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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-FOURTH LEGISLATURE

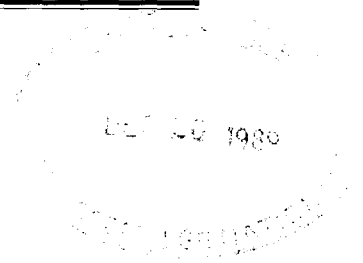
Bill 19

**An Act to amend various legislation  
for the purposes of partition and  
assignment between spouses of  
benefits accrued under a pension  
plan**

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**Introduction**

Introduced by  
Mr Daniel Johnson  
Minister for Administration and the Public Service  
and Chairman of the Conseil du trésor



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## EXPLANATORY NOTES

*This bill, introduced as a complement to the Act to amend the Civil Code of Québec and other legislation in order to favour economic equality between spouses, provides, in pension plans and for the purposes of partition and assignment of benefits accrued under pension plans, special measures applicable in the event of separation from bed and board, divorce or nullity of marriage or applicable to the payment of a compensatory allowance.*

*In this respect, the bill provides that applications relating to the partition or assignment of benefits accrued under a pension plan will be subject to terms and conditions prescribed by regulation. The rules relating to the establishment, assessment and payment of accrued benefits and to the reduction of the sums payable under the plan, by reason of payment of the sums awarded to the spouse, will also be prescribed by regulation.*

*Lastly, the bill contains technical or concordance amendments to render the rules introduced by the bill applicable to pension plans which are not contained in an Act but which are administered by, or the benefits under which are payable by, the Commission administrative des régimes de retraite et d'assurances.*

## ACTS AMENDED BY THIS BILL:

- Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34);
- Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1);
- Legislature Act (R.S.Q., chapter L-1);
- Public Protector Act (R.S.Q., chapter P-32);

- Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1);
- Act respecting the Pension Plan of Peace Officers in Penal Institutions (R.S.Q., chapter R-9.2);
- 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);
- Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Act respecting the Pension Plan of Elected Municipal Officers (1988, chapter 85);
- Civil Code of Québec.



## Bill 19

### **An Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

**1.** Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), amended by section 110 of chapter 51 of the statutes of 1988, section 86 of chapter 85 of the statutes of 1988, section 9 of chapter 4 of the statutes of 1989, section 21 of chapter 15 of the statutes of 1989 and section 43 of chapter 50 of the statutes of 1989 is again amended by replacing paragraph *p* by the following paragraph:

“(p) the appeals brought under sections 125.7 and 143 of the Act respecting the Pension Plan of Peace Officers in Penal Institutions (R.S.Q., chapter R-9.2), appeals brought under paragraph 2 of section 181 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10), appeals brought under section 72.7 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11), appeals brought under section 108.7 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), appeals brought under section 41.10 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16) and appeals brought under sections 63.7 and 74 of the Act respecting the Pension Plan of Elected Municipal Officers (1988, chapter 85);”.

ACT RESPECTING THE CONDITIONS OF EMPLOYMENT  
AND THE PENSION PLAN OF THE MEMBERS OF THE  
NATIONAL ASSEMBLY

**2.** Section 24 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended

(1) by replacing the words “admissibles à leur” in the first and second lines of the third paragraph of the French version by the words “admissible à sa”;

(2) by replacing the words “his assigns” in the second line of the third paragraph by the words “his spouse, or if he has no spouse, to his assigns”.

**3.** Section 47 of the said Act is amended by inserting the words “his spouse or, if he has no spouse,” before the words “his assigns” in the third line of the first paragraph.

**4.** Section 53 of the said Act is amended by inserting the words “spouse or” after the word “the” in the first line.

**5.** The said Act is amended by inserting, after section 57, the following division:

“DIVISION III.1

“PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

**“57.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the Member or former Member and his spouse are entitled to obtain, upon application to the Office on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the Member or former Member under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“57.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this chapter. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“57.3** The Office, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“57.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“57.5** Following payment of the sums awarded to the spouse of the Member or former Member, every sum payable under this plan with respect to the membership of the Member or former Member shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“57.6** Where, following a separation from bed and board, the value of the benefits accrued under this plan by the Member or former Member has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.”

