

NATIONAL ASSEMBLY

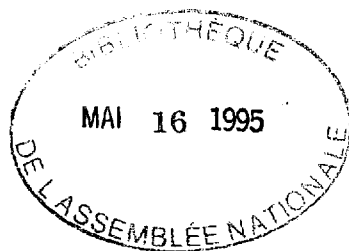
FIRST SESSION

THIRTY-FIFTH LEGISLATURE

Bill 97

**An Act to amend various
legislative provisions respecting
the pension plans in the public and
parapublic sectors**

Introduction



**Introduced by
Madam Pauline Marois
Minister for Administration and the Public Service and
Chairman of the Conseil du trésor**

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EXPLANATORY NOTES

This bill proposes various amendments to the Act respecting the Government and Public Employees Retirement Plan.

With respect to the said Act, the bill provides that, subject to certain conditions, certain decisions made under pension plans administered by the Commission administrative des régimes de retraite et d'assurances will no longer be subject to revision except to procure an advantage to the plan member. The period during which certain amounts can be recovered by the Commission is reduced from 4 to 3 years and the Commission will be authorized to make remissions in certain cases.

The bill also provides that a person who has ceased to be an active member of the Government and Public Employees Retirement Plan will be entitled to receive, on certain conditions, the greater of the actuarial value of his pension and a refund of contributions with accrued interest if he or she is totally and permanently disabled. Another amendment is proposed to enable a spouse to obtain the cancellation of reimbursement of benefits paid to the employee while he or she was terminally ill in order to enable the surviving spouse to receive surviving spouse's benefits.

Other amendments are proposed to the Act respecting the Government and Public Employees Retirement Plan and the Act respecting the Civil Service Superannuation Plan in order to specify the rules governing the participation of employees released for union activities. Moreover, the bill allows a former member of the Pension Plan of Certain Teachers to transfer to another pension plan not administered by the Commission the years of service credited or recognized under the Pension Plan of Certain Teachers, in accordance with a transfer agreement concluded by the Commission.

Finally, the bill contains technical and consequential amendments as well as transitional provisions.

LEGISLATION AMENDED BY THIS BILL:

- Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1);

- Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2);

- Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);

- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

- Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);

- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);

- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).

Bill 97

An Act to amend various legislative provisions respecting the pension plans in the public and parapublic sectors

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

1. Section 18 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by striking out the words “or, as the case may be, pursuant to agreements concerning the pension plan provided for in the said Act entered into in accordance with section 158 of the said Act” in the fifth, sixth and seventh lines of the first paragraph.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

2. Section 14 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2) is amended by adding, at the end of the third paragraph, the following sentence: “The amount by which the pensionable salary of the employee in respect of that employment exceeds the annual basic salary paid to him in respect of that employment or that would have been paid to him under the conditions of employment applicable on the last credited day of the year, multiplied by the service credited to that employee in the course of the year in respect of that employment, shall be added to the results of the computation.”

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

3. Section 2 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by adding, at the end, the following paragraph:

“(6) an employee who is released without pay by his employer for union activities and who is in the employ of a body designated in Schedule II.1.”

4. Section 10 of the said Act is amended by adding, at the end, the following paragraph:

“An order made under the first paragraph may not have effect more than 12 months before its adoption.”

5. Section 16.1 of the said Act is replaced by the following section:

“16.1 The pensionable salary of an employee who is released with pay for union activities is the salary paid to him by his employer and the salary, if any, paid to him by a body designated in Schedule II.1.

The body concerned must pay its employer’s contributory amount and deduct the contributions from the pensionable salary it pays to such an employee.”

6. Section 18 of the said Act is amended by adding, at the end of the third paragraph, the following sentence: “The amount by which the pensionable salary of the employee in respect of that employment exceeds the annual basic salary paid to him in respect of that employment or that would have been paid to him under the conditions of employment applicable on the last credited day of the year, multiplied by the service credited to that employee in the course of the year in respect of that employment, shall be added to the results of the computation.”

