



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 43

**An Act to amend the Act respecting
the Québec Pension Plan and other
legislative provisions**

Introduction

**Introduced by
Mr André Bourbeau
Minister of Manpower, Income Security and
Skills Development**

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EXPLANATORY NOTES

This bill amends the Act respecting the Québec Pension Plan, in particular with respect to qualification for the surviving spouse's pension. It changes the qualifying criteria for surviving spouses by giving priority to married spouses and permitting unmarried spouses to qualify after one year of marital life with the contributor prior to his death, where a child has been adopted. Furthermore, it eliminates any qualifying condition based on the age of the surviving spouse at the time of the death of the contributor and, as a consequence, fixes new amounts of flat benefits for surviving spouses under 45 years of age or between 45 and 65 years of age. Finally, it introduces new modalities for calculating the surviving spouse's pension.

The bill also enables a retirement pension to be partitioned between the beneficiary and his spouse. It extends the time for annulling a retirement pension where the pensioner makes an application for a disability pension within six months after the first payment of his retirement pension. It also establishes a presumption of application for a retirement pension where the contributor or a beneficiary of an income replacement indemnity paid by the Commission de la santé et de la sécurité du travail reaches 65 years of age.

As far as disability pensions are concerned, the bill establishes new qualifying conditions with respect to the length of time for which contributions must be paid. It enables any person aged between 60 and 65 years of age to be recognized as being disabled if he is regularly unable to carry on the habitual remunerated occupation that he had to leave because of his disability. It also amends the rules relating to the calculation of the disability pension and inserts in the Act certain regulatory provisions concerning the information which must be furnished to the Board upon application for a disability pension, and the medical examinations to which a beneficiary must submit.

Concerning child pensions, the bill provides that only children under 18 years of age qualify for an orphan's pension or a disabled

contributor's child's pension. It increases the monthly amount of both those pensions and provides for them to be indexed annually.

The bill amends the rules concerning payment of death benefits, in particular by giving priority to the person who paid the funeral expenses, provided he applies for the benefit within 60 days following the death of the contributor.

The bill establishes mechanisms to ensure better coordination between the benefits paid by the Régie des rentes du Québec and by the Commission de la santé et de la sécurité du travail. More particularly, it prevents payment of both a disability pension and an income replacement indemnity at the same time. The bill authorizes the Commission to deduct amounts on behalf of the Board where the Commission pays an income replacement indemnity retroactively to a contributor who has already received a disability pension. The rules relating to the calculation of the benefits payable by the Board are changed to take account of the receipt by a beneficiary of an income replacement indemnity paid by the Commission. Furthermore, the bill provides for an agreement to be entered into between the Board and the Commission for the exchange of information required for the purposes of the Acts administered by each.

As far as partition of earnings is concerned, the bill confirms the possibility for the Court to decide that partition shall not take place, by a judgment made after the judgment of divorce, separation from bed and board or annulment of marriage.

Finally, the bill contains a number of amendments concerning administration of the Québec Pension Plan and amendments to other Acts for concordance, and it enacts the necessary transitional provisions.

ACTS AMENDED BY THIS BILL:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001)
- Automobile Insurance Act (R.S.Q., chapter A-25)
- Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)
- Taxation Act (R.S.Q., chapter I-3)
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)

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

Bill 43

An Act to amend the Act respecting the Québec Pension Plan and other legislative provisions

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended

- (1) by striking out paragraph *a*;
- (2) by striking out the words “Legislative Council,” in the third line of paragraph *b*;
- (3) by striking out paragraph *j*;
- (4) in the French text, by replacing the word “contribution” in the second line of paragraph *k* by the word “cotisation”;
- (5) in the French text, by replacing the word “contribution” in the first line of paragraph *l* by the word “cotisation”;
- (6) by striking out paragraphs *n* and *p*;
- (7) by replacing paragraph *s* by the following paragraph:

“(s) “assessment”: the determination of an amount payable to the Minister under this Act, including a new or additional assessment;”;
- (8) by replacing paragraph *v* by the following paragraph:

“(v) “family allowance”: the allowance paid in respect of a child less than seven years of age under the Family Allowances Act (R.S.C., 1985, chapter F-1) or under the Act respecting family assistance allowances (R.S.Q., chapter A-17), with the exception of the allowance paid under the latter Act for the month of the child’s birth.”

2. The said Act is amended by inserting, after section 23.4, the following sections:

“23.5 The Board may delegate any of its powers resulting from this Act to a member of its board of directors or personnel or to a committee formed by it and composed of persons to whom it may delegate such powers. It may also, in the instrument of delegation, authorize the subdelegation of the powers enumerated therein. Where applicable, it shall identify the member of its board of directors or personnel to whom powers may be subdelegated. The instrument of delegation shall be published in the *Gazette officielle du Québec*.

“23.6 No document is binding on or may be attributed to the Board unless it is signed by the president or, to the extent provided for in the instrument of delegation of powers or in the by-laws of internal management of the Board, by a member of its board of directors or personnel.

The Board may, on the conditions it fixes, allow a signature to be affixed by means of an automatic device on the documents it determines. It may also allow a facsimile of the signature to be engraved, lithographed or printed on the documents it determines. The facsimile has the same force as the signature itself.”

3. Section 25 of the said Act is amended by replacing the words “any other officer of the Board designated by the regulations made for such purpose by the Board” in the second and third lines by the words “another member of its personnel designated by it, in writing, for that purpose,”.

4. The said Act is amended by inserting, after section 25.1, the following sections:

“25.2 The Board may, on the conditions it determines, authorize a person required to transmit a notice, report, statement or other document to send it by means of a magnetic medium or electronic system.

“25.3 An intelligible transcription in writing of the data stored by the Board in a computer or on any other magnetic medium is a document of the Board and is proof of its contents where that transcription is certified by an authorized person.

In the case of data sent to it pursuant to section 25.2, the transcription is valid only if it reproduces the data faithfully.”

5. Section 27 of the said Act is amended by replacing the words “officers and employees” in the first and second lines by the words “members of the personnel”.

6. Section 32 of the said Act is amended by replacing the words “officers and employees” in the first line by the words “members of the personnel”.

7. Section 41 of the said Act is amended

(1) by replacing the words “reduced to that proportion that the number of months after he reaches 18 years of age” in the third and fourth lines of the second paragraph by the words “equal to the amount obtained by multiplying that year’s Maximum Pensionable Earnings by the proportion that the number of months after the day preceding his eighteenth birthday”;

(2) by replacing the third paragraph by the following paragraph:

“Also, for a year in which one of the events mentioned in subparagraphs *a* to *d* of this paragraph occurs, the Maximum Pensionable Earnings of a worker are equal to the amount obtained by multiplying that year’s Maximum Pensionable Earnings by the proportion that the number of months prior to

(*a*) the first month which, by reason of a disability of the worker, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;

(*b*) the month in which a retirement pension becomes payable to him under this Act or under a similar plan; or

(*c*) the month of his seventieth birthday; or

(*d*) the month following his death,

as the case may be, bears to 12.”

