

FIRST SESSION

THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC



Bill 3

Miners' Fund Act

First reading

Second reading

Third reading

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and Income Security

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EXPLANATORY NOTES

The object of this bill is to give miners in the non-ferrous metals sector of mining the right to certain social benefits calculated to improve the standing of mine workers in Québec.

Its main provision is the establishment of a standard retirement plan for all miners in this sector. The new plan is to be administered by the Commission administrative du régime de retraite.

It also provides, in view of assistance to manpower mobility, for the reimbursement of the moving expenses of a miner who obtains a new employment at a mine situated over 50 km from his residence.

In addition, it lays down that a dismissed employee will retain, with his new employer, his acquired rights in the matter of annual vacation.

Lastly, it stipulates that for a specified period during which a miner is unemployed, he will continue to be covered by the social benefits he was covered by, at the time of his dismissal, under a group life-insurance and health-insurance plan.

These programmes will be financed by a "miners' fund" created for this purpose, except the assistance for manpower mobility, which will be financed by the Government.

The mining fund will be maintained by both the employers and the miners as far as the retirement plan is concerned, but by contributions from the employers alone as regards life-insurance, health-insurance and vacation benefits.

Bill 3

Miners' Fund Act

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

CHAPTER I

DEFINITIONS AND APPLICATION

1. In this Act, unless the context indicates otherwise,

“Commission” means the Commission administrative du régime de retraite established by the Act respecting the government and public employees retirement plan (R.S.Q., c. R-10);

“dismissal” means a cessation of work by an employee by decision of his employer, including a lay-off, for technological or economic reasons;

“mine” means any place where a non-ferrous metallic substance listed in the Schedule is extracted or concentrated;

“employee” means an employee within the meaning of the Labour Code (R.S.Q. c. C-27) or a foreman;

“pensionable wages” means the wages earned by an employee during regular working hours, including a production bonus or any other bonus.

2. This Act applies to every employee who works at a mine primarily in an employment connected with the extraction and concentration of a non-ferrous metallic substance listed in the Schedule.

However, this Act does not apply

(1) to an employee of a specialized undertaking temporarily carrying out work at a mine;

- (2) to an employee assigned to office or laboratory work;
- (3) to a watchman;
- (4) to a person holding employment as an engineer, geologist or land-surveyor or a similar employment, nor to his assistant;
- (5) to a student or a part-time employee.

3. The Government, by regulation, may add other non-ferrous metallic substances to those listed in the Schedule.

4. This Act binds the Government, Government departments and agencies that are mandataries of the Government.

CHAPTER II

ASSISTANCE TO MANPOWER MOBILITY

5. An employee is entitled, on the conditions and according to the modalities prescribed by Government regulation, to a manpower mobility assistance allowance paid by the Minister of Labour, Manpower and Income Security if

(1) he was given a dismissal while holding an employment at a mine;

(2) there is, in the opinion of the Minister, a surplus of manpower for that employment within a radius of 50 kilometres of the residence he was living in at the time of the dismissal;

(3) he obtains a new employment at another mine in Québec where, in the opinion of the Minister, there is a shortage of manpower for that new employment within a radius of 50 kilometres;

(4) he resides in Québec more than 50 kilometres from the mine where he obtains the new employment, and

(5) he moves his residence in Québec because of the new employment.

For the purposes of subparagraph 3 of the first paragraph, the word "mine" also includes a place where a substance not listed in the Schedule is extracted or concentrated, except a quarry, a sand-pit, a gravel-pit or a peat bog.

The allowance is equal to the difference between the amount determined by Government regulation and the amount the employee receives as a moving allowance or manpower mobility assistance allowance from an employer or any other source.

CHAPTER III

INSURANCE AND VACATIONS

6. The Commission is responsible for maintaining in behalf of every employee given a dismissal while holding an employment at a mine, the benefits he was covered by with his employer under a group-life and group-health insurance plan, except an elective supplemental plan.

7. The benefits contemplated in section 6 are maintained from the time the employee ceases to be covered by a group-life and group-health insurance plan till the first of the following dates:

(1) the date of expiry of a period of 52 weeks;

(2) the date he begins to work for a new employer at a mine or elsewhere where there is no group-life or group-health insurance plan;

(3) the date he begins to be covered by a group-life or group-health insurance plan with a new employer at a mine or elsewhere; if only one of those plans exists, only the benefits under the corresponding previous plan are maintained after the date the employee begins to work.

8. Where an employee given a dismissal while holding an employment at a mine holds a new employment at another mine within 24 months, his new employer must grant him, annually, at least the same number of days of vacation as he was entitled to for his last full reference year for the purposes of computing his vacation with his former employer, up to 25 days.