7. Section 40 of the said Act is amended by replacing the word “deemed” in the first line of the second paragraph by the word “presumed”.

8. Section 49.1 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “However, the 211-day period does not apply if, according to a medical certificate, the employee is suffering from an illness likely to lead to death within a period of two years.”

9. The said Act is amended by inserting, after section 59.3, the following section:

“59.3.1 The spouse of an employee referred to in the first or second paragraph of section 59.1 may, upon the death of the employee, obtain that the reimbursement of the amount referred to in the said section or, as the case may be, in section 59.2 be cancelled provided the spouse applies therefor to the Commission before the amount is received. In such a case, the employee’s application for reimbursement is deemed never to have been made.”

10. The said Act is amended by inserting, after section 59.6, the following division:

“DIVISION III.2

“TOTALLY AND PERMANENTLY DISABLED EMPLOYEE

“59.6.1 Except in the case of a pensioner, an employee who is totally and permanently disabled within the meaning of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), who has ceased to participate in this plan and who is entitled only to a deferred pension shall be entitled to transfer into a locked-in retirement account the amount determined under section 59.1 and, if applicable, the amount referred to in section 59.2. Such a case is governed by sections 59.3, 59.3.1 and 59.5. The expression “locked-in retirement account” has the meaning assigned by the Regulation respecting supplemental pension plans approved by Order in Council 1158-90 (1990, G.O. 2, 2318).”

11. Section 86 of the said Act, amended by section 12 of chapter 20 of the statutes of 1994, is again amended by replacing the figure “1995” in the last line of subparagraph 2 of the first paragraph by the figure “1996”.

12. Section 87 of the said Act, amended by section 13 of chapter 20 of the statutes of 1994, is again amended by replacing the figure “1995” in the second line by the figure “1996”.

13. Section 134 of the said Act is amended

(1) by adding, at the end of paragraph 16, the words “and, for the purposes of section 147, the criteria and conditions subject to which the Commission may remit any amount owed to it;”;

(2) by adding, at the end of paragraph 25, the words “or II.1”.

14. Section 137 of the said Act is amended by striking out the figure “147,” in the first line of subparagraph 2 of the second paragraph.

15. The French text of section 140 of the said Act is amended by replacing the word “incapacité” in the first line by the word “empêchement”.

16. Section 147 of the said Act is amended by replacing the second and third paragraphs by the following paragraphs:

“The Commission shall remit

(1) any amount of pension or pension credit owed to the Commission where the amount was paid more than 36 months before the effective date of the adjustment of the pension or pension credit or before the date of the notice of claim sent by the Commission;

(2) any excess reimbursement of contributions or actuarial value owed to the Commission where the excess amount was paid more than 36 months previously;

(3) any overpayment owed to the Commission by a spouse after the date of payment of the sums allotted to the spouse following partition and assignment of benefits between spouses.

The Commission may, in accordance with the criteria and conditions determined by regulation of the Government, remit any sum owed to the Commission where the sum was paid before the expiry of the 36-month period mentioned in the second paragraph.”

17. The said Act is amended by inserting, after section 147, the following sections:

“147.0.1 The Commission must revise the amount of a pension that became payable after 30 June 1992, taking into account any clerical error or correction made to the data used for computing the pension on the date of retirement, on or before the later of the following dates:

(1) the date occurring 36 months after the date on which the pension became payable; or

(2) the date occurring 6 months after the date on which payment of the pension began.

Where the Commission is unable to revise the amount of a pension for the date applicable pursuant to the first paragraph, it may do so within the 12 months following that date but shall take into account only the corrections received before the end of the 12-month period.

The amount of a pension may not be adjusted downwards thereafter by reason of any clerical error or correction made to the data used for computing the pension on the date of retirement.

“147.0.2 The Commission must revise the amount of a deferred pension the payment of which began after 31 December 1994, taking into account any clerical error or correction made to the data used for computing the pension on the date of retirement, on or before the date occurring 6 months after the date on which payment of the pension began.