8. Section 43 of the said Act is amended by replacing the second and third paragraphs by the following paragraph:

“However, where one of the events mentioned in the second or third paragraph of section 41 occurs, the personal exemption of the worker is equal to the amount obtained by multiplying the Basic Exemption by the proportion provided for therein.”

9. Section 45 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) during any month which, by reason of a disability, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;”.

10. Section 48 of the said Act is amended

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

“**48.** The pensionable self-employed earnings of a worker for a year are his self-employed earnings, excluding income referred to in the second paragraph of section 45.”;

(2) by replacing the words “reduced in the proportion that the number of months after he reaches 18 years of age” in the fourth and fifth lines of the second paragraph by the words “equal to the amount obtained by multiplying the amount of such earnings by the proportion that the number of months after the day preceding his eighteenth birthday”;

(3) by replacing the third paragraph by the following paragraph:

“Also, for a year in which one of the events mentioned in subparagraphs *a* to *c* of this paragraph occurs, the pensionable self-employed earnings of a worker are equal to the amount obtained by multiplying the amount of such self-employed earnings by the proportion that the number of months prior to

(a) the first month which, by reason of a disability of the worker, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101; or

(b) the month in which a retirement pension becomes payable to him under this Act or under a similar plan; or

(c) the month of his seventieth birthday,

as the case may be, bears to 12.”

11. Section 66 of the said Act is amended

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

“**66.** The Minister may determine any amount payable by an employer, including interest and penalties. He may also redetermine

any such amount and make a new assessment or establish an additional assessment.”;

(2) in the French text, by replacing the word “cotisation” by the word “imposition”, with the necessary adaptations, wherever it appears in the second paragraph;

(3) by replacing the first two lines of the third paragraph by the words “Nevertheless, no assessment may be made by the Minister in respect of an employer after four years have”.

12. Section 74 of the said Act is amended by replacing the words “such person” in the third line by the words “that worker”, and by replacing the words “assessment of such contribution” in the sixth line by the words “amount of the contribution payable by the worker”.

13. Section 76 of the said Act is amended by replacing the words “*mutatis mutandis*” in the second and third lines by the words “, adapted as required,”.

14. Section 86 of the said Act and the heading preceding it are replaced by the following section and heading:

“Child of a contributor

“86. A person under 18 years of age

(a) who is related to the contributor by blood or by adoption; or

(b) who is the stepson or stepdaughter of the contributor and resides with him; or

(c) who has been residing with the contributor for at least six months and for whom the contributor stands *in loco parentis*, on the condition that no person other than the contributor or the spouse of the contributor residing with him maintains that person; or

(d) who is maintained by the contributor in the conditions provided for by regulation,

is a child of the contributor.

The contributor and the person contemplated in the first paragraph do not cease to reside together if their separation is only temporary or is a result of illness or the pursuit of studies or any other cause considered valid by the Board.”

15. Sections 87 to 90 of the said Act and the headings preceding them are repealed.

16. Sections 91 and 91.1 of the said Act are replaced by the following sections:

“91. Subject to section 91.1, any person who, on the day of the death of the contributor,

(a) is married to the contributor and is not legally separated from bed and board; or

(b) provided the contributor is either legally separated from bed and board or unmarried on the day of his death, has been living with the contributor in a *de facto* union for at least three years or, in the following cases, for at least one year:

- a child was or is to be born of their union,
- they have, together, adopted a child,
- one of them has adopted a child of the other,

qualifies as a surviving spouse.

For the purposes of subparagraph *b* of the first paragraph, the birth or adoption of a child during a marriage or period of marital life prior to the period of marital life in progress on the day of the death of the contributor, may enable a person to qualify as a surviving spouse.

“91.1 Notwithstanding the first paragraph of section 91, the person who, on the day of the death of the contributor, is married to the contributor but is separated from bed and board as a result of a judgment which took effect in their regard before 1 July 1989, qualifies as a surviving spouse provided that no new judgment of separation from bed and board took effect in their regard after 30 June 1989, except if another person has been living in a *de facto* union with the contributor for at least three years.”

17. Sections 92 and 93 of the said Act are repealed.

18. Section 95 of the said Act is amended

(1) by replacing the words “he is determined in a prescribed manner” in the first and second lines of the first paragraph by the words “the Board declares him”;

(2) by replacing the word “However” in the first line of the third paragraph by the words “In addition”;

(3) by replacing the words “substantially gainful” in the third line of the third paragraph by the words “habitual remunerated”;

(4) by adding, at the end, the following paragraph:

“The Board may establish, by regulation, conditions and circumstances which, together, enable a person to be considered to be disabled.”

19. The said Act is amended by inserting, after section 95, the following sections:

“95.1 To establish his disability, a person must produce the history of his work and illness, the documents and medical reports pertaining to his state of health and any information or document determined by regulation or deemed useful by the Board.

The person must also submit to any medical examination required by the Board, by the physician it designates.

“95.2 A person declared disabled must submit to any medical examination that the Board may require, by the physician it designates and on the date or within the time it fixes.

A person who, without a reason considered valid by the Board, does not submit to such an examination, is presumed to have ceased to be disabled from the date on which he failed to submit to the examination.”

20. Section 96 of the said Act is amended

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

“96. The Board shall, according to the proof presented, fix the date on which a person became disabled or ceased to be disabled.”;

(2) by replacing that part of the second paragraph which precedes subparagraph *a* by the following:

“However, the day on which a person’s disability begins may not, for the purposes of the disability pension, be fixed at a time earlier than the latest of the following dates:”;

(3) by striking out subparagraphs *b* and *d* of the second paragraph.

21. Section 96.2 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“However, the months prior to 1 January 1986 are not considered to be months of indemnity.”

22. Sections 96.3 and 96.4 of the said Act are replaced by the following section:

“96.3 A period of indemnity is a series of at least 24 consecutive months of indemnity. Such a period may nevertheless be of less than 24 months where the contributor reaches 65 years of age or dies while he is receiving the replacement indemnity, in which case his period of indemnity terminates at the end of the month preceding his sixty-fifth birthday or at the end of the month of his death.

However, the replacement indemnity which becomes payable to a person not more than 90 days after an initial indemnity ceased to be payable to him is considered to be a continuation of that initial indemnity, provided it is payable to the person by reason of a recurrence, relapse or aggravation related to the initial employment injury and on the condition that the cessation of payment of the initial indemnity occurred after 31 December 1992. The period between cessation of the right to the initial indemnity and the time at which the second indemnity becomes payable shall not have the effect of interrupting the consecutive nature of the months of indemnity.

For the purposes of sections 101 and 103, the months included in the first 24 months of the combined periods of indemnity of the contributor do not form part of such a period if they are prior to 1 January 1993.”

