

NATIONAL ASSEMBLY

FIFTH SESSION

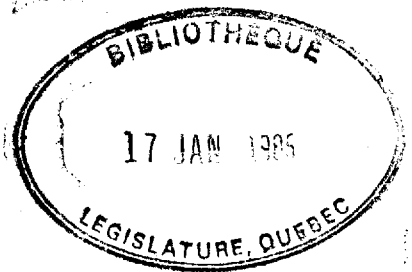
THIRTY-SECOND LEGISLATURE

Bill 21

An Act to amend the Act respecting the Québec Pension Plan and the Act respecting supplemental pension plans

Introduction

**Introduced by
Madam Pauline Marois
Minister of Manpower and Income Security**



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EXPLANATORY NOTES

This bill amends the Act respecting the Québec Pension Plan and the Act respecting supplemental pension plans.

As regards the Québec Pension Plan, the bill provides, in particular, concordance between the definition "surviving spouse" provided for in the plan and the definition contained in the Canada Pension Plan. In addition, the adoption of the child of a contributor will no longer cause the interruption or reduction of the orphan's pension and of the surviving spouse's pension.

The bill also contains provisions relating to an application for a pension made and the use of benefits received by a person on behalf of a beneficiary.

Furthermore, the bill amends or reframes provisions to facilitate the carrying out of the Act respecting the Québec Pension Plan.

As regards supplemental pension plans, the bill amends the Act to ensure that supplemental plans are not amended in a way that would cause participating employees to lose the rights they have accumulated during the period of service recognized by the plan.

The bill grants to the Régie des rentes du Québec specific powers to ensure that the standards of capitalization and solvency of the plans and the actuarial methods and hypotheses are being complied with.

Finally, the bill makes provisions to prevent Québec workers who contribute to a supplemental plan the benefits of which are combined with the benefits payable under the Act respecting the Québec Pension Plan, from losing the advantages arising from the lowering of the age to qualify for the retirement pension payable under that Act. The provisions of the bill in that respect have effect from 1 January 1984.

Bill 21

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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 by inserting after the figure “91” in the first line of paragraph *a* the figure “, 91.1”.

2. Section 20.1 of the said Act is amended by replacing the word “six” in the first line by the word “five”.

3. Section 88 of the said Act is replaced by the following sections:

“88. The surviving spouse of a contributor is deemed to have a dependent child if

(a) he maintains wholly or substantially a child who, upon the death of the contributor, was dependent on the contributor;

(b) he resides with a child who, upon the death of the contributor, was dependent on the contributor.

“88.1 For the purposes of section 88, a surviving spouse and a child do not cease to reside together if they are separated by reason of illness or for any other reason deemed valid by the Board.

“88.2 The surviving spouse does not cease to be deemed to have the child of the contributor as his dependent by the sole fact that he or his new spouse has adopted the child.”

4. Section 91 of the said Act is amended by inserting, after the word “contributor” in the second line of the first paragraph, the words “deceased before 1 January 1985”.

5. The said Act is amended by inserting, after section 91, the following section:

“91.1 The Board may decide that a person shall be deemed to be, for the purposes of this Act, the surviving spouse of a contributor deceased after 31 December 1984 and to have become married to the contributor at such time as he commenced being represented as the spouse of the contributor, on satisfactory proof that he had been residing with the contributor, and that he had been publicly represented by the contributor as his spouse

(a) for one year immediately before the death of the contributor if neither he nor the contributor was married to another person;

(b) in the opposite case, for three years immediately before the death of the contributor.”

6. Section 96 of the said Act is amended by replacing the second and third paragraphs by the following paragraph:

“Unless it is to establish qualification for a surviving spouse’s pension, the day on which a person became disabled shall not be fixed at a time earlier than the latest of the following dates:

(a) the first day of the twelfth month preceding the date on which the application for a benefit was made;

(b) 1 January 1984, if the contributor is declared disabled pursuant to the third paragraph of section 95;

(c) the date of the contributor’s sixtieth birthday if he is declared disabled pursuant to the third paragraph of section 95;

(d) the date, not earlier than 1 January 1984, on which the contributor has become qualified pursuant to section 106.1;

(e) the date of the application for partition provided for in section 102.6, if the contributor is qualified pursuant to section 106 or 106.1, only by reason of unadjusted pensionable earnings that have been allotted to him.”

