

1982, chapter 12

**AN ACT RESPECTING THE ABOLITION OF COMPULSORY
RETIREMENT AND PROVIDING AMENDMENTS
TO CERTAIN LEGISLATION**

Bill No. 15

Introduced by Mr Denis Lazure, Minister of Manpower and Income Security

First reading: 9 December 1981

Second reading: 4 March 1982

Third reading: 25 March 1982

Assented to: 1 April 1982

Coming into force: 1 April 1982

Acts amended:

Act respecting labour standards (R.S.Q., chapter N-1.1)

Act respecting supplemental pension plans (R.S.Q., chapter R-17)



CHAPTER 12

An Act respecting the abolition of compulsory retirement
and providing amendments to certain legislation

[Assented to 1 April 1982]

HER MAJESTY, with the advice and consent of the National
Assembly of Québec, enacts as follows:

1979, c. 45,
s. 3, am. **1.** Section 3 of the Act respecting labour standards (1979,
chapter 45), amended by section 1 of chapter 5 of the statutes of
1980, is again amended by inserting, after section 3, the following
section:

Applica-
bility
to the
Govern-
ment. **“3.1** Notwithstanding sections 2 and 3, Division VI.1 and sec-
tions 122.1 and 123.1 apply to the Government, its departments
and agencies and to every employee or employer.”

1979, c. 45,
Div. VI.1,
s. 84.1,
added. **2.** The said Act is amended by inserting, after section 84, the
following division:

“DIVISION VI.1

“RETIREMENT

Voluntary
retire-
ment. **“84.1** An employee is entitled to continue to work
notwithstanding the fact that he has reached or passed the age or
number of years of service at which he should retire pursuant to a
general law or special Act applicable to him, pursuant to the retire-
ment plan to which he contributes, pursuant to the collective
agreement, the arbitration award in lieu thereof or the decree gov-
erning him, or pursuant to the common practice of his employer.

Dismissal,
suspension,
transfer. However, and subject to section 122.1, such right does not
prevent an employer or his agent from dismissing, suspending or
transferring such an employee for good and sufficient cause.”

1979, c. 45,
s. 90.1,
added. **3.** The said Act is amended by inserting, after section 90, the
following section:

Excep-
tions.

"90.1 The Government may, by regulation, exempt certain categories of employees or employers from the application of Division VI.1 and section 122.1.

Regula-
tion.

A regulation made under the first paragraph may be made to have effect on a date not over six months prior to the date on which it is made."

1979, c. 45,
s. 102, am.

4. Section 102 of the said Act is amended by replacing the first paragraph by the following paragraph:

Complaint.

"102. Subject to sections 123 and 123.1, an employee who believes that one of his rights under this Act or a regulation has been violated may file a complaint in writing with the Commission."

1979, c. 45,
s. 122, am.

5. Section 122 of the said Act, amended by section 10 of chapter 5 of the statutes of 1980, is again amended by replacing subparagraph 1 of the first paragraph by the following subparagraph:

"(1) on the ground that such employee has exercised one of his rights, other than the right contemplated in section 84.1, under this Act or a regulation;"

1979, c. 45,
s. 122.1,
added.

6. The said Act is amended by inserting, after section 122, the following section:

Prohibited
practices.

"122.1 No employer or his agent may dismiss, suspend or retire an employee on the ground that he has reached or passed the age or the number of years of service at which he should retire pursuant to a general law or special Act applicable to him, pursuant to the retirement plan to which he contributes, pursuant to the collective agreement, the arbitration award in lieu thereof or the decree governing him, or pursuant to the common practice of his employer."

1979, c. 45,
s. 123.1,
added.

7. The said Act is amended by inserting, after section 123, the following section:

Complaint.

"123.1 Section 123 applies to every employee who believes that he has been dismissed, suspended or retired on the ground set forth in section 122.1.

Filing.

However, the time limit to file a complaint with the labour commissioner-general is then increased to ninety days."

R.S.Q., c.
R-17, Div.
V.1, ss.
44.1-44.6,
added.

8. The Act respecting supplemental pension plans (R.S.Q., chapter R-17) is amended by inserting, after section 44, the following division:

"DIVISION V.1

"DELAYED RETIREMENT

Delayed
payment.

"44.1 Subject to section 44.2, payment of the pension to the employee is delayed when, after normal retirement age, he continues to work for the employer for whom he was working at that age.

Period of
delay.

Delay of payment of the pension may take place as long as a supplemental plan is able to comply with this division while remaining a registered retirement plan within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3).

End of
delay.

However, such delay ends upon the employee's ceasing all work for his employer.

Wage com-
pensation.