23. Section 97 of the said Act is amended by replacing the words “for which a disability pension was payable to him under this act or under a similar plan” in the second and third lines by the words “which are excluded from his contributory period under subparagraph *a* or *b* of the second paragraph of section 101”.

24. Section 99 of the said Act is amended

(1) by inserting the words “the day preceding” after the word “following” in the fourth line of the second paragraph;

(2) by replacing the third paragraph by the following paragraph:

“For a year in which one of the events mentioned in subparagraphs *a* to *d* of this paragraph occurs, the contribution of a

contributor shall be deemed to have been made for earnings relating to the months in the year which, as the case may be, are prior to

(a) the first month which, by reason of a disability of the contributor, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;

(b) the month in which a retirement pension becomes payable to him under this Act or under a similar plan;

(c) the month of his seventieth birthday;

(d) the month following his death.”;

(3) in the French text, by replacing the word “contribution” wherever it occurs by the word “cotisation”.

25. Section 99.1 of the said Act is repealed.

26. Section 101 of the said Act is replaced by the following section:

“101. The contributory period of a person begins on his eighteenth birthday, or on 1 January 1966 if he reached 18 years of age before that date. It terminates at the end of the earliest of the following months:

(a) the month preceding the month in which a retirement pension becomes payable to him under this Act or under a similar plan;

(b) the month preceding his seventieth birthday;

(c) the month of his death.

The contributory period does not include any month

(a) for which a disability pension is payable to the contributor under this Act or under a similar plan, or if the date of disability fixed in his respect under section 96 or under a similar plan is later than 31 December 1992, any month which falls between the month in which he became disabled and the first month for which the pension is payable to him;

(b) included in a period of indemnity of the contributor, if the same month is included in a year for which his unadjusted pensionable earnings do not exceed his personal exemption;

(c) for which a family allowance is payable to the contributor, if the same month is included in a year for which his unadjusted pensionable earnings do not exceed his personal exemption.”

27. Section 102.1 of the said Act is amended

(1) by inserting the words “, or in a subsequent judgment,” after the word “marriage” in the third line of the second paragraph;

(2) by adding, at the end of the second paragraph, the words “, provided that this Act is sufficiently designated in the mention or renunciation”;

(3) by adding, after the second paragraph, the following paragraph:

“A mention or renunciation which, without condition with respect to the partition of earnings registered under this Act, concerns all the rights in a family patrimony, shall have the same effect as a mention or renunciation referred to in the second paragraph. This paragraph applies only to judgments which take effect after *(insert here the date of the day preceding the date of assent to this Act)* and to renunciations made by way of notarial act after that date.”

28. Section 102.3 of the said Act is amended by inserting the words “, or in a subsequent judgment,” after the word “separation” in the eighth line.

29. Section 102.3.1 of the said Act is amended

(1) by inserting the words “or a later application concerning partition of earnings” after the word “marriage” in the second line;

(2) by replacing the word “Earnings” in the fifth line by the words “Contributors for the period of the marriage”.

30. Section 102.4 of the said Act is amended

(1) by striking out the words “disability pension or” in the first line of subparagraph *c* of the first paragraph;

(2) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) months which, by reason of a disability, are excluded from the contributory period of either of the former spouses under subparagraph *a* of the second paragraph of section 101;”;

(3) in the French text, by replacing the word “contribution” in the second line of the second paragraph by the word “cotisation”.

31. Section 102.7.1 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“A spouse or an applicant may apply for a review of the decision of the Board within the time prescribed in section 186.”

32. Sections 102.11 to 104 of the said Act are replaced by the following sections:

“103. In calculating the average monthly pensionable earnings of a contributor, there may be deducted from the total number of months in his contributory period those months for which the contributor’s pensionable earnings are less than his average monthly pensionable earnings calculated before a deduction is made pursuant to this section or section 104, provided that during such drop-out months a family allowance was payable to the contributor or that the drop-out months were included in a period of indemnity of the contributor.

However, the deduction may not have the effect of reducing the contributory period to a number of months which is less, as the case may be, than

(a) the initial number of the contributory months of the contributor, as regards the establishment of the initial monthly amount of a retirement pension;

(b) 24 months, as regards the establishment of the initial monthly amount of a disability pension;

(c) 36 months, as regards the establishment of the initial monthly amount of a surviving spouse’s pension and the amount of a death benefit in respect of a contributor who dies after 31 December 1992 and who is not, at the time of his death, the beneficiary of a retirement pension payable under this Act or under a similar plan.

The deduction is effected beginning with the months for which the pensionable earnings are the lowest; as a consequence of the deduction, the sum of the pensionable earnings corresponding to the drop-out months is subtracted from the total of the pensionable earnings of the contributor.

“104. Where the total number of months in the contributory period of the contributor, after a deduction, if any, under section 103,

exceeds 120, there shall be deducted from that period a number of months equal to the lesser of the following:

(a) 15 % of the total number of months, counting any fraction of a month as a whole month;

(b) the number of months by which the total number exceeds 120.

The deduction is effected by choosing the months for which the pensionable earnings are the lowest; as a consequence of the deduction, the sum of the pensionable earnings corresponding to the drop-out months is subtracted from the total of the pensionable earnings of the contributor."

33. Section 105 of the said Act is amended

(1) by replacing the words "contributor who has reached 60 years of age" in the first and second lines of paragraph *a* by the words "qualified contributor";

(2) in the French text, by replacing the words "admissible invalide" in paragraph *b* by the words "invalide admissible";

(3) by replacing the words "the estate of a qualified contributor" in paragraph *c* by the words "the person to whom it is payable pursuant to section 168";

(4) by striking out the words "if, at the death of that contributor, the surviving spouse has reached 35 years of age, or is disabled or has dependent children" in the second, third and fourth lines of paragraph *d*.

34. The said Act is amended by inserting, after section 105.1, the following section:

"105.2 Notwithstanding paragraph *b* of section 105, no disability pension is payable to a contributor with respect to a month for which a replacement indemnity within the meaning of section 96.1 is payable to him."

35. Sections 106 and 106.1 of the said Act are replaced by the following section:

"106. A contributor is qualified for a disability pension only if he is under 65 years of age, is disabled and has paid contributions for one of the following groups of years:

(a) two of the last three years in his contributory period, or two years if his contributory period comprises only two years;

(b) five of the last ten years in his contributory period;

(c) half of the total number of years in his contributory period, but not less than two years.

For the purposes of the first paragraph, the contributory period of the contributor terminates at the end of the month in which he became disabled."

36. The said Act is amended by inserting, after section 106.2, the following section:

"106.3 A contributor is qualified for a retirement pension from the age of 65 or, if he has ceased working within the meaning of section 158.2, from the age of 60."

37. Section 108 of the said Act is amended by inserting the words "and one death benefit" after the word "pension" in the first line.

38. Section 114 of the said Act is amended by adding, at the end, the words "or that, at the time of his marriage, he had been living in a *de facto* union with his spouse for a period which, added to the period of their marriage, would enable the spouse to qualify under subparagraph *b* of the first paragraph of section 91."