If the employee has not worked for a full reference year for the purposes of computing his vacation with his new employer, the number of additional days of vacation he is entitled to under the first paragraph is reduced in proportion to the number of months he has not worked.

The Commission shall reimburse to every employer who applies therefor the additional amounts paid pursuant to this section as vacation allowance or contributions exigible under any Act.

CHAPTER IV

RETIREMENT PLAN

DIVISION I

PENSIONS

9. A compulsory retirement plan is hereby established in behalf of employees.

10. The Commission is responsible for the administration of the retirement plan.

11. Every employee being at least 65 years of age who makes an application is entitled to a retirement pension paid by the Commission.

12. Every employee being at least 55 years of age on ceasing to hold an employment contemplated by this Act who makes an application is entitled to a retirement pension.

In the case of this section, the pension is reduced for its term by 0.5% for each month falling between the date on which the pension is granted and the employee's sixty-fifth birthday.

13. An employee who, having worked in a mine for 25 years and being at least 55 years of age, ceases to hold an employment contemplated by this Act owing to a disability is entitled to receive an annual pension computed in accordance with the modalities enacted in Division II.

If the employee is entitled, by reason of his disability, to a supplemental compensation or compensation payable as an annuity under one of the Acts administered by the Commission de la santé et de la sécurité du travail or to an income replacement indemnity payable pursuant to the Automobile Insurance Act (R.S.Q., c. A-25), the amount of the pension is reduced by the amount of the compensation or indemnity.

The amount of the reduction is recomputed only if, subsequently, the aggregate amount of the compensation or indemnity referred to in the second paragraph decreases.

However, the employee is not entitled to the pension contemplated in the first paragraph if he dies less than thirty days after the cessation of his employment.

14. For the purposes of section 13, an employee is disabled if his physical or mental condition renders him completely unable to

carry on the work for which he was employed and if that condition is expected to last indefinitely, that is, there is apparently no cure at the present state of medical knowledge.

15. An employee who, before qualifying for a retirement pension, ceases to hold an employment contemplated in this Act is entitled to a deferred annuity computed in accordance with the modalities enacted in Division II and payable from 65 years of age, if he is at least 45 years of age on the date of his termination of employment and has been a contributor to the plan for at least 10 years.

16. If an employee ceases to hold an employment contemplated in this Act before qualifying for a pension, he may elect to receive, twenty-four months after ceasing to hold that employment,

(1) the reimbursement of his contributions with interest determined in the manner prescribed by Government regulation, or

(2) a deferred annuity payable from 65 years of age, the amount of which is computed in accordance with the modalities enacted in Division II.

17. In no case may the commuted value of the deferred annuity provided for in section 15 and in paragraph 2 of section 16, computed on actuarial bases established by Government regulation, be less than the amount of the accumulated contributions of the employee with interest determined in the manner prescribed by Government regulation.

In addition, the pension is cancelled if the employee begins to contribute to the plan again and the service he accumulates is added to the service credited to him at the time he ceased to hold an employment contemplated in this Act.

18. The Commission, upon the application of a beneficiary, may make cash payment of the commuted value of a pension amounting to less than \$300 annually, computed on the actuarial bases established by Government regulation.

The first paragraph does not apply where the amount of the pension is reduced pursuant to the second paragraph of section 13.

19. A pension referred to in sections 11, 12 and 13 is payable to an employee who is entitled to it from the day he ceases to hold an employment contemplated in this Act.

20. The payment of a pension granted under this plan ceases if the employee begins to again hold an employment contemplated in this Act.

In the case of this section, the employee shall again contribute to this plan, and the pension is recomputed at the time he ceases to hold the employment, to take into account his new years of service and his new salary.

21. Where an employee dies before qualifying for a retirement pension, his contributions to the pension plan are reimbursed to his assigns together with interest determined in the manner prescribed by Government regulation.

22. From the date on which payment of the pension of a deceased employee ceases, the surviving spouse is entitled to receive a pension equal to one-half of the pension the employee was receiving at the time of his death.

If the employee was qualified for a pension contemplated in sections 11, 12 and 13 and, at the time of his death, had not applied therefor, the surviving spouse is entitled to receive, from the time of the death, one-half of the pension that the employee would have been entitled to receive.

23. For the purposes of section 22, the expression "surviving spouse" means either of a man and a woman who are

- (1) married and cohabiting, or
- (2) living together as husband and wife and, at the time of the death of one of them,
 - (a) have been living together for three years, or for one year if a child has issued from their union, and
 - (b) have been publicly represented as spouses.