**6.** Section 59 of the said Act is amended by inserting, after paragraph 5, the following paragraphs:

“(5.1) determine the terms and conditions of the applications required under Division III.1 of Chapter II of this Act and under subdivision 5.1.1 of Division III of the Legislature Act;

“(5.2) determine, for the purposes of section 57.1 of this Act and section 103.17.1 of the Legislature Act, the information which must be contained in the statement setting out the value of the benefits accrued by the Member or former Member;

“(5.3) fix, for the purposes of section 57.2 of this Act and section 103.17.2 of the Legislature Act, the rules which apply to the establishment of the benefits accrued under the retirement plan or the system of retirement plans, which may differ from the rules otherwise applicable under Chapter II of this Act or Division III of the Legislature Act; determine, for the purposes of the said sections,

the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(5.4) determine, for the purposes of section 57.3 of this Act and section 103.17.3 of the Legislature Act, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(5.5) prescribe, for the purposes of section 57.5 of this Act and section 103.17.5 of the Legislature Act, the actuarial rules, assumptions and methods for reducing a sum payable under the pension plan or the system of retirement plans, which may vary according to the nature of the benefit from which such sum is derived;”.

#### LEGISLATURE ACT

**7.** Section 98 of the Legislature Act (R.S.Q., chapter L-1) is amended by adding, after subsection 3, the following subsection:

“(4) If the spouse is not entitled to his pension pursuant to section 103.17.6, the child’s pension shall be that provided for in the second paragraph of subsection 1 or, where applicable, in the second paragraph of subsection 2.”

**8.** The said Act is amended by inserting, after section 103.17, the following subdivision:

“§ 5.1.1.—*Partition and assignment of benefits between spouses*

**“103.17.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the Member or former Member and his spouse are entitled to obtain, upon application to the Office on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the Member or former Member under this system of retirement pensions, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“103.17.2** For the purposes of their partition and assignment, the benefits accrued under this system of retirement pensions shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this division. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.



The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“103.17.3** The Office, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“103.17.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“103.17.5** Following payment of the sums awarded to the spouse of the Member or former Member, every sum payable under this system of retirement pensions with respect to the membership of the Member or former Member shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“103.17.6** Where, following a separation from bed and board, the value of the benefits accrued by the Member or former Member under this system of retirement pensions has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“103.17.7** The regulations referred to in this subdivision shall be made by the Office in accordance with paragraphs 5.1 to 5.5 of section 59 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly.”

#### PUBLIC PROTECTOR ACT

**9.** The Public Protector Act (R.S.Q., chapter P-32) is amended by inserting, after section 10, the following section:

**“10.1** The Government may, by regulation, render the special measures provided in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) and the regulations thereunder applicable, in whole or

in part and adapted as required, to the pension plan of the Public Protector and his assistant, for the purposes of partition and assignment of benefits between spouses.

The Government may also, for such purposes, include in the regulations special provisions for the establishment and assessment of benefits accrued under the pension plan of the Public Protector and his assistant, and for the reduction of benefits under the plan by reason of payment of the sums awarded to the spouse.”

ACT RESPECTING THE PENSION PLAN OF  
CERTAIN TEACHERS

**10.** The Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by inserting, after section 41, the following chapter:

“CHAPTER VI.1

“PARTITION AND ASSIGNMENT OF BENEFITS  
BETWEEN SPOUSES

**“41.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the employee or former employee and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the employee or former employee under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“41.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees Retirement Plan. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“41.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall

pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“41.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“41.5** Following payment of the sums awarded to the spouse of the employee or former employee, every sum payable under this plan with respect to the membership of the employee or former employee shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“41.6** Where, following a separation from bed and board, the value of the benefits accrued by the employee or former employee under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“41.7** Sections 179 to 181 of the Act respecting the Government and Public Employees Retirement Plan do not apply to decisions rendered by the Commission pursuant to this chapter. However, the employee or former employee and his spouse may, within 90 days after the date of mailing of such a decision, apply for arbitration to the Commission. In such case, section 182, the first paragraph of section 183 and sections 184 and 186 of the said Act apply.

**“41.8** The Government may, by regulation and after the Commission has consulted with the pension committee established under section 163 of the Act respecting the Government and Public Employees Retirement Plan,

(1) determine the terms and conditions of the applications required under this chapter;

(2) determine, for the purposes of section 41.1, the information which must be contained in the statement setting out the value of the benefits accrued by the employee or former employee;

(3) fix, for the purposes of section 41.2, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees

Retirement Plan; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

(4) determine, for the purposes of section 41.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

(5) prescribe, for the purposes of section 41.5, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived.”