39. Section 115 of the said Act is repealed.

40. Section 118 of the said Act is replaced by the following section:

"118. Where the data furnished by Statistics Canada are incomplete on 1 December of a year, the Board may, to establish the Pension Index, use the data which are available at that time.

Where Statistics Canada uses a new reference year or applies a new method in calculating the monthly Consumer Price Index, the Board shall, from 1 January of the year following the change, adjust the Pension Indexes calculated for the preceding years. The adjustment is made according to the ratio that the new Consumer Price Index bears to the former Consumer Price Index."

41. Section 119 of the said Act is amended

(1) by striking out the word “rate” in the first line of paragraphs 1 and 2 of subparagraph *a* of the second paragraph;

(2) by striking out the fourth paragraph.

42. Sections 121 and 122 of the said Act are replaced by the following section:

“121. In calculating the retirement pension of a contributor, the amount of his average monthly pensionable earnings is obtained by dividing his total pensionable earnings by the greater of the basic number of contributory months determined in his regard and the total number of months included in his contributory period.”

43. Section 123 of the said Act is amended by striking out the word “rate” in paragraph *a*.

44. Section 124 of the said Act is amended by striking out the word “rate” wherever it appears.

45. Section 126 of the said Act is amended by replacing the figure “60” in the fourth line by the figure “24”.

46. Section 127 of the said Act is replaced by the following section:

“127. For the purpose of calculating a disability pension, the contributory period of a contributor terminates at the end of the month in which he became disabled.”

47. Section 128 of the said Act is amended by striking out the words “payable to the estate of a contributor” in the first line.

48. Section 129 of the said Act is amended by adding, at the end of the first paragraph, the following sentence: “In establishing the amount of the retirement pension, a partition effected pursuant to sections 158.3 to 158.8 or a similar plan shall not be taken into account.”

49. Section 131 of the said Act is amended by replacing the last two lines by the words “earnings is calculated by dividing the total of such earnings by the greater of 36 and the total number of months in his contributory period.”

50. Sections 132 to 137.1 of the said Act are replaced by the following sections:

“132. The basic monthly amount of the surviving spouse’s pension is established in accordance with sections 133 to 137 for the month from which such a pension is payable.

Any change for a given month in the situation of the beneficiary shall give rise to a new calculation of the basic monthly amount of his pension.

“133. The basic monthly amount of the surviving spouse’s pension of a spouse under 65 years of age to whom neither a disability pension nor a retirement pension is payable under this Act or under a similar plan is equal to 37.5 % of the retirement pension of the contributor, to which the amount of the flat benefit applicable in each case is added:

(a) \$150 where the spouse is under 45 years of age, is not disabled and has no child of the contributor dependent on him;

(b) \$250 where the spouse is under 45 years of age, is not disabled and has at least one child of the contributor dependent on him;

(c) \$306.81 if he is under 55 years of age, disabled or 45 years of age or over;

(d) \$392.52 if he is 55 years of age or over.

The amounts of the flat benefits fixed in subparagraphs *a*, *b* and *c* of the first paragraph are adjusted in accordance with section 119.

For a year in which the result of the adjustment of the amount set out in subparagraph *c* of the first paragraph is equal to or greater than the amount set out in subparagraph *d* of that paragraph, and for subsequent years, the amount of the flat benefit applicable in calculating the pension of the spouse shall, even though the spouse has reached 55 years of age, be the amount set out in the said subparagraph *c*, adjusted in accordance with section 119.

“133.1 For the purposes of subparagraphs *a* and *b* of the first paragraph of section 133, a surviving spouse has a child of the contributor dependent on him if he resides with that child or maintains him in the conditions provided for by regulation.

Any person who, were it not for his age, would be a child of the contributor and who has been disabled since his eighteenth birthday or since the death of the contributor if, at the time of the contributor’s death, he was 18 years of age or over, is also a child of the contributor.

The surviving spouse and a child do not cease to reside together if their separation is only temporary or is a result of illness or the pursuit of studies or any other cause considered valid by the Board.

In addition, a child does not lose his status as a child of the contributor solely by reason of his adoption by the surviving spouse or his new spouse.

“134. The basic monthly amount of the surviving spouse’s pension of a spouse who is 65 years of age or over to whom no retirement pension is payable under this Act or under a similar plan, is equal to 60 % of the retirement pension of the contributor.

“135. The basic monthly amount of the surviving spouse’s pension of a spouse to whom a disability pension is payable under this Act or under a similar plan is equal to the lesser of D and E, calculated as follows:

$$- a \times 37.5 \% = D$$

$$- b - c = E$$

where

“a” is the amount of the retirement pension of the contributor;

“b” is 25 % of one-twelfth of the average Maximum Pensionable Earnings for the year of the month for which the basic monthly amount is established and the two preceding years;

“c” is the amount of the disability pension payable to the surviving spouse for the month for which the basic monthly amount is established, reduced by the amount of the flat benefit included in the disability pension for that month.

In the case of a spouse who is 55 years of age or over, the basic monthly amount of the surviving spouse’s pension also includes the difference between the amount of the flat benefit which, if no disability benefit were payable to him, would be included in his surviving spouse’s pension for the month for which the basic monthly amount is established and the amount of the flat benefit included in his disability pension for that month.

“136. The basic monthly amount of the surviving spouse’s pension of a spouse to whom a retirement pension is payable under this Act or under a similar plan is equal

(a) in the case of a spouse who is under 65 years of age, to the amount of the flat benefit which, if no retirement pension were

payable to him, would be included in his surviving spouse's pension for the month for which the basic monthly amount is established, to which the lesser of E and F, calculated as follows, is added:

$$- a \times 37.5 \% = E$$

$$- c - d = F$$

(b) in the case of a spouse who is 65 years of age or over, to the lesser of the amounts obtained pursuant to the following paragraphs:

i. $c - d$

ii. the greater of G and H, calculated as follows:

$$- a \times 37.5 \% = G$$

$$- (a \times 60 \%) - (d \times 40 \%) = H$$

where

"a" represents the amount of the retirement pension of the contributor;

"c" is 25 % of one-twelfth of the average Maximum Pensionable Earnings for the year of the month for which the basic monthly amount is established and the two preceding years, adjusted in accordance with section 120.1 by taking account of the age of the surviving spouse at the time of his retirement;

"d" represents the amount of the retirement pension payable to the surviving spouse for the month for which the basic monthly amount is established, calculated without taking account of a partition if any of the retirement pension effected pursuant to sections 158.3 to 158.8 or a similar plan.

"137. The amount of the retirement pension of the contributor to be used in calculating the basic monthly amount of the surviving spouse's pension is the amount set out in section 129 or 130 for calculating the death benefit, adjusted by multiplying it by the ratio that the Pension Index for the year of the month for which the basic monthly amount is established bears to the Pension Index for the year of the death of the contributor. The limits on the Pension Index prescribed by subparagraphs *a* and *b* of the second paragraph of section 117 do not apply to the adjustment."