Where the Commission is unable to revise the amount of the pension for the date applicable pursuant to the first paragraph, it may do so within the 12 months following that date but shall take into account only the corrections received before the end of the 12-month period.

The amount of the pension may not be adjusted downwards thereafter by reason of any clerical error or correction made to the data used for computing the pension on the date of retirement.

“147.0.3 Any person who has received a reimbursement of contributions or actuarial value without being entitled thereto and who is entitled, in respect of the amounts so reimbursed, to claim a pension credit under his pension plan has 90 days from the date of the notice of claim sent by the Commission to elect either to keep the amount reimbursed, or to return the amount received without entitlement, with interest compounded annually at the rate applicable pursuant to this Act, from the date of the reimbursement to the date of the notice.

Any person who does not remit to the Commission the total amount claimed within the time allotted, shall, subject to the third paragraph, forfeit any pension credit he could have claimed had it not been for the amount received without entitlement and is deemed, for the purposes of his pension plan, to have been entitled to the benefit granted to him.

The person may, following a subsequent notice of claim sent to him at his request by the Commission, reverse his decision and

remit an amount calculated in accordance with the first paragraph up to the date of the subsequent notice.

“147.0.4 Any decision of the Commission concerning a person’s eligibility for participation in a pension plan which, considering the provisions of the plan at the time the person begins to participate in the plan, is advantageous to the person, or concerning the number of years or parts of a year in respect of which a redemption proposal has been accepted becomes irrevocable, subject, in the latter case, to the provisions of the pension plans relating to redemption proposals, on the earlier of the following dates:

(1) the date occurring three years after the date of the Commission’s initial decision;

(2) the date on which the following conditions are met:

(a) the person ceases to be a member of his pension plan; and

(b) the person’s eligibility for a pension is confirmed to him in writing by the Commission.

A decision of the Commission concerning any other element of an accepted redemption proposal becomes irrevocable, subject to the provisions of the pension plans relating to redemption proposals, on the date referred to in subparagraph 1 of the first paragraph.

Notwithstanding the first and second paragraphs, any data pertaining to a redemption proposal may be corrected at all times if that is advantageous to the person and if the person pays any additional cost resulting therefrom.

“147.0.5 The second paragraph of section 147, the third paragraph of section 147.0.1 and section 147.0.2 and section 147.0.4 do not apply if the overpayments made to a person or the benefits granted to a person result from an administrative error that could reasonably have been noticed by the person.”

18. Section 158 of the said Act is amended by inserting the words “the Pension Plan of Certain Teachers,” after the word “whom” in the fifth line of the first paragraph.

19. Schedule I to the said Act, amended by Orders in Council 1573-93 dated 17 November 1993, 1728-93 dated 8 December 1993, 555-94 dated 20 April 1994, 1056-94 dated 13 July 1994, 1321-94, 1322-94, 1323-94 and 1324-94 dated 7 September 1994 and 1800-94

dated 21 December 1994, and by section 65 of chapter 40 of the statutes of 1993, section 31 of chapter 41 of the statutes of 1993, section 6 of chapter 50 of the statutes of 1993, section 13 of chapter 74 of the statutes of 1993, section 79 of chapter 2 of the statutes of 1994, section 49 of chapter 21 of the statutes of 1994, and section 42 of chapter 27 of the statutes of 1994, is again amended by inserting, in paragraph 1 and in alphabetical order, the following: "the Institut de recherche clinique de Montréal, in respect of employees who were holding an employment with the Institut before *(insert here the date following the date of assent to this Act)*".

20. Schedule II.1 to the said Act, amended by Orders in Council 1728-93 and 1729-93 dated 8 December 1993, 556-94 dated 20 April 1994, 1227-94 dated 17 August 1994, 1323-94 dated 7 September 1994 and 1639-94 dated 24 November 1994 and by section 14 of chapter 74 of the statutes of 1993, is again amended by replacing the heading by the following heading:

"BODIES WITH EMPLOYEES RELEASED FOR UNION ACTIVITIES".