ACT RESPECTING THE PENSION PLAN OF PEACE  
OFFICERS IN PENAL INSTITUTIONS

**11.** Section 59 of the Act respecting the Pension Plan of Peace Officers in Penal Institutions (R.S.Q., chapter R-9.2) is amended by inserting the words “entitled to a pension” after the word “spouse” in the first line of subparagraph 2 of the first paragraph.

**12.** Section 60 of the said Act is amended by inserting the words “entitled to a pension” after the word “spouse” in the second line of the first paragraph.

**13.** Section 62 of the said Act is amended by adding, after the first paragraph, the following paragraph:

“In case of death before the deferred pension becomes payable, the contributions shall, subject to section 74, be refunded to his spouse or, if he has no spouse, to his assigns.”

**14.** Section 67 of the said Act, replaced by section 190 of chapter 82 of the statutes of 1988, is amended by adding, after the first paragraph, the following paragraph:

“In case of death, the contributions shall be refunded to his spouse or, if he has no spouse, to his assigns.”

**15.** Section 68 of the said Act, replaced by section 191 of chapter 82 of the statutes of 1988, is amended by inserting the words “the first paragraph of” after the word “under” in the first line.

**16.** Section 70 of the said Act is amended by inserting the words “to his spouse or, if he has no spouse, to his assigns” after the word “refunded” in the second line.

**17.** The said Act is amended by inserting, after section 125, the following chapter:

**“CHAPTER V.1**

**“PARTITION AND ASSIGNMENT OF BENEFITS  
BETWEEN SPOUSES**

**“125.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the employee or former employee and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the employee or former employee under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“125.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act and under Chapters II and IV of Title IV of the Act respecting the Government and Public Employees Retirement Plan. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“125.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“125.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“125.5** Following payment of the sums awarded to the spouse of the employee or former employee, every sum payable under this plan with respect to the membership of the employee or former employee, including the sum payable under section 102, shall be

reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“125.6** Where, following a separation from bed and board, the value of the benefits accrued by the employee or former employee under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“125.7** Chapter IX does not apply to decisions rendered by the Commission pursuant to this chapter. However, the employee or former employee and his spouse may, within 90 days after the date of mailing of such a decision, appeal to the Commission des affaires sociales.”

**18.** Section 130 of the said Act is amended by inserting, after paragraph 8, the following paragraphs:

“(8.1) determine the terms and conditions of the applications required under Chapter V.1;

“(8.2) determine, for the purposes of section 125.1, the information which must be contained in the statement setting out the value of the benefits accrued by the employee or former employee;

“(8.3) fix, for the purposes of section 125.2, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act and under Chapters II and IV of Title IV of the Act respecting the Government and Public Employees Retirement Plan; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(8.4) determine, for the purposes of section 125.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(8.5) prescribe, for the purposes of section 125.5, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived;”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC  
EMPLOYEES RETIREMENT PLAN

**19.** Section 10.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the words “except the provisions of Chapter VII.1” after the word “plan” in the first line of the first paragraph.

**20.** Section 46 of the said Act is amended by inserting the words “to his spouse or, if he has no spouse, to his assigns” after the word “reimbursed” in the second line.

**21.** Section 47 of the said Act, replaced by section 20 of chapter 82 of the statutes of 1988, is amended by adding, after the first paragraph, the following paragraph:

“In case of death, the contributions shall be refunded to his spouse or, if he has no spouse, to his assigns.”

**22.** Section 48 of the said Act, replaced by section 20 of chapter 82 of the statutes of 1988, is amended by adding, after the first paragraph, the following paragraph:

“In case of death, the contributions shall be refunded to his spouse or, if he has no spouse, to his assigns.”

**23.** Section 51 of the said Act, amended by section 23 of chapter 82 of the statutes of 1988, is again amended by adding, after the second paragraph, the following paragraph:

“In case of death before the deferred pension becomes payable, the contributions shall, subject to the sum paid under subparagraph 2 of the first paragraph and to section 58, be refunded to his spouse or, if he has no spouse, to his assigns.”

**24.** Section 59 of the said Act is amended by inserting the words “to his spouse or, if he has no spouse, to his assigns” after the word “payment” in the fifth line of the first paragraph.

