and who also held employment at the time of the accident are entitled to an income replacement indemnity as long as that employment would have remained available and they are unfit to hold it because of the injuries sustained. However, payment of such an indemnity ends on the date they were scheduled to complete the studies then underway.

People who are deprived of Employment Insurance benefits because of a traffic accident are entitled to an income replacement indemnity for as long as they do not qualify for those Employment Insurance benefits because of the accident.

Depending on the occupational category, other conditions may apply.

Two years after the accident

Two years after the accident, people who become able to work again but are left with diminished abilities because of the accident are attributed a hypothetical employment compatible with their abilities.

Their income replacement indemnity is adjusted accordingly.

In the event of a relapse

An accident victim's file may be reopened even after the end of a disability period and the end of indemnity payments. Accident victims who suffer a relapse in connection with the accident are again entitled to the indemnities available in their case.

Entitlement to an indemnity until death

Accident victims who are under age 65 at the time of their accident may be entitled to an income replacement indemnity until they die, provided they meet the eligibility criteria.

Accident victims who are 65 or older at the time of their accident will stop receiving an indemnity at the end of the 4th year following their accident.

INDEMNITY AWARDED TO ACCIDENT VICTIMS WHO LOSE THEIR JOB

The SAAQ may decide to pay an income replacement indemnity to accident victims who lose their job **because of the accident**, even though they are deemed fit to hold the employment in question. This financial support may be paid for a maximum of one year as of the date of the SAAQ's decision.

However, this measure does not apply in the case of an accident victim who held temporary employment when the accident occurred.

LUMP-SUM INDEMNITY FOR THE LOSS OF A SCHOOL YEAR OR TERM

A lump-sum indemnity is payable to students who lose a school year or term because of injuries sustained in a traffic accident. It is paid at the end of each lost school year or term, and ceases on the date that the studies underway at the time of the accident were scheduled to end, or at the end of the school year during which the accident victim turns 16, as the case may be.

ACCIDENT VICTIMS
WHO SUFFER A RELAPSE
IN CONNECTION WITH
THE TRAFFIC ACCIDENT
ARE AGAIN ENTITLED TO
INDEMNITIES.

COMPENSATION FOR CARE EXPENSES

Indemnity for care expenses

An indemnity for care expenses is paid to an accident victim whose **main occupation** was taking care of children under the age of 16 or disabled individuals, without remuneration.

The accident victim must have been unemployed but able to work or holding part-time employment (less than 28 hours/week) at the time of the accident in order to qualify.

The amount of the indemnity depends on the number of children or disabled people in the accident victim's care.

Reimbursement of care expenses

Care expenses may also be reimbursed **to accident victims who become unable to take care of children under age 16, or disabled individuals**, because of the accident. Care expenses cannot be reimbursed to someone already receiving an indemnity for care expenses.

Care expenses may also be reimbursed to accident victims who, despite being able to care for children under age 16 or disabled individuals, are occasionally unable to do so because they must receive medical care for injuries sustained as a result of the accident or undergo an examination at the SAAQ's request.

Reimbursement is **paid upon presentation of supporting documents**, up to the maximum weekly amounts provided for by legislation, and is subject to certain conditions.

REIMBURSEMENT OF OTHER EXPENSES

Upon receiving supporting documents, the SAAQ reimburses certain other expenses incurred because of an accident (if they are not already covered by a social security plan), subject to the terms set by regulation.

Qualifying expenses relate to:

- » personal home assistance;
- » substitute labour costs for a family business (the remuneration paid to someone for replacing the accident victim, who had been working without pay);
- » accompanying an accident victim for treatment or to a medical examination requested by the SAAQ;

- » medical and paramedical care, as well as travel or lodging expenses incurred to receive that care;
- » the purchase of eyeglasses, prostheses or orthoses;
- » the purchase of medical supplies;
- » ambulance transportation;
- » the repair, cleaning or replacement of clothing that was damaged in the accident;
- » purchase of medication.

INDEMNITY FOR IMPAIRMENT



Injuries sustained in a traffic accident and any related functional or esthetic impairment may result in after-effects.

To compensate an accident victim for the inconvenience caused by such after-effects, the SAAQ may pay an indemnity that varies according to the severity of the impairment. To establish the amount of the indemnity, an accident victim's state of health is assessed on the basis of the information on file and, where necessary, by one or more physicians specialized in the relevant fields.

Payment is generally made as a lump sum. However, an interim payment may be made before the final assessment of the accident-related injuries, if the medical information on file so warrants.