7. Section 101 of the said Act is amended by replacing the second paragraph by the following paragraph:

"However, if the contributor dies after 31 December 1983 and is not a beneficiary of a retirement pension or if a retirement pension becomes payable to him after that date, his contributory period terminates in the month preceding the month in which he reaches 70 years of age, the month in which he dies or the month preceding that in which a retirement pension is paid to him, whichever occurs first."

8. Section 102.6 of the said Act is replaced by the following section:

"102.6 Application for partition shall be made within 36 months of the date of the divorce or the declaration of nullity on the form prescribed by the Board."

9. The said Act is amended by inserting, after section 119, the following section:

"119.1 The Board shall publish in the *Gazette officielle du Québec*, before 1 January each year, the Pension Index and the rate of adjustment of benefits."

10. Section 129 of the said Act is amended

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

"Nevertheless, where the basic number of contributory months of the contributor is greater than the total number of months in his contributory period, the amount of the pension must, for the purposes of calculating the death benefit, be multiplied by the ratio that the basic number of contributory months of the contributor bears to the total number of months in his contributory period.";

(2) by replacing the word "However" in the first line of the third paragraph by the word "Furthermore".

11. The said Act is amended by inserting, after section 132, the following section:

"132.1 A surviving spouse's pension that has been interrupted or reduced by reason of the adoption of the child of the contributor by the surviving spouse or his new spouse shall again become payable or cease to be reduced upon an application to that effect."

12. Section 134.3 of the said Act is amended by inserting, in the French text, before the word "années" in the last line of subparagraph i of paragraph b the word "deux".

13. Section 135 of the said Act is amended by replacing the last paragraph by the following paragraph:

"Nevertheless, the Pension Indexes contemplated in paragraphs *a* and *b* of the second paragraph of section 117 do not apply in calculating the basic amount of a surviving spouse's pension for any month in a year posterior to 1973."

14. Section 137.1 of the said Act is amended

(1) by replacing subparagraph *a* of the first paragraph by the following subparagraph:

"(a) a flat rate benefit included in the amount of the disability pension;"

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

"i. the sum of the amount of the disability pension reduced by the flat rate benefit provided for in subparagraph *a*, and 37.5% of the amount of the contributor's retirement pension, calculated in accordance with section 135 and adjusted, where required, in accordance with the third or fourth paragraph of section 132,".

15. Section 139 of the said Act is replaced by the following sections:

"**139.** No benefit is payable unless an application therefor has been made on the form prescribed by the Board and payment thereof has been approved.

"**139.1** Any beneficiary may cancel his application for a benefit within six months of the first payment if he repays to the Board the amount of the benefits paid to him.

"**139.2** An application for a benefit is deemed to be made on the day it is received at an office of the Board, on the prescribed form duly completed, unless the applicant, within the 12 preceding months, had already sent to the Board a writing indicating his intention to apply for a benefit, in which case the Board may consider the application as having been made on a date prior to its receipt."

16. Section 140 of the said Act is amended by striking out the first paragraph.

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

"**143.1** Every person who receives benefits on behalf of a beneficiary shall, upon request of the Board, provide the information it requires concerning the use of the paid benefits.

"143.2 The Board may suspend the payment of any benefit for the duration of an inquiry on the qualification of the beneficiary or on the use of benefits received by a person on behalf of a beneficiary.

Notice of the suspension of payment shall be sent to the beneficiary concerned.

The Board shall conduct the inquiry diligently and notify the beneficiary of its decision."

18. Section 144 of the said Act is amended by replacing the third paragraph by the following paragraph:

"A death benefit is prescribed by five years from the death or the declaratory judgment of death of the contributor in respect of whom it is payable."

19. The said Act is amended by inserting, after section 156, the following section:

"156.1 No application for a retirement pension may be made more than twelve months before the date on which it is payable."

20. Section 157.1 of the said Act is amended by replacing paragraph *i* by the following paragraph:

"(i) the month following the month during which the application for partition was made, where the retirement pension is payable only by reason of unadjusted pensionable earnings allotted following a partition provided for in section 102.1."

21. Section 173 of the said Act is amended by replacing the words "the child is the child of such contributor" in the third and fourth lines of the third paragraph by the words "the contributor is the father or mother of the child."

22. Section 174 of the said Act is amended by adding the following paragraph:

"The adoption of a beneficiary of an orphan's pension by the surviving spouse, to the exclusion of every other person, does not terminate the pension."