**25.** The said Act is amended by inserting, after section 122, the following chapter:

## “CHAPTER VII.1

### “PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

“**122.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the employee or former employee and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the employee or former employee under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

“**122.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act. The benefits shall be established and assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

“**122.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

“**122.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

“**122.5** Following payment of the sums awarded to the spouse of the employee or former employee, every sum payable under this plan with respect to the membership of the employee or former employee shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

“**122.6** Where, following a separation from bed and board, the value of the benefits accrued by the employee or former employee under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family



patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“122.7** Sections 179 to 181 do not apply to decisions rendered by the Commission pursuant to this chapter. However, the employee or former employee and his spouse may, within 90 days after the date of mailing of such a decision, apply for arbitration to the Commission. In such case, section 182, the first paragraph of section 183 and sections 184 to 186 of the said Act apply.”

**26.** Section 134 of the said Act is amended

(1) by inserting, after paragraph 14.1, the following paragraphs:

“(14.2) determine the terms and conditions of the applications required under Chapter VII.1 of Title I;

“(14.3) determine, for the purposes of section 122.1, the information which must be contained in the statement setting out the value of the benefits accrued by the employee or former employee;

“(14.4) fix, for the purposes of section 122.2, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(14.5) determine, for the purposes of section 122.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(14.6) prescribe, for the purposes of section 122.5, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived;”;

(2) by inserting, after paragraph 22, the following paragraph:

“(22.1) make, for the purposes of section 147.1, provisions for the recovery of certain administrative expenses and certain other expenses incurred by the Commission;”.

**27.** The said Act is amended by inserting, after section 147, the following section:

**“147.1** The Government may, by regulation, make provisions for the recovery of certain administrative expenses and certain other expenses incurred by the Commission in connection with an application in respect of the pension plans which it administers or the benefits under which are payable by the Commission.

The sums collected by the Commission pursuant to the first paragraph shall be paid into the consolidated revenue fund.”

**28.** Section 218 of the said Act is amended by replacing the word “and” in the first line of the first paragraph by the words “, his spouse or, if he has no spouse,”.

#### ACT RESPECTING THE TEACHERS PENSION PLAN

**29.** Section 47 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by inserting the words “entitled to a pension” after the word “spouse” in the second line of subparagraph 2 of the first paragraph.

**30.** Section 48 of the said Act is amended by inserting the words “entitled to a pension” after the word “spouse” in the third line of the second paragraph.

**31.** Section 56 of the said Act, replaced by section 82 of chapter 82 of the statutes of 1988, is amended by adding the following paragraph after the first paragraph:

“In case of death, the contributions shall be refunded to his spouse or, if he has no spouse, to his assigns.”

**32.** The said Act is amended by inserting, after section 72, the following chapter:

#### “CHAPTER V.1

#### “PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

**“72.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the teacher or former teacher and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued

by the teacher or former teacher under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“72.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees Retirement Plan. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“72.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“72.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“72.5** Following payment of the sums awarded to the spouse of the teacher or former teacher, every sum payable under this plan with respect to the membership of the teacher or former teacher, including any sum payable under section 65, shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“72.6** Where, following a separation from bed and board, the value of the benefits accrued by the teacher or former teacher under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“72.7** Chapter IV of Title III of the Act respecting the Government and Public Employees Retirement Plan shall not apply to decisions made by the Commission under this chapter. However, the teacher or former teacher and his spouse may, within 90 days after

the date of mailing of such a decision, appeal to the Commission des affaires sociales.”

**33.** Section 73 of the said Act, amended by section 90 of chapter 82 of the statutes of 1988, is again amended by inserting, after paragraph 9, the following paragraphs:

“(9.1) determine the terms and conditions of the applications required under Chapter V.1;

“(9.2) determine, for the purposes of section 72.1, the information which must be contained in the statement setting out the value of the benefits accrued by the teacher or former teacher;

“(9.3) fix, for the purposes of section 72.2, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees Retirement Plan; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(9.4) determine, for the purposes of section 72.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(9.5) prescribe, for the purposes of section 72.5, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived;”.

ACT RESPECTING THE CIVIL SERVICE  
SUPERANNUATION PLAN

**34.** Section 26 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by adding, after the first paragraph, the following paragraph:

“In case of death, the contributions shall be reimbursed to his spouse or, if he has no spouse, to his assigns.”

**35.** Section 78 of the said Act is amended by inserting the words “entitled to a pension” after the word “spouse” in the first line of subparagraph 2 of the first paragraph.

**36.** Section 79 of the said Act is amended by inserting the words “entitled to a pension” after the word “spouse” in the third line of the second paragraph.