"44.2 During the delay, an employee may require the payment of his pension, in whole or in part, but only to the extent necessary to compensate a reduction of salary or wages incurred during that period.

Applica-
tion.

In no case may an employee apply under this section more than once within a twelve-month period except by agreement with the administrator of the supplemental plan.

Exception.

However, after an agreement with his employer, and if the supplemental plan provides therefor, an employee may receive the whole or a part of the pension irrespective of the restriction provided in the first paragraph.

Revalori-
zation.

"44.3 In the case of a delayed payment of a pension in whole or in part, any amount of the pension that is not paid during the delay must be revalorized when every delay has terminated.

Method.

Every supplemental plan must provide how the revalorization is to be effected.

Revalo-
rized
pension.

"44.4 The revalorization contemplated in section 44.3 must provide that the amount of the pension becoming payable at the end of the delay be the amount of a pension actuarially equivalent to

(a) the pension that would have begun to be paid at normal retirement age had its payment not been delayed; or,

(b) in the case of a pension whose payment was delayed before the effective date of this section, the pension that would have been payable on that date had its payment begun at that time.

Surpluses
or deficits.

In no case may such revalorization create only surpluses in the fund of the supplemental plan. Nor may it create only deficits therein.

Contributions during the delay.

“44.5 If contributions are made during the delay, the additional pension arising therefrom must be at least equal in value to the pension that would arise at the end of the delay from the contributions made by the employee during the delay.

Death during delay.

“44.6 If an employee whose payment of pension was delayed, in whole or in part, dies during the delay, the payment of the unpaid amount of the pension is deemed to have begun on the day preceding his death.”

R.S.Q., c. R-17, s. 75, am.

9. Section 75 of the said Act is amended by adding, after paragraph *u*, the following paragraphs:

“(v) what is permitted, mandatory or prohibited in effecting the revalorization contemplated in Division V.1;

“(w) what constitutes salary or wages, how to establish them and the periods for which they are computed, for the purposes of section 44.2.”

Amendment of existing plans.

10. The amendments necessary to bring into conformity with this Act a retirement plan existing or in force on 1 April 1982 and to which the Act respecting supplemental pension plans applies must be presented to the Régie des rentes du Québec before 1 October 1982.

Employers governed by a collective agreement.

11. Notwithstanding section 10, if a retirement plan contemplated in that section concerns employees governed, as the case may be, by a collective agreement within the meaning of the Labour Code (R.S.Q., chapter C-27) or within the meaning of the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20), by an arbitration award in lieu thereof or by a decree within the meaning of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) or within the meaning of the Act respecting labour relations in the construction industry in force on 1 April 1982, the amendments necessary to bring such plan into conformity with this Act must be presented to the Régie des rentes du Québec not later than three months after the date, as the case may be, of the signature of a new collective agreement, of the rendering of the arbitration award in lieu thereof, of the extension or renewal of the decree or of the coming into force of a decree replacing the expired decree.

Effect of amendments.

12. On being approved in accordance with the Act respecting supplemental pension plans, the amendments contemplated in sections 10 and 11 are deemed to have effect,

- (1) in the case of section 10, from 1 April 1982;
- (2) in the case of section 11,

(a) in respect of employees governed, as the case may be, by a collective agreement, by an arbitration award or by a decree in force on 1 April 1982, from the expiry date of the collective agreement or of the arbitration award or from the date of expiry, extension or renewal of the decree;

(b) in respect of other employees, from 1 April 1982.

Government
and public
employees.

13. Provisions regarding compulsory retirement of a person owing to his age or number of years of service, that are contained in the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) and in any plan established under the said Act, in the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11), in the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) and in the Act respecting pension coverage for certain teachers (1978, chapter 16), cease to have effect in respect of

(1) members of such retirement plans who are governed by a collective agreement within the meaning of the Labour Code or by an arbitration award in lieu of a collective agreement in force on 1 April 1982, from 1 January 1983 or its date of expiry, if that is later than 1 January 1983;

(2) members of such retirement plans who are governed by a decree within the meaning of the Act respecting collective agreement decrees in force on 1 April 1982, from 1 January 1983 or its date of expiry, extension or renewal, if that is later than 1 January 1983;

(3) members of such retirement plans who are governed by a regulation of the Government or of the Conseil du trésor, in force on 1 April 1982 and determining their conditions of employment, from 1 January 1983;

(4) members of such retirement plans who are not contemplated in paragraphs 1, 2 and 3, from 1 January 1983.

Contributions
continued.

14. Subject to the Taxation Act and section 15, a member contemplated in section 13 shall continue to contribute to the retirement plan applicable to him if he performs a function, contemplated under that plan, after having reached or passed the age or the number of years of service at which, according to his retirement plan, he would have been compelled to retire.

