

THIRD SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 15

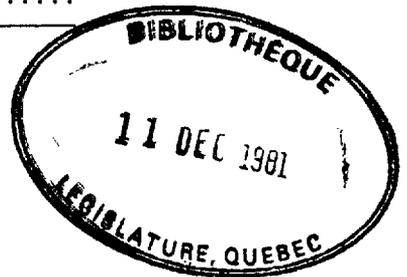
(Reprint)

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

First reading

Second reading

Third reading



M. DENIS LAZURE

Minister of State for Social Development

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EXPLANATORY NOTES

The object of this bill is to abolish compulsory retirement.

While preserving the employee's right to retire voluntarily at normal retirement age, this bill entitles him to remain at work despite his reaching that age. The Act respecting labour standards is amended to take this into account.

This new right applies equally to the employee who belongs to a private or public retirement plan and to the employee who does not belong to any retirement plan.

This bill provides, further, that an employee may appeal to a labour commissioner if he believes he has been dismissed, suspended or retired because he has reached retirement age. This appeal is to be made according to the rules in the Labour Code, but the time limit for appeal will then be ninety days.

In addition, this bill enables the employee to choose the time he will begin to receive his annuity. He may receive it as soon as he becomes eligible for retirement, if he ceases to work. If he elects to continue working, payment of the annuity will be delayed and the annuity will be revalorized at the time he retires.

If an employee chooses to remain at work beyond normal retirement age and his salary is decreased, he will be able to collect part or the whole of his annuity to compensate for the decrease.

The Act will apply from the day of its sanction to all employees. However, for employees who have a retirement plan, the Act will apply at the expiry of their collective agreement.

The Government will have the power to exempt, by regulation, certain employees or employers from the application of the Act.

The Minister of Labour, Manpower and Income Security will be required to assess the effects of the Act and table his findings in the National Assembly.

Bill 15

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

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

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

“3.1 Notwithstanding sections 2 and 3, Division VI.1 and sections 122.1 and 123.1 apply to the Government, its departments and agencies and to every employee or employer.”

2. The said Act is amended by inserting, after section 84, the following division:

“DIVISION VI.1

“RETIREMENT

“84.1 An employee is entitled to continue to work notwithstanding the fact that he has reached or passed the age or the number of years of service at which, according to the retirement plan to which he contributes, according to the collective agreement, the arbitration award in lieu thereof or the decree applicable to him, or according to the common practice of his employer, he should retire.

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

3. The said Act is amended by inserting, after section 90, the following section:

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

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

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

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

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

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

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

“122.1 No employer or his agent may dismiss, suspend or retire an employee on the ground that such employee has reached or passed the age or the number of years of service at which, according to the retirement plan to which he contributes, according to the collective agreement, the arbitration award in lieu thereof or the decree applicable to him, or according to the common practice of his employer, he should retire.”

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

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

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

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

"DIVISION V.1

"DELAYED RETIREMENT

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

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

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

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

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

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

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

Every supplemental plan must provide a method to effect such revalorization.

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

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

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

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

44.5 If contributions are paid during the delay, the additional annuity resulting therefrom must be at least equal in value to the annuity that would result at the end of the delay from the contributions paid by the employee during the delay.

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

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

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

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

10. The amendments necessary to bring into conformity with this Act a retirement plan existing or in force on (*insert here the date of the sanction of Bill 15*) and to which the Act respecting supplemental pension plans applies must be presented to the Régie des rentes du Québec before (*insert here the date occurring six months after the date of the sanction of Bill 15*).

11. Notwithstanding section 10, if a retirement plan contemplated in that section concerns employees governed, as the case may be, by a collective agreement within the meaning of the Labour Code (R.S.Q., chapter C-27), by an arbitration award in lieu thereof or by a decree within the meaning of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) in force on (*insert here the date of the sanction of Bill 15*), the amendments necessary to bring such plan into conformity with this Act must be presented to the Régie des rentes du Québec not later than three months after the date, as the case may be, of the signature of a new collective agreement, of the rendering of the arbitration award in lieu thereof, of the extension or renewal of the decree or of the coming into force of a decree replacing the expired decree.