**37.** Section 82 of the said Act, amended by section 133 of chapter 82 of the statutes of 1988, is again amended by adding the following paragraph after the second paragraph:

“In case of death, the reimbursement provided for in the first paragraph shall be made to his spouse or, if he has no spouse, to his assigns.”

**38.** Section 107 of the said Act is amended by adding the following paragraph after the first paragraph:

“However if, at the time of death, he is no longer an officer for the purposes of the plan provided for by Division II, the contributions shall be reimbursed to his spouse or, if he has no spouse, to his assigns.”

**39.** The said Act is amended by inserting, after section 108, the following division:

#### “DIVISION III.1

##### “PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

**“108.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the officer or former officer and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the officer or former officer under the plans provided for in this Act, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“108.2** For the purposes of their partition and assignment, the benefits accrued under the plans provided for in this Act shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees Retirement Plan. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“108.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“108.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“108.5** Following payment of the sums awarded to the spouse of the officer or former officer, every sum payable under the plans provided for by this Act with respect to the membership of the officer or former officer, including the sum payable under section 10 or 65 shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“108.6** Where, following a separation from bed and board, the value of the benefits accrued by the officer or former officer under the plans provided for in this Act has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“108.7** Chapter IV of Title III of the Act respecting the Government and Public Employees Retirement Plan shall not apply to decisions made by the Commission under this division. However, the officer or former officer and his spouse may, within 90 days after the date of mailing of such a decision, appeal to the Commission des affaires sociales.”

**40.** Section 109 of the said Act, amended by section 150 of chapter 82 of the statutes of 1988, is again amended by inserting, after paragraph 8.1, the following paragraphs:

“(8.2) determine the terms and conditions of the applications required under Division III.1;

“(8.3) fix, for the purposes of section 108.1, the information which must be contained in the statement setting out the value of the benefits accrued by the officer or former officer;

“(8.4) fix, for the purposes of section 108.2, the rules which apply to the establishment of the benefits accrued under the plans provided for in this Act, which may differ from the rules otherwise applicable under this Act and under Title IV of the Act respecting the Government and Public Employees Retirement Plan; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(8.5) determine, for the purposes of section 108.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(8.6) prescribe, for the purposes of section 108.5, the actuarial rules, assumptions and methods for reducing any sum payable under the plans provided for by this Act, which may vary according to the nature of the benefit from which such sum is derived.”

ACT RESPECTING RETIREMENT PLANS FOR  
THE MAYORS AND COUNCILLORS OF MUNICIPALITIES

**41.** Sections 27 and 30 of the Act respecting retirement plans for the mayors and councillors of municipalities (R.S.Q., chapter R-16) are amended by inserting the words “his spouse or, if he has no spouse,” before the words “his heirs”.

**42.** Section 28 of the said Act is amended by replacing the last paragraph by the following paragraph:

“In case of death, the reimbursement shall be made in the same manner to his spouse or, if he has no spouse, to his assigns.”

**43.** Section 30.1 of the said Act is amended by inserting the words “to his spouse or, if he has no spouse,” before the words “to his heirs”.

**44.** The said Act is amended by inserting, after section 41.3, the following division:

“DIVISION VIII.2

“PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

**41.4** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the member or former member of the council and his spouse are entitled to obtain, upon application

to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the member or former member of the council under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“41.5** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“41.6** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“41.7** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“41.8** Following payment of the sums awarded to the spouse of the member or former member of the council, every sum payable under this plan with respect to the membership of the member or former member of the council shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“41.9** Where, following a separation from bed and board, the value of the benefits accrued by the member or former member of the council under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“41.10** The member or former member of the council and his spouse may, within 90 days after the date of mailing of the decision,



appeal to the Commission des affaires sociales from any decision rendered by the Commission under this division.”

**45.** Section 42 of the said Act is amended by adding, after subparagraph *g* of the first paragraph, the following subparagraphs:

“(h) determine the terms and conditions of the applications required under Division VIII.2;

“(i) determine, for the purposes of section 41.4, the information which must be contained in the statement setting out the value of the benefits accrued by the member or former member of the council;

“(j) fix, for the purposes of section 41.5, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(k) determine, for the purposes of section 41.6, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(l) prescribe, for the purposes of section 41.8, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived.”

#### COURTS OF JUSTICE ACT

**46.** Section 231 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by adding the following paragraph after the second paragraph:

“In case of death, the reimbursement shall be made to his spouse or, if he has no spouse, to his assigns.”