Contributions
continued.

Similarly, the employer of such person shall continue to contribute to the plan.

Payment
of salary
and benefits.

15. The retirement plans contemplated in section 13 shall, from the date on which the provisions respecting compulsory retirement that are contained in those plans cease to have effect

pursuant to section 13, permit a person who continues to work after the normal retirement age to receive a salary as well as benefits under his retirement plan which may not, however, exceed the salary of that person on the day preceding the day on which he begins to receive such benefits, computed on an annual basis and adjusted according to the rules set down in his retirement plan.

Earliest payment of benefits. However, the day preceding the day on which a person begins to receive benefits under his retirement plan may in no case be earlier than the day preceding his normal retirement age.

Cessation of contribution. On receiving retirement benefits, in application of the first paragraph, a person shall cease to contribute to the retirement plan that applies to him; similarly, in this case, the employer shall cease to contribute to the plan.

"salary". For the purposes of this section, the expression "salary" has the meaning assigned by the retirement plan that applies to that person.

Collective agreements continued. **16.** A collective agreement within the meaning of the Labour Code or within the meaning of the Act respecting labour relations in the construction industry or an arbitration award in lieu of a collective agreement, which is in force on 1 April 1982, governing employees for whom there exists or is in force on that date a pension plan to which the Act respecting supplemental pension plans applies, continues to have effect notwithstanding the amendments to the Act respecting labour standards enacted by this Act, until the date of its expiry.

Decrees continued. The first paragraph applies, *mutatis mutandis*, to a decree within the meaning of the Act respecting collective agreement decrees or within the meaning of the Act respecting labour relations in the construction industry, which is in force on 1 April 1982, governing such employees, until the date of its expiry, extension or renewal.

Effect. The amendments to the Act respecting supplemental pension plans enacted by this Act have effect, with regard to employees contemplated in this section, only from the expiry date of the collective agreement or of the arbitration award, or from the date of expiry, extension or renewal of the decree.

Collective agreements continued. **17.** A collective agreement within the meaning of the Labour Code or an arbitration award in lieu of a collective agreement, which is in force on 1 April 1982, governing the members of the retirement plans contemplated in section 13, continues to have effect notwithstanding the amendments to the Act respecting labour standards enacted by this Act, until the date of its expiry.

Decrees continued. The first paragraph applies, *mutatis mutandis*, to a decree within the meaning of the Act respecting collective agreement

decrees, in force on 1 April 1982 and governing those members, until the date of its expiry, extension or renewal.

Effect of a regulation of the Treasury Board.

The first paragraph also applies, *mutatis mutandis*, to a regulation of the Government or of the Conseil du trésor, in force on 1 April 1982, determining the conditions of employment that apply to those members, until 1 January 1983.

Applicability of amendments.

18. The amendments to the Act respecting labour standards enacted by this Act apply only from 1 January 1983 in regard to members contemplated in paragraphs 1 and 2 of section 13 who are governed by a collective agreement, an arbitration award or a collective agreement decree that expires or is extended or renewed, as the case may be, between 1 April 1982 and 1 January 1983.

Applicability of amendments.

19. The amendments to the Act respecting labour standards enacted by this Act apply, subject to sections 10 to 18, to an employee who is governed by an agreement, an arbitration award in lieu of an agreement, a decree or a retirement plan that is in force on or after 1 April 1982.

"employee", "agreement" and "decree".

For the purposes of this section, the words "employee", "agreement" and "decree" have the meaning assigned to them by section 1 of the Act respecting labour standards or of the Act respecting labour relations in the construction industry.

Dismissal, suspension or retirement before 1 April 1982.

20. The amendments to the Act respecting labour standards enacted by this Act do not apply to an employee contemplated in section 19 who, before 1 April 1982,

(1) was dismissed, suspended or retired on the ground that he had reached or passed the age or the number of years of service at which, according to the agreement, the arbitration award in lieu of an agreement or the decree applicable to such person, or according to the common practice of his employer, he was to retire;

(2) received a notice of dismissal, suspension or retirement for the reason set forth in paragraph 1.

Retirement age reached before 1 April 1982.

21. The amendments to the Act respecting supplemental pension plans enacted by this Act do not apply to an employee who, on 1 April 1982, has reached or passed normal retirement age and is the beneficiary of his retirement pension.

Report.

22. The Minister of Labour, Manpower and Income Security is responsible for assessing the effects of this Act and for tabling two triennial reports on that subject in the National Assembly or, if it is not sitting, for filing such reports with the President, the first report not later than 1 October 1985 and the second, not later than 1 October 1988.

Coming into force.

23. This Act comes into force on the day of its sanction.