51. Section 138 of the said Act is replaced by the following section:

“138. The basic monthly amount of an orphan’s pension and a disabled contributor’s child’s pension is fixed at \$50. This amount is adjusted in accordance with section 119.”

52. Section 139 of the said Act is amended

(1) by replacing the second and third lines of the first paragraph by the following words: “made to the Board in writing and payment thereof has been authorized. The application must be made on the form required by the Board or contain the relevant information required therein.”;

(2) by adding, after the second paragraph, the following paragraphs:

“A beneficiary of a disability pension or a replacement pension is presumed to have made an application for a retirement pension in the month preceding his sixty-fifth birthday.

In addition, a contributor who is 65 years of age or over who belongs to a group defined by regulation is, if the Board is in possession of sufficient information in his regard to begin payment of the retirement pension, presumed to have made an application for a retirement pension on the date fixed in accordance with the regulation.”

53. Section 139.1 of the said Act is amended by adding, at the end, the following paragraph:

“Where a beneficiary of a retirement pension makes an application for a disability pension within six months after the first payment of the retirement pension, he shall be granted a period of two months, beginning upon acceptance of his application for a disability pension, so that he may cancel his application for a retirement pension.”

54. Section 139.2 of the said Act is amended

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

“139.2 An application for a benefit is presumed to be made on the day it is received at an office of the Board. However, where it is received by mail on the first working day of a month, an application is presumed to have been received the previous month if the last day of that month is not a working day.”;

(2) by adding, after the second paragraph, the following paragraph:

"The Board may consider that an application for a disability pension, made by a contributor in respect of whom a claim for an employment injury has been made to the Commission de la santé et de la sécurité du travail, is made on the date of that claim, if the disability invoked may be connected to the subject of the claim to the Commission."

55. Section 140 of the said Act is replaced by the following section:

"140. The Board shall, forthwith, consider the application, render its decision and determine the amount of the benefit payable, if any. It shall notify the applicant, in writing, of the decision rendered and of his right to apply for a review within the time prescribed in section 186.

It may suspend consideration of an application for a period not exceeding one year, in order to permit a person to furnish the proof required to determine his qualification. It may also suspend consideration of an application for a disability pension made by a contributor contemplated in the third paragraph of section 139.2 for a period not exceeding six months from receipt thereof, unless the decision concerning his claim does not recognize that he is entitled to a replacement indemnity."

56. The said Act is amended by inserting, after section 142, the following section:

"142.1 The Board may, in the cases and in accordance with the terms and conditions determined by regulation, replace monthly payments of a pension by a single payment equivalent to the amount of the pension or several payments made at intervals other than monthly intervals."

57. The said Act is amended by inserting, after section 143, the following section:

"143.0.1 A benefit bears interest from the first day of the fifth month following the month in which the application is received. However, a benefit which becomes payable after the fourth month following the month of the application bears interest from the first day of the month following the month in which it becomes payable.

The rate of interest is the rate fixed pursuant to section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)."

58. Sections 147 to 155 of the said Act are replaced by the following heading and sections:

“Recovery of benefits

“147. A person who has received a benefit to which he was not entitled, or in excess of the amount to which he was entitled, shall repay to the Board, with interest, the amounts received to which he was not entitled, except if such amounts were paid as a result of an administrative error that the person could not reasonably have noticed.

“148. An amount received more than three years previously by a person not entitled thereto cannot be recovered by the Board, except in the case of a disability pension paid to the debtor in respect of a month for which a replacement indemnity is payable to him or in the case of bad faith by the debtor. In such cases, recovery is prescribed by three years from the date on which the Board became aware that a replacement indemnity had become payable to the debtor or that he was in bad faith.

“149. The formal notice to repay an amount received without entitlement shall state the reasons why the debt is owed and the right of the debtor to apply for a review of the decision within the period prescribed by section 186.

The formal notice interrupts prescription.

“150. The debtor shall repay any amount owed within the time and in accordance with the terms and conditions prescribed by regulation, unless the Board agrees to another time or other terms and conditions for payment.

Notwithstanding the application for review or the bringing of an appeal by the debtor, the Board may make deductions from any benefit payable to the debtor, up to the percentage or amount fixed by regulation or up to a lower percentage or smaller amount that it considers fair in view of the financial situation of the debtor.

“151. If the amount is not recovered, the Board may, upon expiry of the period for applying for a review or bringing an appeal or, where applicable, on the day following a decision of the Commission des affaires sociales confirming all or part of the decision of the Board, issue a certificate

- (1) stating the name and address of the debtor;
- (2) attesting to the amount of the debt;

(3) attesting to the debtor's failure to appeal from the decision rendered under section 149 or, where that is the case, referring to the final decision which upholds that decision.

Upon the filing of the certificate at the office of the court of competent jurisdiction, the decision of the Board or of the Commission des affaires sociales becomes executory as if it were a final judgment without appeal of that court and has all the effects of such a decision.

"152. The Board may, even after the decision becomes executory, remit all or part of the debt if it considers, in view of the circumstances, that it should not recover it."

59. Section 158.2 of the said Act is amended by inserting the figure "106.3," after the word "sections" in the first line of the first paragraph.

60. The said Act is amended by inserting, after section 158.2, the following heading and sections:

"Partition of a retirement pension between spouses

"158.3 A retirement pension may, upon a written application by the beneficiary or his spouse, be partitioned between them provided they are married and not legally separated from bed and board, and provided the spouse of the beneficiary satisfies one of the following conditions:

(a) he is a beneficiary of a retirement pension payable under this Act;

(b) he is a beneficiary of a retirement pension payable under a similar plan, and an agreement entered into with the authority which administers that plan permits such a partition;

(c) he has reached 60 years of age and is not a contributor within the meaning of paragraph 1 of section 1 or a similar plan.

Any partition made in favour of a spouse to whom subparagraph *a* or *b* of the first paragraph applies shall result in the partition of his own pension; in the case of subparagraph *b*, partition is effected in accordance with the agreement referred to therein.

"158.4 Upon receipt of an application for partition from one of the spouses, the Board shall notify the other spouse.

"158.5 The part of the retirement pension to which the spouse is entitled is equal to the amount *P* obtained by the following formula:

$$r \times \frac{m}{c} = P$$

where

“r” is the amount of the retirement pension which, if such a partition were not effected, would be payable for the month following the month in which the application for partition is approved;

“m” is one-half of the number of months in the period of marriage of the spouses;

“c” is the number of months in the combined contributory period of the spouses.

“158.6 For the purposes of section 158.5,

(1) the combined contributory period of the spouses is the period which begins on the date on which the contributory period of the older spouse begins and which terminates, as the case may be,

(a) on the date of the end of the contributory period of the spouses which terminated last, where both spouses are beneficiaries of a retirement pension;

(b) at the end of the later of the following months, where one of the spouses is a beneficiary of a retirement pension and the other is not a contributor:

– the month in which the contributory period of the spouse who is a beneficiary ends, and

– the earliest of the month in which the application for partition is approved and the month preceding the seventieth birthday of the spouse who is not a contributor.