**47.** Section 234 of the said Act is amended by inserting the words “entitled to a pension” after the word “spouse” in the first line of the second paragraph.

**48.** The said Act, amended by chapter 21 of the statutes of 1988, is again amended by inserting, after section 246.14, the following part:

**“PART VI.2****“PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES**

**“246.15** This part shall be administered by the Commission administrative des régimes de retraite et d’assurances, and any decision rendered by the Commission under this part may be contested by the judge or former judge and his spouse within 90 days after the date of mailing of such decision, in the manner prescribed in section 245, adapted as required.

**“246.16** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the judge or former judge and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the judge or former judge under the retirement and pension plans provided for in Parts VI and VI.1, the value of such benefits for the period of the marriage and any other information determined by regulation.

**“246.17** For the purposes of their partition and assignment, the benefits accrued under the retirement and pension plans provided for in Parts VI and VI.1 shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under the said Parts. The benefits shall be assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“246.18** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“246.19** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“246.20** Following payment of the sums awarded to the spouse of the judge or former judge, every sum payable under the retirement

and pension plans provided for by Parts VI and VI.1 with respect to the participation of the judge or former judge shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“246.21** Where, following a separation from bed and board, the value of the benefits accrued by the judge or former judge under the retirement and pension plans provided for in Parts VI and VI.1 has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his capacity as spouse, unless the spouses resume living together.

**“246.22** The Government may, by regulation,

(a) determine the terms and conditions of the applications required under this Part;

(b) determine, for the purposes of section 246.16, the information which must be contained in the statement setting out the value of the benefits accrued by the judge or former judge;

(c) fix, for the purposes of section 246.17, the rules which apply to the establishment of the benefits accrued under the retirement and pension plans provided for in Parts VI and VI.1, which may differ from the rules otherwise applicable under the said parts; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

(d) determine, for the purposes of section 246.18, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

(e) prescribe, for the purposes of section 246.20, the actuarial rules, assumptions and methods for reducing any sum payable under the retirement and pension plans provided for in Parts VI and VI.1, which may vary according to the nature of the benefit from which such sum is derived.”

#### ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

**49.** The heading of subdivision 2 of Division II of Chapter V of the Act respecting the Pension Plan of Elected Municipal Officers (1988, chapter 85) is replaced by the following heading:

“§ 2.—*Refund to spouse and assigns*”.

**50.** Section 48 of the said Act is replaced by the following section:

“**48.** Subject to a refund made under section 53, if a participant dies before becoming entitled to a pension and before having two years of service to his credit, the contributions paid by him to participate in this plan shall be refunded to his spouse or, if he has no spouse, to his assigns with interest computed in accordance with section 34.”

**51.** Section 49 of the said Act is replaced by the following section:

“**49.** Subject to a refund made under section 52, if a person having at least two years of service to his credit dies before becoming entitled to a pension, his spouse or, if he has no spouse, his assigns shall be entitled to receive the actuarial value of the deferred annuity vested in the participant at the time of his death and which would have been payable to him at the age of 60.”

**52.** The said Act is amended by inserting, after section 63, the following chapter:

“CHAPTER VI.1

“PARTITION AND ASSIGNMENT OF BENEFITS BETWEEN SPOUSES

“**63.1** From the introduction of an application for separation from bed and board, divorce, annulment of marriage or for the payment of a compensatory allowance, the member or former member of the council and his spouse are entitled to obtain, upon application to the Commission on the conditions and according to the terms prescribed by regulation, a statement setting out the value of the benefits accrued by the member or former member of the council under this plan, the value of such benefits for the period of the marriage and any other information determined by regulation.

“**63.2** For the purposes of their partition and assignment, the benefits accrued under this plan shall be established according to the rules fixed by regulation, which may differ from the rules otherwise applicable under this Act. The benefits shall be established and assessed in accordance with the actuarial rules, assumptions and methods determined by regulation, which may vary according to the nature of the benefits established.

The benefits shall be established and assessed on the date of institution of the proceedings or, if the court so decides, on the date on which the spouses ceased to live together.

**“63.3** The Commission, upon an application made on the conditions and according to the terms prescribed by regulation, shall pay the sums awarded to the spouse. The regulation may also prescribe rules, conditions and terms for the payment of such sums and, where applicable, the interest payable thereon.

**“63.4** Every sum paid to the spouse, the interest yielded by it and the benefits constituted with such sums shall be inalienable and unseizable.