24. The pension is paid to the person entitled thereto for life, at least monthly and at the end of each term, at the time prescribed by Government regulation.

25. If the aggregate of the amounts paid as a pension to an employee and, as the case may be, to the surviving spouse, is less than the total amount of the accumulated contributions of the employee with interest determined in the manner prescribed by Government regulation, to the date on which the first payment of the pension was payable, the Commission shall pay the difference in a single payment, upon the cessation of payment of the pension, to the assigns of the last person who was entitled to the pension.

DIVISION II

COMPUTATION OF THE PENSION

26. The pension is based on the average pensionable wages of the employee for his five best remunerated years of service.

Where, in the computation provided for in the first paragraph, one or more fractions of a year of service are taken into account, the complement of a year of service and the corresponding average pensionable wages are obtained from another year of service included among the best remunerated such years.

Where the employee has less than five years of service, the pension is based on the average pensionable wages for all of his years of service.

27. The pension is equal annually to 1% of the average pensionable wages referred to in section 26 per year of service.

In no case may it be less than 15% of the average pensionable wages for an employee who has been contributing to this plan for at least five years and

(1) who is 65 years of age when he ceases to hold an employment contemplated in this Act, or

(2) who is entitled to a pension pursuant to section 13.

However, for an employee holding employment on (*insert here the date of the tabling of this bill*), in no case may the pension be less than 15% of his average pensionable wages, subject to the second paragraph of section 13, if he has attained 65 years of age when he ceases to hold an employment contemplated in this Act or if he is entitled to a pension pursuant to section 13.

28. One year of service is credited under this plan to every employee who, being a contributor to the plan, holds an employment contemplated by this Act during a calendar year for at least 85 per cent of the number of hours obtained by multiplying the number of hours in a regular work week in that employment by 52.

Where an employee holds an employment contemplated by this Act during a calendar year for a smaller number of hours than that determined pursuant to the first paragraph, a fraction of a year of service is credited to him, equal to the ratio between the number of hours he has worked and the minimum number determined pursuant to the first paragraph.

In no case may more than one year of service be credited to an employee in the course of the same calendar year.

For the purposes of this section, only regular working hours are taken into account.

DIVISION III

REVIEW AND APPEAL

29. Where an employee or, as the case may be, a surviving spouse or an assign is not satisfied with a decision rendered by the Commission on an application for a pension, as regards his qualification for the retirement plan, computation of his years of service, the amount of his pension or a statement of his contributions to the plan transmitted by the Commission, he may, within one year after the date of the mailing of the decision, request the Commission to review it.

The Commission may then confirm or amend its decision.

30. The Commission must give written reasons for its new decision, and give notice of it to the applicant.

31. If the employee or, as the case may be, the surviving spouse or an assign, is not satisfied with the new decision, he may bring an appeal before the Commission des affaires sociales, which shall deal with it in accordance with the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34).

DIVISION IV

MISCELLANEOUS PROVISIONS

32. The benefits payable under this chapter are unassignable and unseizable.

33. The Commission must send to every contributor to this plan a written description of the relevant provisions of this plan, and of any amendments to the plan, together with a statement of his rights and duties.

These documents must be furnished to the contributor within six months after the date on which he begins to contribute to the plan.

In the case of an amendment to the plan, the documents must be furnished to the contributor within ninety days of the coming into force of the amendment.

Where an employee ceases to hold an employment contemplated by this Act, the Commission must provide him with a statement of his rights under this plan.

CHAPTER V

ADVISORY COMMITTEE

34. The Minister shall form an advisory committee of eight members, of whom four shall be chosen from the lists provided by the most representative of the associations of mining employees and the remaining four shall be chosen from the lists provided by the most representative of the mining employers' associations.

35. The advisory committee must give its opinion to the Minister on any matter he submits to it respecting the retirement plan or insurance or vacation benefits.

It may also receive and hear petitions and suggestions from individuals and groups in respect of matters referred to in the first paragraph and make recommendations to the Minister on the administration of the retirement plan and the insurance and vacation benefits.

36. The members of the advisory committee are appointed for not over two years and remain in office despite the expiry of their terms until they are reappointed or replaced.

Any vacancy occurring during the term of a member is filled by a person appointed by the Minister from the lists contemplated in section 34 for such term as the Minister may determine, but not over two years.

37. Four members of the committee, including two of those appointed from the lists furnished by the associations of employees and two from the lists furnished by the employers' associations, are a quorum.