In cases to which subparagraphs *a* and *b* of the first paragraph of section 158.3 apply, the combined contributory period does not include any month which, pursuant to the second paragraph of section 101, is excluded from the contributory period of one of the spouses if it is also excluded from the contributory period of the other spouse.

(2) the period of marriage of the spouses is the period which begins on the first day of the month of their marriage and terminates on the last day of their combined contributory period. Any month which is not part of their combined contributory period is excluded.

“158.7 Partition of the retirement pension is effective in the month following the month in which the Board approved the application.

The Board shall notify both spouses as soon as it has approved the partition. The notice shall inform the spouses of their right to apply for a review of the decision of the Board within the time prescribed by section 186.

“158.8 Partition of the retirement pension ceases to be effective at the end of the month in which one of the following events occurs:

- (a) the death of either of the spouses;
- (b) the Board is informed that a spouse to whom subparagraph c of the first paragraph of section 158.3 applies has become a contributor;
- (c) the Board receives one of the following documents:
 - a judgment of divorce, annulment of marriage or separation from bed and board of the spouses, or
 - an application for cessation of partition of the pension signed by both spouses.”

61. Section 165.1 of the said Act is repealed.

62. Section 166 of the said Act is amended by inserting the words “, and at the end of the month which precedes the month in which a replacement indemnity becomes payable to him” after the word “plan” in the third line of the second paragraph.

63. Section 167 of the said Act is repealed.

64. Section 168 of the said Act is replaced by the following section:

“168. A death benefit shall be granted, upon production of vouchers, to the person who has paid the funeral expenses, up to the amount of such expenses, provided that the person applies therefor within 60 days after the death of the contributor.

Where he fails to apply within that time, the death benefit shall be granted to the first of the following persons who applies therefor:

(a) the person contemplated in the first paragraph, but only up to the amount of the funeral expenses;

(b) the heirs of the contributor or, where there are no heirs, his surviving spouse or, where there is no surviving spouse, his descendants or, where there is no surviving spouse or descendants, his ascendants.

Where the amount of the funeral expenses granted to the person who paid them is less than the amount of the death benefit, the difference shall be paid in accordance with subparagraph *b* of the second paragraph."

65. Section 169 of the said Act is amended by replacing the last two lines by the following words: "the heirs of a contributor by one of them or by the testamentary executor."

66. Section 170 of the said Act is amended by striking out the words "if, at his death, the surviving spouse had reached 35 years of age, had dependent children or was disabled" in the second, third and fourth lines of the first paragraph.

67. Section 172 of the said Act is amended by adding, at the end of the third paragraph, the words ", but not before the disability pension becomes payable".

68. Section 174 of the said Act is amended

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

"174. An orphan's pension or a disabled contributor's child's pension ceases to be payable at the end of the month preceding the eighteenth birthday of the beneficiary or at the end of the month of his death. The disabled contributor's child's pension also ceases to be payable at the end of the month in which the beneficiary ceases to be a child of the contributor within the meaning of section 86, or at the end of the month in which the disability pension ceases to be payable to the contributor.";

(2) by striking out the word "dependent" in the second line of the second paragraph;

(3) by striking out the words "by the surviving spouse, to the exclusion of every other person," in the first and second lines of the third paragraph.

69. Section 175 of the said Act is amended by replacing the first paragraph by the following paragraph:

“175. An orphan’s pension or a disabled contributor’s child’s pension shall be paid to the person who maintains the beneficiary in the conditions provided for by regulation; otherwise, it shall be paid to the person designated by the Board.”

70. Section 177.1 of the said Act is amended by replacing the word and figure “section 102.1” in the third line by the words and figures “sections 102.1 and 158.3”.

71. The said Act is amended by inserting, after section 180.1, the following section and headings:

“DIVISION VI

“ADMINISTRATIVE AGREEMENTS

“180.2 The Board and the Commission de la santé et de la sécurité du travail shall enter into an agreement for the transmission of the information and documents required for the purposes of this Act and the regulations, and the Acts and regulations administered by the Commission.

In particular, such an agreement shall permit

(a) the fixing of the date on which, pursuant to the third paragraph of section 139.2, an application for a disability pension is presumed to be made;

(b) the identification, for the purposes of sections 96.1 to 96.3, 97, 101, 103, 105.2, 139, 148 and 166, of contributors who are beneficiaries of a replacement indemnity and the months for which that indemnity is payable to them;

(c) the determination of the amounts of disability pension which may be recovered on the ground that a replacement indemnity was payable to the beneficiary and the terms and conditions of application for and remission of such amounts in accordance with the third paragraph of section 144 of the Act respecting industrial accidents and occupational diseases;

(d) the identification of contributors who are beneficiaries of a disability pension, the months for which that pension is payable to them and the amount of that pension.”

72. The heading of Division I of Title V of the said Act is amended by replacing the word "CONTRIBUTIONS" by the words "DECISIONS OF THE MINISTER".

73. The heading of Division II of Title V of the said Act is amended by replacing the word "BENEFITS" by the words "DECISIONS OF THE BOARD".

74. Sections 186 to 188 of the said Act are replaced by the following sections:

"186. Any interested person may, within one year after the mailing of a decision of the Board, apply in writing for a review of that decision. The application for review must state briefly the grounds on which it is based.

The Board may relieve a person of the consequences of his failure to make such an application within the time prescribed if that person shows that he could not do so for a valid reason.

"187. The Board shall consider the application forthwith and render its decision.

"188. The decision, with reasons, shall be in writing and shall be transmitted to the interested person together with a mention of his right to bring an appeal to the Commission des affaires sociales within the time and in accordance with the terms and conditions prescribed by the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)."

75. Section 190 of the said Act is repealed.

76. Section 192 of the said Act is amended

(1) by replacing the words "prescribed manner" in the third line of the first paragraph by the word "writing";

(2) by replacing the word "Earnings" in the fifth line of the first paragraph by the word "Contributors";

(3) by replacing the second paragraph by the following paragraph:

"The Board is not bound to satisfy more than one application for a statement of earnings in any period of 12 months, unless the contributor shows that such information is necessary to him."

77. Section 193 of the said Act is amended

(1) by replacing the word “reconsidered” in the second line of the first paragraph by the word “reviewed”;

(2) by replacing the second paragraph by the following paragraph:

“Sections 186 to 189 apply to any such request.”;

(3) by replacing the word “Earnings” in the first line of the third paragraph by the word “Contributors”.

78. Section 194 of the said Act is amended

(1) by replacing the first, second and third paragraphs by the following paragraphs:

“194. The Board may, of its own initiative or at the request of an interested person, rectify any entry in the Record of Contributors; in the case of an entry based on information obtained pursuant to section 211, the rectification shall be made in the conditions provided for in the agreement referred to in that section.