**“63.5** Following payment of the sums awarded to the spouse of the member or former member of the council, every sum payable under this plan with respect to the membership of the member or former member of the council shall be reduced in accordance with the actuarial rules, assumptions and methods prescribed by regulation, which may vary according to the nature of the benefit from which such sum is derived.

**“63.6** Where, following a separation from bed and board, the value of the benefits accrued by the member or former member of the council under this plan has been included in whole or in part in the value of the benefits that may be partitioned, the partition of the family patrimony shall entail, for the spouse who obtained it, the extinction of any other benefit, advantage or reimbursement which he could claim in his quality as spouse, unless the spouses resume living together.

**“63.7** Chapter X shall not apply to decisions made by the Commission under this chapter. However, the member or former member of the council and his spouse may, within 90 days after the date of mailing of the decision, appeal to the Commission des affaires sociales.”

**53.** Section 75 of the said Act is amended by inserting, after subparagraph 4 of the first paragraph, the following subparagraphs:

“(4.1) determine the terms and conditions of the applications required under Chapter VI.1;

“(4.2) determine, for the purposes of section 63.1, the information which must be contained in the statement setting out the value of the benefits accrued by the member or former member of the council;

“(4.3) fix, for the purposes of section 63.2, the rules which apply to the establishment of the benefits accrued under this plan, which may differ from the rules otherwise applicable under this Act; determine, for the purposes of the said section, the actuarial rules, assumptions and methods which apply to the assessment of accrued benefits and which may vary according to the nature of the benefits;

“(4.4) determine, for the purposes of section 63.3, the rules and the terms and conditions of payment of the sums awarded to the spouse and, where applicable, the interest payable thereon;

“(4.5) prescribe, for the purposes of section 63.5, the actuarial rules, assumptions and methods for reducing any sum payable under this plan, which may vary according to the nature of the benefit from which such sum is derived;”.

#### CIVIL CODE OF QUÉBEC

**54.** Article 455.1 of the Civil Code of Québec, enacted by section 5 of chapter 55 of the statutes of 1989, is amended by striking out the words “In the absence of a declaration of family residence,” in the English text.

#### MISCELLANEOUS PROVISIONS

**55.** Notwithstanding any provision of any Act, regulation or order inconsistent herewith, the Government may, by order, render the special measures provided in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) and in the regulations thereunder applicable, in whole or in part and adapted as required, to the pension plans contemplated in the schedule to this Act, for the purposes of partition and assignment of benefits between spouses.

The Government may also, for such purposes, by the same order, prescribe special provisions for the establishment and assessment of benefits accrued under the pension plans contemplated in the schedule and for the reduction of the sums payable under such plans by reason of payment of the sums awarded to the spouse.

**56.** The provisions of this Act will come into force on the date or dates fixed by the Government.

## SCHEDULE

– The Régime de retraite des employés du Centre hospitalier Côte-des-Neiges (O.C. 397-78 dated 16 February 1978 and Order 2497-81 dated 10 September 1981);

– the Régime de retraite des anciens employés de la Ville de St-Laurent (Order 842-82 dated 8 April 1982);

– the Régime de retraite pour le président de la Société d'aménagement de l'Outaouais (O.C. 2660-76 dated 4 August 1976);

– the Régime de retraite pour le président du Conseil de la Communauté régionale de l'Outaouais (O.C. 2661-76 dated 4 August 1976 and Order 40-89 dated 25 January 1989);

– the Régime de retraite pour le président-directeur général de la Société de transport de la rive sud de Montréal (O.C. 3863-76 dated 3 November 1976 and S.Q. 1985, chapter 32, s. 159);

– the Retirement plan for the chairman and general manager of the City of Laval Transit Commission (O.C. 4104-76 dated 24 November 1976);

– the Régime de retraite pour le président du Comité exécutif de la Communauté urbaine de Québec (O.C. 2-77 dated 5 January 1977, O.C. 1205-78 dated 20 April 1978 and O.C. 1742-79 dated 13 June 1979);

– the Régime de retraite pour le président-directeur général de la Commission de transport de la Communauté régionale de l'Outaouais (O.C. 2662-76 dated 4 August 1976);

– the Régime de retraite des anciens employés de la cité de Westmount (Order 2174-84 dated 3 October 1984);

– the Régime de retraite pour les membres de la Sûreté du Québec (C.T. 140730 dated 30 August 1982).