38. The committee shall designate a chairman for each sitting from among the members present. Such a chairman does not have a casting vote.

39. The Minister shall designate a civil servant to act as secretary to the committee.

40. The members of the committee are not, as such, entitled to any remuneration. They may, however, be reimbursed their living and travel expenses to such extent and on such conditions as are prescribed by Government regulation.

CHAPTER VI

FINANCING

DIVISION I

MINERS' FUND

41. A fund to be known as the “miners’ fund” is hereby established.

42. The miners’ fund is to be kept up by the contributions and contributory amounts contemplated in section 48 and the contributory amounts contemplated in section 54.

43. The miners’ fund and the income yielded thereby are to be allocated to the financing of the retirement plan and insurance and vacation benefits.

44. The Commission shall administer the fund and keep a separate accounting of the retirement plan and of the insurance and vacation benefits.

45. With the authorization of the Government and on such conditions as it may determine, the Minister of Finance may advance to the miners’ fund, out of the consolidated revenue fund, the necessary amounts to allow the Commission to discharge its obligations under Chapter III where the accumulated amount of the fund in that respect is insufficient.

The Commission shall repay the advances out of the contributory amounts contemplated in section 54.

DIVISION II

PENSION PLAN

46. The pension plan established under Chapter IV is financed in equal parts by the employers and the employees.

47. The Commission shall prepare, at least every three years or whenever required by the Government, an actuarial valuation of the plan on such bases as it determines.

The Commission shall make a report of the valuation to the Government.

48. The Government, taking into account the actuarial valuation contemplated in section 47, shall fix, by regulation, the contributory amount payable by employers and the contribution payable by employees.

The contributions and contributory amounts must be sufficient to keep the plan solvent and cover the administrative costs incurred by the Commission in respect of the retirement plan and of insurance and vacation benefits.

The proportion of the contributions and contributory amounts paid to the Commission for its administrative costs is determined by Government regulation, but is not to exceed 1%.

Changes in the rate of the contributory amounts and contributions are effective from the first of January occurring not less than two months after the regulation is adopted.

49. The employer shall deduct the contributions of his employees from their pensionable wages. He shall also, every month, remit to the Commission, not later than the fifteenth of each month, the contributions for the preceding month, together with the information and documents prescribed by Government regulation.

Every employer who does not collect the contributions becomes indebted to the Commission for the amount of the contributions.

50. Every year, on the date prescribed by Government regulation, the employer shall make a report to the Commission of the contributions of his employees and of the relevant information on the administration of the pension plan determined by regulation.

51. Every employer shall pay his own contributory amount to the Commission at the same time as he remits the contributions of his employees.

52. Every employer who neglects to make the remittance within the prescribed period shall pay interest at the rate fixed by Government regulation.

53. The Commission shall withhold such part of the contributions of the employees and of the contributory amounts of the employers as it may need immediately to make payments of pensions or reimbursements and for the administrative costs referred to in the second paragraph of section 48. The remainder is to be paid into the Caisse de dépôt et placement du Québec.

DIVISION III

INSURANCE AND VACATIONS

54. Insurance and vacation benefits are financed by a contributory amount collected from the employers, fixed by Government regulation after consultation with the Commission. Sections 51 and 52 apply to the payment of this contributory amount.

55. The administrative costs incurred by the Commission for the application of Chapter III are paid out of the sums paid to it under the third paragraph of section 48.

DIVISION IV

ASSISTANCE TO MANPOWER MOBILITY
AND THE ADVISORY COMMITTEE

[[**56.** The sums required for the application of Chapters II and V are taken for the fiscal period 1981-1982 out of the consolidated revenue fund and, for subsequent fiscal periods, out of the sums voted annually for that purpose by the Legislature.]]

CHAPTER VII

REGULATIONS

57. The Government, after consultation with the Commission and the advisory committee, except regarding the subjects referred to in subparagraphs 1, 3 and 7, may make regulations

(1) to determine the amount referred to in section 5 and its modalities of payment;

(2) to fix the conditions according to which an employee qualifies for the payment of the allowance provided for in section 5, and to determine the information to be supplied by an employee or an employer in order to establish the right to the indemnity granted under section 5;

(3) to determine the rates of interest for the purposes of sections 16, 17, 21, 25 and 52;

(4) to establish the actuarial bases on which the Commission may establish the commuted value of a pension;

(5) to fix, for the purposes of section 48, the contributory amount exigible from the employers and the contribution of the employees as well as the proportion to be paid to the Commission for its administrative costs;

(6) to prescribe the pension payment intervals;

(7) to prescribe to what extent the living and travel expenses of the members of the advisory committee may be reimbursed and determine the conditions to be applied;

(8) to prescribe that a pensioner may, in the cases it determines, require that the amount of his pension be increased until he attains 65 years of age and be decreased thereafter, to regulate how the amounts of the increase and of the decrease are to be computed, and to prescribe the conditions to be applied;

(9) to determine what information and documents must accompany the monthly remittance of the employer;

(10) to fix the date when and the form in which the employer must make to the Commission a report of the contributions of his employees and to determine the relevant information on the administration of the retirement plan;

(11) to fix the contributory amount of the employer contemplated in section 54.