However, an entry relating to pensionable earnings or contributions which has been in the register for more than four years may be rectified only by reason of an increase, a change made within the scope of a partition of unadjusted pensionable earnings under section 102.1 or a similar plan, or a change whose object is to deduct amounts registered under a similar plan which were registered under this Act by error.”;

(2) by replacing the word “Earnings” in the eighth line of the fourth paragraph by the word “Contributors”;

(3) by replacing the words “fourth and fifth” in the first line of the sixth paragraph by the words “third and fourth”;

(4) in the French text, by replacing the word “contribution” in the third line of the sixth paragraph by the word “cotisation”.

79. Section 195 of the said Act is amended

(1) by replacing the word “Earnings” in the third line of the first paragraph by the word “Contributors”;

(2) by replacing the sixth and seventh lines of the first paragraph by the words “Board shall again notify him by transmitting a corrected statement to him at his last known address.”;

(3) by replacing the second and third lines of the second paragraph by the words “such a decision be reviewed by the Board in accordance with sections 186 to 189.”

80. Section 211 of the said Act is amended

(1) in the French text, by replacing the word “contributions” in the fifth line of the second paragraph by the word “cotisations”;

(2) by replacing the word “reconsidered” in the seventh line of the second paragraph by the word “reviewed”.

81. Section 219 of the said Act is amended

(1) by replacing paragraph *c* by the following paragraph:

“(c) determining the conditions that persons to whom section 86, 133.1 or 175 applies must satisfy and the information they must furnish to be considered to maintain another person;”;

(2) by inserting the words “, applications for the partition of a retirement pension” after the word “benefits” in the second line of paragraph *g*;

(3) by inserting the words “, an application for the partition of a retirement pension” after the word “benefits” in the second line of paragraph *h*;

(4) by inserting, after paragraph *h*, the following paragraph:

“(h.1) determining, for the purposes of the second paragraph of section 95, the method of calculating the annual income required to qualify an occupation as being substantially gainful;”;

(5) by striking out paragraph *i*;

(6) by adding, at the end of paragraph *i.1*, the words “, and the circumstances and conditions under which the gainful occupation of a person constitutes his habitual occupation”;

(7) by replacing paragraph *j* by the following paragraphs:

“(j) determining the information and documents to be produced to prove a disability;

“(j.1) establishing the conditions and circumstances in which a person may be considered to be disabled for the purposes of sections 95 and 96;

“(j.2) establishing the criteria which, for the purposes of the fourth paragraph of section 139, enable groups of contributors to be identified, and establishing the manner of fixing the date on which a contributor is presumed to have made an application for a retirement pension;”;

(8) by replacing paragraph *k* by the following paragraph:

“(k) determining the cases which may give rise to the payment referred to in section 142.1 and the terms and conditions of such a payment, prescribing the method to be used to calculate the amount of the single payment or to establish the intervals of payments;”;

(9) by inserting, after paragraph *k.1*, the following paragraph:

“(k.2) prescribing, for the purposes of section 150, the times and the terms and conditions of repayment of sums that may be recovered, and the percentage and monthly amount up to which the Board may make deductions from benefits to compensate a debt;”;

(10) by striking out paragraph *q*;

(11) by replacing the word and figure “and 124” in the second line of paragraph *s* by the word and figures “, 124 and 133”.

82. Section 220 of the said Act is amended by striking out the words “, other than those contemplated in paragraph *q* of section 219,” in the first and second lines.

83. The French text of the said Act is amended by replacing the words “contribution” and “contributions” respectively by the words “cotisation” and “cotisations” in sections 8 and 34, in the heading of Title III, in section 44.1, replaced by section 177 of chapter 25 of the statutes of 1991, and in the heading preceding it, in the heading of Division IV of Title III, in section 50 and the heading preceding it, in section 50.1, enacted by section 109 of chapter 8 of the statutes of 1991 and amended by section 220 of chapter 1 of the statutes of 1992, in sections 51 to 53 and the headings preceding them, in sections 54 to 58, in the heading of Division VI of Title III, in section 59, in the heading preceding section 63, in sections 64, 65, 71 and 72, in the heading of Division VII of Title III, in sections 75, 77 to 79 and 81, in section 85, amended by section 766 of chapter 4 of the statutes of 1990, in sections 98, 107, 179, 180, 191, 200 and 203, in section 214, amended by section 44 of chapter 57 of the statutes of 1990, and in sections 216 and 229.

84. The French text of the said Act is amended by replacing the word “cotisation” by the word “imposition”, adapted as required, in the heading preceding section 65, in section 67, in the heading preceding section 68, in sections 68 and 69, in the third paragraph of section 71 and in section 184, replaced by section 2 of chapter 13 of the statutes of 1991.

85. The said Act is amended by replacing the expression “Record of Earnings” by the expression “Record of Contributors” in the heading of Division I of Title VI and in section 191.

AMENDING PROVISIONS

86. The Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting, after section 42, the following section:

“42.1 The Commission and the Régie des rentes du Québec shall enter into an agreement for the transmission of the information and documents required for the purposes of the Acts and regulations administered by the Commission and for the purposes of the Act respecting the Québec Pension Plan and the regulations thereunder.

In particular, such an agreement shall permit

(a) the fixing of the date on which, pursuant to the third paragraph of section 139.2 of the Act respecting the Québec Pension Plan, an application for a disability pension is presumed to be made;

(b) the identification, for the purposes of sections 96.1 to 96.3, 97, 101, 103, 105.2, 139, 148 and 166 of that Act, of contributors who are beneficiaries of an income replacement indemnity and the months for which that indemnity is payable to them;

(c) the determination of the amounts of disability pension which may be recovered by the Board on the ground that an income replacement indemnity was payable to the beneficiary and, for the purposes of the deductions provided for in the third paragraph of section 144 of this Act, the determination of the terms and conditions of application for and remission of such amounts;

(d) the identification of contributors who are beneficiaries of a disability pension, the months for which that pension is payable to them and the amount of that pension.”

87. The French text of section 63 of the said Act is amended by replacing the word “contribution” in the first line of subparagraph 3 of the first paragraph by the word “cotisation”.

88. Section 144 of the said Act is amended by adding, at the end, the following paragraph:

“It shall also, at the request of the Régie des rentes du Québec, deduct from the income replacement indemnity payable to a person under this Act, the amounts of disability pension paid to that person under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) which may be recovered under that Act. It shall pay the amounts so deducted to the Board.”

89. Sections 518 and 519 of the said Act are repealed.

90. The French text of section 52 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the word “contribution” in the seventh line of the first paragraph by the word “cotisation”.

91. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), amended by section 105 of chapter 87 of the statutes of 1990, is again amended by replacing the word “reconsideration” in the first line of paragraph *k* by the word “review”.

92. The French text of section 70 of the Taxation Act (R.S.Q., chapter I-3), amended by section 15 of chapter 25 of the statutes of 1991, is again amended by replacing the word “contribution” in the first line of paragraph *b* by the word “cotisation”.