An accident victim who is not left with any impairment may still be entitled to an indemnity for injury.

REHABILITATION

The SAAQ may take steps to contribute to an accident victim's rehabilitation, so as to reduce or eliminate the disability resulting from bodily injury and facilitate the return to a normal life and the reintegration of the labour market.

Furthermore, the SAAQ may reimburse the cost of alterations to a home or vehicle or job training and professional reintegration expenses if it considers such measures essential to the rehabilitation of an accident victim.

Death Benefits

SURVIVING SPOUSE

The surviving spouse is entitled to either of the following benefits, whichever is higher:

- » a lump-sum benefit based on the deceased's gross annual income (on the basis of which an income replacement indemnity would have been calculated), and multiplied by 5;
- » the minimum indemnity indicated in the table included at the end of this brochure.



Compensation may be paid in the form of a single payment or in regular instalments over a period of up to 20 years.

DEATH BENEFITS ARE PAID TO THE SUCCESSION IF THE ACCIDENT VICTIM WAS OF FULL AGE AND HAD NO SPOUSE OR DEPENDANTS.

OTHER DEPENDANTS

Surviving dependants, other than the spouse, are entitled to a lump-sum indemnity calculated according to their age at the time of the accident victim's death. Children of a single parent are entitled to equal shares of the death benefit that would have been paid to a surviving spouse, in addition to their own indemnity. As is the case with compensation paid to a surviving spouse, the indemnity may take the form of a single payment or regular instalments over a period of up to 20 years.

A dependant who is disabled at the time of the accident victim's death is entitled to an additional lump sum.

NO SURVIVING DEPENDANTS

In the case of a deceased accident victim who was a **minor** and who had no spouse or dependants, the SAAQ pays a lump-sum benefit to that person's parents, or to the succession if neither parent is alive. This amount is paid to the succession if the accident victim was of **full age**.

LUMP-SUM INDEMNITY TO COVER FUNERAL EXPENSES

To offset funeral expenses, the SAAQ pays a lump sum to the succession of all accident victims who die because of their accident.

Types of Accidents Excluded from Coverage

No compensation is paid for bodily injury or death in connection with any of the following situations:

1. **An accident that occurs during a contest, race, show, open trial, demonstration or exhibition involving one or more automobiles** on a track or land permanently or temporarily closed to all other automobile traffic or inside a building, regardless of whether or not the accident victim was a driver, passenger or spectator, and regardless of whether or not the automobile that caused the accident was taking part in the event in question;
2. **An accident involving a snowmobile or other off-road vehicle**, unless a moving vehicle that is not excluded under the plan is also involved in the accident (e.g. collision between a snowmobile and an automobile);

No insurance contributions are collected when you register a snowmobile or an off-road vehicle (such as an ATV or motocross bike). The *Act respecting off-highway vehicles* requires that all owners of such vehicles hold civil liability insurance of at least \$500,000.

3. **An accident that occurs elsewhere than on a public roadway and that results in injury caused by an equipment vehicle, an equipment trailer, a farm trailer or a farm tractor**, unless the collision involves a vehicle that is not excluded under the plan (e.g. a farm tractor colliding with an automobile);
4. **An accident involving a motor-assisted bicycle, a motorized mobility aid or a motorized personal mobility device**, unless a moving vehicle that is not excluded under the plan is also involved in the accident (e.g. collision between an electric bicycle and an automobile);
5. **An accident resulting in injury that is caused by equipment that can function independently from the vehicle of which it is a part, when that vehicle is not in motion and is elsewhere than on a public roadway** (e.g. an electric winch installed on the bumper of an automobile);
6. **An accident that occurs during the maintenance, repair, modification or improvement of an automobile, or an accident during which injury is caused by the independent act of an animal carried in an automobile.**

In these cases, to receive compensation, the vehicle or equipment owners or operators must take out appropriate coverage from a private insurer for any bodily injury and property damage that might be caused to themselves or others by the vehicle or equipment.

However, if an accident victim who sustained bodily injury in an accident covered under situation 2 or 3 above receives a favourable final ruling in Québec further to the accident, that person has one year in which to ask the SAAQ to comply with the ruling. The SAAQ may then pay the accident victim up to \$50,000 on top of interest and legal fees.

Special Cases

ON-THE-JOB TRAFFIC ACCIDENTS

Any claim for compensation in connection with traffic accidents that occur on the job must be submitted to the Commission des normes, de l'équité, de la santé et de la sécurité du travail (CNESST) or to another equivalent body.

A claimant who has been turned down by the CNESST or another equivalent body may then file a claim for compensation with the SAAQ, enclosing the letter of refusal.