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

(1) in the case of section 10, from (*insert here the date of the sanction of Bill 15*);

(2) in the case of section 11, from the expiry date of the collective agreement or of the arbitration award in force on (*insert*

here the date of the sanction of Bill 15), or from the date of expiry, extension or renewal of the decree in force on (insert here the date of the sanction of Bill 15).

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

(1) members of those pension plans who are governed by a collective agreement within the meaning of the Labour Code or by an arbitration award in lieu of a collective agreement in force on *(insert here the date of the sanction of Bill 15)*, from 1 January 1983 or its date of expiry, if that is later than 1 January 1983;

(2) members of such pension plans who are governed by a decree within the meaning of the Act respecting collective agreement decrees in force on *(insert here the date of the sanction of Bill 15)*, from 1 January 1983 or its date of expiry, extension or renewal, if that is later than 1 January 1983;

(3) members of such pension plans who are governed by a regulation of the Government or of the Conseil du trésor, in force on *(insert here the date of the sanction of Bill 15)* and determining their conditions of employment, from 1 January 1983;

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

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

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

15. The pension plans contemplated in section 13 shall, from the date on which the provisions respecting compulsory retirement that are contained in those plans cease to have effect pursuant to section 13, permit a person who continues to work after the normal retirement age to receive a salary as well as benefits under his retirement plan which may not, however, exceed the pensionable salary of that person on the day preceding the day on which he

begins to receive such benefits, computed on an annual basis. However, in no case may that day be earlier than the day preceding his normal retirement age.

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

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

16. A collective agreement within the meaning of the Labour Code or an arbitration award in lieu of a collective agreement, which is in force on (*insert here the date of the sanction of Bill 15*), governing employees for whom there exists or is in force on that date a pension plan to which the Act respecting supplemental pension plans applies, continues to have effect notwithstanding the amendments to the Act respecting labour standards enacted by this Act, until the date of its expiry.

The first paragraph applies, *mutatis mutandis*, to a decree within the meaning of the Act respecting collective agreement decrees, which is in force on (*insert here the date of the sanction of Bill 15*), governing such employees, until the date of its expiry, extension or renewal.

17. A collective agreement within the meaning of the Labour Code or an arbitration award in lieu of a collective agreement, which is in force on (*insert here the date of the sanction of Bill 15*), governing the members of the pension plans contemplated in section 13, continues to have effect notwithstanding the amendments to the Act respecting labour standards enacted by this Act, until the date of its expiry.

The first paragraph applies, *mutatis mutandis*, to a decree within the meaning of the Act respecting collective agreement decrees, in force on (*insert here the date of the sanction of Bill 15*) and governing those members, until the date of its expiry, extension or renewal.

The first paragraph also applies, *mutatis mutandis*, to a regulation of the Government or of the Conseil du trésor, in force on (*insert here the date of the sanction of Bill 15*), determining the conditions of employment that apply to those members, until 1 January 1983.

18. The amendments to the Act respecting labour standards enacted by this Act apply only from 1 January 1983 in regard to members contemplated in paragraphs 1 and 2 of section 13 who are

governed by a collective agreement, an arbitration award or a collective agreement decree that expires or is extended or renewed, as the case may be, between (*insert here the date of the sanction of Bill 15*) and 1 January 1983.

19. The amendments to the Act respecting labour standards enacted by this Act apply to an employee who is governed by an agreement, an arbitration award in lieu of an agreement, a decree or a pension plan that is not contemplated in sections 10 to 18 and that is in force on or after (*insert here the date of the sanction of Bill 15*).

For the purposes of this section, the words “employee”, “agreement” and “decree” have the meaning assigned to them by section 1 of the Act respecting labour standards.

20. The amendments to the Act respecting labour standards enacted by this Act do not apply to an employee contemplated in section 19 who, before (*insert here the date of the sanction of Bill 15*),

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

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

21. The Minister of Labour, Manpower and Income Security is responsible for assessing the effects of this Act and for tabling two triennial reports on that subject in the National Assembly or, if it is not sitting, for filing such reports with the President, the first report not later than (*insert here the date occurring three and one-half years after the date of the sanction of Bill 15*) and the second, not later than (*insert here the date occurring six and one-half years after the date of the sanction of Bill 15*).

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