93. The French text of section 75 of the said Act is amended

(1) by replacing the word “contribution” in the fourth line by the word “cotisation”;

(2) by inserting the words “de contribution d’employeur” after the words “du Québec ou” in the eighth line.

94. The French text of section 336 of the said Act, amended by section 151 of chapter 59 of the statutes of 1990, by section 66 of chapter 25 of the statutes of 1991 and by section 30 of chapter 1 of the statutes of 1992, is again amended by replacing the word “cotisation” in the first line of paragraph iii of subparagraph *e* of subsection 1 by the word “imposition”.

95. The French text of section 339 of the said Act, amended by section 67 of chapter 25 of the statutes of 1991, is again amended by replacing the word “contribution” in paragraph *a* by the word “cotisation”.

96. The French text of section 93.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), replaced by section 7 of chapter 7 of the statutes of 1991 and amended by section 5 of chapter 13 of the statutes of 1991, is again amended by replacing the word “cotisation” in paragraphs *g* and *h* by the word “imposition”.

97. The French text of section 124 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing the word “contribution” in the eighth line of the first paragraph by the word “cotisation”.

TRANSITIONAL AND FINAL PROVISIONS

98. A surviving spouse who, on 31 December 1992, is entitled to a surviving spouse’s pension, conserves that entitlement.

The amount of the pension is calculated, from 1 January 1993, in accordance with sections 132 to 137 of the Act respecting the Québec Pension Plan, without taking account of the prescribed limit of 36 months for establishing the amount of the retirement pension of the contributor.

Where, under the provisions of the second paragraph, the amount of the pension to which the surviving spouse would be entitled for the month of January 1993 is less than the amount of the pension calculated in accordance with the provisions of the Act respecting the Québec Pension Plan as they read before 1 January 1993, the amount of the pension of that spouse is calculated in accordance with the latter provisions as long as such a calculation is in his favour, but only until he reaches 45 years of age.

99. A surviving spouse who, after the reduction of his pension under the fourth paragraph of section 132 of the Act respecting the Québec Pension Plan as it read before 1 January 1993, once again becomes disabled or has a child of the contributor dependent on him, is entitled to an unreduced pension for every month between 31 December 1991 and 1 January 1993 in which he was disabled or a child of the contributor was dependent on him.

100. In respect of a contributor who died between 3 April 1985 and 1 January 1993, the person who, on the day of the death of the

contributor, had been living in a *de facto* union with him for at least a year is qualified as a surviving spouse if neither was married to another person and if, as the case may be,

- a child was born of their union,
- they had, together, adopted a child,
- one of them had adopted a child of the other.

The birth or adoption of a child during a marriage or period of marital life prior to the period of marital life in progress on the day of the death of the contributor also qualifies such a person as a surviving spouse.

The provisions of this section apply to every application for a surviving spouse's pension, including applications made before 1 January 1993.

101. A presumption existing on 31 December 1992 under section 88 of the Act respecting the Québec Pension Plan, as it read before 1 January 1993, as to the dependency of the contributor's child on the surviving spouse, if under 45 years of age on 1 January 1993, continues to exist for as long as the surviving spouse resides with or substantially maintains that child, but only until the surviving spouse reaches 45 years of age.

102. The surviving spouse of a contributor who died before 1 January 1993 who, solely by reason of his age, was not eligible for a surviving spouse's pension on the day of the death of the contributor or who has ceased to be eligible, is, from 1 January 1993, eligible for that pension; the amount of the pension is calculated in accordance with sections 132 to 137 of the Act respecting the Québec Pension Plan.

103. The provisions of the Act respecting the Québec Pension Plan, as they read before 1 January 1993, concerning disability pensions, shall continue to apply to applications made before 1 January 1994 if the date of disability invoked is prior to 1 January 1993.

The provisions of the said Act, as amended by this Act, shall apply, however, to every such application where the contributor, pursuant to the provisions referred to in the first paragraph, cannot be recognized as a qualified disabled contributor on a date prior to

1 January 1993. The date on which the contributor became disabled, if that is the case, cannot then be fixed at a date prior to 1 January 1993.

104. A contributor who is 60 years of age or over but under 65 years of age, who became disabled on a date after 31 December 1992 but who is not qualified for a disability pension in terms of payment of contributions pursuant to section 106 of the Act respecting the Québec Pension Plan, shall become qualified for such a pension from the date of disability fixed in his respect if, on that date, he has paid contributions for at least one-third of the total number of years in his contributory period, and if he has, since a date prior to 1 January 1993, complied with the conditions other than those relating to age provided for in the third paragraph of section 95 of that Act as it read before 1 January 1993.

105. For the purposes of the orphan's pension and the disabled contributor's child's pension, an unmarried child 18 years of age or over but under 25, of a contributor who becomes disabled or dies before 1 January 1993, is also a child of such a contributor provided he has attended an educational institution on a full-time basis substantially without interruption since

(1) the day of the death of the contributor or the day on which the contributor became disabled; or

(2) the day of his eighteenth birthday, if that day occurs after the day mentioned in subparagraph *a*.

The provisions of sections 43 to 45 of the Regulation respecting Benefits (R.R.Q., c. R-9, r. 5), in force on 31 December 1992, shall continue to apply, adapted as required, to determine the eligibility of a child to whom the first paragraph applies.

This section shall cease to be effective on 31 December 1999.

106. Section 105.2 of the Act respecting the Québec Pension Plan applies in respect of every month after 31 December 1985.

However, in respect of a person who became entitled to an income replacement indemnity before 1 January 1986 or who, before (*insert here the date of introduction of this Act*), became entitled to such an indemnity when he was already entitled to a disability pension, this section does not apply to any months prior to the latter date which are included in the series of months for which such an indemnity is payable. If the person, on (*insert here the date of the day preceding the day on which this Act is introduced*), is entitled to both a disability

pension and an income replacement indemnity, this section applies only from the month following the month in which he ceases to be entitled to either of the benefits.

107. An application for a disability pension shall not, under the third paragraph of section 139.2 of the Act respecting the Québec Pension Plan, be considered to be made on a date prior to 1 January 1993 even where the claim has been filed with the Commission de la santé et de la sécurité du travail before that date.

108. Section 97 of the Act respecting the Québec Pension Plan applies only to retirement pensions which become payable after 31 December 1992.

109. No interest is payable under section 143.0.1 of the Act respecting the Québec Pension Plan in respect of any month prior to 1 May 1993.

110. The period of three years prescribed by section 148 of the Act respecting the Québec Pension Plan runs from 1 January 1993 in respect of any sum due before that date.

111. Regulations which will be made until 30 June 1993 under section 219 of the Act respecting the Québec Pension Plan may provide that they apply from any date not prior to 1 January 1993.

112. This Act will come into force on 1 January 1993, except sections 27 and 28 and paragraph 1 of section 29, which come into force on (*insert here the date of assent to this Act*).