VICTIMS OF A CRIMINAL OFFENCE INVOLVING AN AUTOMOBILE

When the circumstances surrounding a criminal offence grant entitlement to compensation under both the *Automobile Insurance Act* and the *Act to assist persons who are victims of criminal offences and to facilitate their recovery* (such as in the case of assault involving an automobile, dangerous driving causing bodily injury or death, impaired driving causing bodily injury or death, fleeing the scene of an accident involving bodily injury or death, etc.), accident victims can choose under which law they wish to receive compensation.

INDIVIDUALS INJURED BY AN AUTOMOBILE WHILE ASSISTING SOMEONE IN DISTRESS

A person injured by an automobile while assisting someone in distress may choose to receive compensation under either the *Act to promote good citizenship* or the *Automobile Insurance Act*.

A person who chooses to be compensated under either the *Act to assist persons who are victims of criminal offences and to facilitate their recovery* or the *Act to promote good citizenship* must contact the nearest CNESST regional office.

Application for Review

Individuals who disagree with a decision rendered by the SAAQ may apply for a review of the decision. They have 60 days to file an application for review with the administrative review office.

TIME LIMIT FOR ISSUING A REVIEW DECISION

The SAAQ has 90 days to render its decision from the date it receives an application for review.

This time limit can be extended if:

- » the person wishes to make comments or submit documents in support of the application, in which case the SAAQ then has an additional 90 days to render its decision from the date it receives the comments or documents;
- » the SAAQ deems it necessary to obtain documents or request an assessment by a health professional, in which case the SAAQ then has an additional 90 days to render its decision from the date it receives the requested documents or the assessment report.

If the decision of the administrative review office is not rendered within 90 days, the person may either wait for the decision or contest it directly before the Administrative Tribunal of Québec.

PROCEEDINGS BEFORE THE ADMINISTRATIVE TRIBUNAL OF QUÉBEC

Individuals who disagree with a decision rendered by the administrative review office may challenge it within 60 days before the Tribunal.

A Brief Example

Vincent held full-time employment that brought in a net annual income of \$45,000.

On his way home one afternoon, he lost control of his car on a slippery road and caused a serious accident involving three vehicles. Vincent sustained a fracture to his cervical spine, which left him unable to work for four months. To help him recover, he had to attend 30 physiotherapy sessions.

WAS VINCENT ENTITLED TO COMPENSATION?

Vincent was entitled to compensation by the SAAQ for his injury. As for property damage, Vincent was compensated by his private insurer.

Income

Vincent's cervical fracture prevented him from returning to work for four months. After the first seven days, he was paid an income replacement indemnity equivalent to **90% of the net income he earned from his employment**.

Treatment expenses

Vincent's treatment expenses were reimbursed by the SAAQ, based on the maximum amounts provided for under the plan. These included expenses incurred for physiotherapy sessions, medication and other medical supplies, as well as travel expenses incurred for treatment and medical follow-up.

Indemnity for impairment

After-effects are very real even though there may be no associated financial loss. If Vincent were to remain with any lifelong functional or esthetic impairment, he would be entitled to compensation for impairment.

Even if Vincent were to be left with no permanent impairment, he could still be entitled to an indemnity for injury.

The amount of any lump-sum indemnity is determined according to the severity of the after-effects resulting from the impairment and injuries sustained, in accordance with the applicable regulations.

What To Do in the Event of an Accident

1. Call the **police** so an accident report can be filed.
2. If you are injured, see a **physician** as soon as possible and tell him or her that you have been involved in a traffic accident. Your physician must fill out a medical report and give it to you.
3. As soon as possible after the accident, file or have a person representing you file a claim for compensation. You may use our online services to file a claim:

saaq.gouv.qc.ca/claim-compensation

If you prefer to file your claim for compensation using a paper form, you must first call the SAAQ at **1-888-810-2525**.

The SAAQ will provide all the necessary documentation, including the *Claim for Compensation* form. This form is also available in all SAAQ service centres and on the SAAQ's website.

4. Notify your private insurer of any property damage.

If you are involved in a serious accident outside Québec, in Canada or in the United States, call 1-877-229-0536 (toll-free). If you are anywhere else in the world, call 418-528-4579 (collect call).

If injuries sustained in an accident that occurred outside Québec require lengthy hospitalization or place you in a complex situation, the SAAQ will do everything possible to bring you back to Québec, if your state of health allows it.

**Société de l'assurance
automobile**

Québec 

Avec vous,
au cœur de votre sécurité