The regulations are published in the *Gazette officielle du Québec*, and they come into force on the date of their publication or on any later date fixed therein.

CHAPTER VIII

OFFENCES

58. Every person

(1) who makes, or participates in, assents to or acquiesces in the making of a false or deceptive statement in a return, report or answer made under this Act and the regulations;

(2) who destroys, alters, mutilates or conceals an employer's records or books, or otherwise disposes of them, with the intention of evading payment of a contributory amount or contribution;

(3) who makes, or assents to or acquiesces in the making of a false or deceptive entry, or omits or assents to, or acquiesces in the omission to enter a material particular in the records or books of an employer;

(4) who contravenes a prescription of this Act or a regulation;
or

(5) who conspires with any person to commit an offence referred to in paragraphs 1 to 4,

is guilty of an offence, and is liable, in addition to costs, to a fine of \$100 to \$1 000 and in addition, where applicable, to an

amount not exceeding twice the contributory amount that should have been shown to be payable or that was sought to be evaded.

59. Where a corporation is guilty of an offence under this Act, any officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable to a fine of \$100 to \$1 000, whether or not the corporation has been prosecuted or convicted therefor.

60. Proceedings for an offence under this Act are taken in accordance with the Summary Convictions Act (R.S.Q., c. P-15) by the Attorney-General or a person generally or specially authorized by him in writing to such effect.

CHAPTER IX

INFORMATION

61. Every person must, at the request of the Commission, transmit to it any information that can be useful in establishing the right to benefits granted by Chapters III and IV, in verifying the accuracy of the contributions and the contributory amounts that it receives or should receive, and in permitting periodic verification.

Every employer must also transmit to the Commission a copy of any document establishing a life-insurance or health insurance plan or amending such a plan, within 45 days from the coming into force of the plan or its amendment.

62. The Commission may obtain any information from the Commission de la santé et de la sécurité du travail or from the Régie de l'assurance automobile du Québec whenever it is necessary for the application of section 13.

63. The Commission shall ensure the confidentiality of the information it obtains; only analytical data that cannot be related to individuals may be disclosed.

CHAPTER X

FINAL PROVISIONS

64. The Minister of Labour, Manpower and Income Security is responsible for the carrying out of this Act.

65. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34), amended by section 278 of chapter 63 and section 88 of chapter 85 of the statutes of 1979, and by section 6 of chapter 33 of the statutes of 1980, is amended by replacing paragraph *p* by the following paragraph:

“(p) the appeals following a re-examination or review made by the Commission administrative du régime de retraite, brought under section 113 of the Act respecting the Civil Service Superannuation Plan, section 53 of the Act respecting the Teachers Pension Plan, section 30 of the Act respecting pension coverage for certain teachers (1978, c. 16) and section 33 of the the Miners’ Fund Act (1981, *insert here the chapter number of Bill 3*);”.

66. Section 20 of the Act respecting the Caisse de dépôt et placement du Québec (R.S.Q., c. C-2) is amended by adding, after subparagraph *c* of the first paragraph, the following subparagraph:

“(d) the retirement plan established by the Miners’ Fund Act (1981, *insert here the chapter number of Bill 3*).”

67. This Act will come into force on the date fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force on any later date to be fixed by proclamation of the Government.

The Government may, however, fix a later date for the coming into force of Chapter IV and Division II of Chapter VI than that fixed under the first paragraph, in respect of a group of employees whose employer is required, under a collective agreement within the meaning of the Labour Code by which he is bound, to contribute to a supplemental pension plan within the meaning of the Act respecting Supplemental Pension Plans (R.S.Q., c. R-17).

In no case, however, may the date fixed by the Government under the second paragraph be later than the expiry date of the collective agreement that applies to the employees concerned.

SCHEDULE

METALLIC SUBSTANCES

- Copper
- Gold
- Zinc
- Niobium
- Silver
- Molybdenum
- Ilmenite
- Selenium
- Cadmium
- Tellurium
- Lead