23. Section 189 of the said Act is amended by striking out the words "a clerk of" in the first line.

24. Section 218 of the said Act is amended by replacing the word "Society" in the second line of the first paragraph by the words "Canadian Institute".

25. Section 219 of the said Act is amended

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

“(c) defining the expressions “substantially”, “to be in full-time attendance”, “substantially without interruption”, “educational institution”, “substantially gainful occupation” and “incapable regularly,”;

(2) by striking out paragraph *p*.

26. Section 220 of the said Act is amended by replacing the words “in paragraphs *p* and” by the words “in paragraph”.

27. The Régie des rentes du Québec shall pay, upon an application, to the surviving spouse whose pension has been interrupted or reduced by reason of the adoption by himself or his new spouse of the contributor’s child, the benefits that would have been paid to him if section 132.1 of the Act respecting the Québec Pension Plan, enacted by section 11 of this Act, had been in force on 1 January 1984.

Notwithstanding the foregoing, if the request is made after 31 December 1985, the Board may pay benefits to the surviving spouse only from the twelfth month preceding the month during which the application was received.

28. Section 10 applies only in respect of the amounts of a pension or benefit payable after 31 December 1984.

29. In no case may section 18 have the effect of reviving a right extinguished by prescription before 1 January 1985.

30. Sections 20 and 22 have effect from 1 January 1984.

31. Section 21 has effect from 1 December 1982.

32. Section 6 of the Act respecting supplemental pension plans (R.S.Q., chapter R-17) is amended by inserting, after paragraph *c*, the following paragraphs:

“(c.1) to require from the administrator of a plan, on the conditions and according to the time limits it fixes, any document or information it considers necessary to ascertain whether the plan is in compliance with the standards;

“(c.2) where the standards of capitalization or of solvency are not respected, or where the Board is of opinion that the hypotheses or methods used in the report contemplated in section 40 or for the purposes

of capitalization or solvency are inappropriate, in particular, to the type of plan involved, the position of the retirement fund or the pensions, benefits and refunds, to order the administrator, employer or any other party to the plan to take any regulatory measure it determines, on the conditions and according to the time limits it prescribes;”.

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

“9.1 Subject to sections 40 to 42, in no case may an amendment reducing the pensions, benefits or refunds provided for in a plan apply to any period of service recognized by the plan prior to the thirtieth day preceding the day on which the amendment is received at an office of the Board.

Notwithstanding the foregoing, where such an amendment is established by a collective agreement, an arbitration award in lieu thereof or a decree, it may apply to any period of service recognized by the plan from the date of effect of the collective agreement, award or order.

For the purposes of this section, the words “collective agreement” and “decree” have the meaning assigned to them by the Labour Code (R.S.Q., chapter C-27), the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20) or the Act respecting collective agreement decrees (R.S.Q., chapter D-2).”

34. The said Act is amended by inserting, after section 30, the following section:

“30.1 No provision of a supplemental plan may have the effect of preventing the payment of the retirement pension of an employee before he attains 65 years of age, or of permitting the reduction thereof owing to the fact that the employee is receiving the retirement pension payable under the Act respecting the Québec Pension Plan or under a similar plan, or qualifies therefor.

Notwithstanding the foregoing, if an employee who is under 65 years of age applies therefor, his pension may be reduced owing to the fact that he is receiving the retirement pension payable under the Act respecting the Québec Pension Plan or under a similar plan, or qualifies therefor, provided that the reduction does not reduce the value of the pension payable under the supplemental plan.”

35. Section 47 of the said Act is replaced by the following section:

“47. Upon the termination of a plan, the employer is liable to pay all amounts that he would otherwise have been required to pay until that time to meet the standards of capitalization and solvency.”

36. Section 75 of the said Act is amended

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

“(e) the standards of capitalization and solvency for supplemental plans, in particular, those standards which relate to the mode of capitalization, the actuarial hypotheses, the estimates, the claims that must be considered, the elements that may be included in such claims, the valuation of those claims at a given date, the various contributions, and the payment of such contributions;”;

(2) by adding, after paragraph *w*, the following paragraph:

“(x) for the purposes of section 9, what is meant by the word “amendment”.

37. Sections 33 and 34 have effect from 1 January 1984.

38. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

39. This Act comes into force on (*insert here the date of assent to this Act*), except sections 1 to 31 which will come into force on 1 January 1985.