21. Schedule III to the said Act, amended by Order in Council 1728-93 dated 8 December 1993 and by section 15 of chapter 74 of the statutes of 1993, is again amended by replacing the words "the Syndicat des fonctionnaires provinciaux du Québec inc." by the words "the Syndicat de la fonction publique du Québec inc.".

ACT RESPECTING THE TEACHERS PENSION PLAN

22. Section 13.1 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended

(1) by replacing the first paragraph by the following paragraph:

"**13.1** The pensionable salary of a teacher who is released with pay for union activities is the salary paid to him by his employer and the salary, if any, paid to him by a body designated in Schedule II.1 of the Act respecting the Government and Public Employees Retirement Plan.";

(2) by adding, at the end of the second paragraph, the words "and deducts the contributions from the pensionable salary it pays to such a teacher".

23. Section 15 of the said Act is amended by adding, at the end of the third paragraph, the following sentence: "The amount by which the pensionable salary of the teacher in respect of that

employment exceeds the annual basic salary paid to him in respect of that employment or that would have been paid to him under the conditions of employment applicable on the last credited day of the year, multiplied by the service credited to that teacher in the course of the year in respect of that employment, shall be added to the results of the computation."

24. Section 41 of the said Act is amended by replacing the word "deemed" in the first line of the second paragraph by the word "presumed".

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

25. Section 54 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by adding, at the end of the first paragraph, the following sentence: "It also applies where the person is released without pay by his employer for union activities and employed by a body designated in Schedule II.1 of the Act respecting the Government and Public Employees Retirement Plan."

26. Section 60.2 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"60.2 The pensionable salary of an officer who is released with pay for union activities is the salary paid to him by his employer and the salary, if any, paid to him by a body designated in Schedule II.1 of the Act respecting the Government and Public Employees Retirement Plan.";

(2) by adding, at the end of the second paragraph, the words "and deducts the contributions from the pensionable salary it pays to such an officer".

27. Section 62 of the said Act is amended by adding, at the end of the third paragraph, the following sentence: "The amount by which the pensionable salary of the officer in respect of that employment exceeds the annual basic salary paid to him in respect of that employment or that would have been paid to him under the conditions of employment applicable on the last credited day of the year, multiplied by the service credited to that officer in the course of the year in respect of that employment, shall be added to the results of the computation."

28. Section 68 of the said Act is amended by replacing the word “deemed” in the third line by the word “presumed”.

SUPPLEMENTAL PENSION PLANS ACT

29. Section 2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1), amended by section 1 of chapter 45 of the statutes of 1993, is again amended by adding, at the end of the first paragraph, the following subparagraph:

“(5) a pension plan not established by an Act and administered by the Commission administrative des régimes de retraite et d’assurances, or a pension plan under which the Commission is responsible for the payment of the benefits, except if the Government subjects such pension plan to this Act.”

MISCELLANEOUS AND FINAL PROVISIONS

30. In the Act respecting the Pension Plan of Certain Teachers, the Act respecting the Pension Plan of Peace Officers in Correctional Services, the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3), the Act respecting the Government and Public Employees Retirement Plan, the Act respecting the Teachers Pension Plan and the Act respecting the Civil Service Superannuation Plan, the words “assign” and “assigns” are replaced, wherever they appear, by the words “successor” and “successors”, respectively, unless the context indicates otherwise.

31. The first order made pursuant to section 10 of the Act respecting the Government and Public Employees Retirement Plan after (*insert here the date of assent to this Act*) may, if it so provides, have effect from any date not earlier than 17 March 1987.

32. Notwithstanding the first paragraph of section 31 of the Act respecting the Government and Public Employees Retirement Plan, the Government assumes the payment of the contributory amount of the Institut de recherche clinique de Montréal in respect of employees who participated in the Government and Public Employees Retirement Plan between 30 June 1973 and 1 January 1995.

33. The first regulation made pursuant to paragraph 25 of section 134 of the Act respecting the Government and Public Employees Retirement Plan after (*insert here the date of assent to this Act*) may, if it so provides, have effect from any date not earlier than 1 January 1992 to the extent that it is relating to Schedule II.1 of that Act.

34. The Act respecting supplemental pension plans (R.S.Q., chapter R-17), replaced by the Supplemental Pension Plans Act did not apply before 1 January 1990 to pension plans administered by the Commission administrative des régimes de retraite et d'assurances or under which the latter was responsible for the payment of the benefits.

The first paragraph does not, where applicable, affect the rights of the members of those pension plans.

35. Section 16, to the extent that it replaces the second paragraph of section 147 of the Act respecting the Government and Public Employees Retirement Plan, and section 17, to the extent that it enacts section 147.0.3 of the said Act, apply only in respect of debts determined by the Commission administrative des régimes de retraite et d'assurances after (*insert here the date preceding the date of assent to this Act*).

The second paragraph of section 147 of the said Act, as it read on (*insert here the date preceding the date of assent to this Act*), shall continue to apply in respect of debts determined by the Commission before (*insert here the date of assent to this Act*).

36. The amount of a pension paid before 1 July 1992 under a pension plan administered by the Commission administrative des régimes de retraite et d'assurances or under a plan in respect of which the Commission is responsible for the payment of benefits, and the data used for computing the amount of pension, cannot be adjusted downwards after (*insert here the date preceding the date of assent to this Act*) to take account of any clerical error or any correction made to the data used for computing the amount of pension on the date of retirement.

The amount of a pension payable before 1 July 1992 but paid after 30 June 1992, and the data used for computing that amount, cannot be adjusted downwards

(1) after (*insert here the date occurring 6 months after the date of assent to this Act*), if payment of the pension began before (*insert here the date following the date of assent to this Act*);

(2) after the date occurring 6 months after the date on which payment of the pension began if the latter date is subsequent to the date of assent to this Act.

The first and second paragraphs do not apply if the overpayment made to the person results from an administrative error that could reasonably have been noticed by the person.

37. The amount of a deferred pension the payment of which began before 1 January 1995, under a pension plan administered by the Commission administrative des régimes de retraite et d'assurances or under a plan in respect of which the Commission is responsible for the payment of benefits, and the data used for computing the amount of pension, cannot be adjusted downwards after (*insert here the date preceding the date of assent to this Act*) to take account of any clerical error or any correction made to the data used for computing the amount of pension on the date of retirement, except if the overpayment made to the person results from an administrative error that could reasonably have been noticed by the person.

38. Any decision of the Commission administrative des régimes de retraite et d'assurances concerning a person's eligibility for participation in a pension plan which, considering the provisions of the plan at the time the person begins to participate in the plan, is advantageous to the person, or concerning a redemption proposal which has been accepted, made before (*insert here the date of assent to this Act*) and in force on that date, becomes irrevocable on that date, subject, in the latter case, to the provisions of the pension plans relating to redemption proposals.

However, a correction may be made after that date to a data pertaining to a redemption proposal if that is advantageous to the person and if the person pays any additional cost resulting therefrom.

The first paragraph does not apply if the benefit granted to the person results from an administrative error that could reasonably have been noticed by the person.

39. Section 19 has effect from 1 July 1973.

40. Sections 5, 20, 22 and 26 have effect from 19 June 1986.

41. Section 29 has effect from 1 January 1990.

42. Section 3, paragraph 2 of section 13 and section 25 have effect from 1 January 1992.

43. Sections 2, 6, 23 and 27 have effect from 1 January 1993.

44. Section 21 has effect from 16 July 1993.

45. This Act comes into force on (*insert here the date of assent to this Act*), except section 10 which will come into force on 1 September 1995.