

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 56

**An Act to amend the Act respecting
the Québec Pension Plan**

First reading
Second reading
Third reading

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L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill is mainly intended to introduce technical and corrective amendments to the Act respecting the Québec Pension Plan.

It acknowledges a former spouse's right to request the Régie des rentes to reconsider its decision respecting his right to a partition of earnings, and to appeal from its decision, after it reconsiders it, to the Commission des affaires sociales.

It rectifies and clarifies the definition of the word "year"; it clarifies the meaning of certain sections dealing in particular with the authenticity of documents and copies of documents from the Board, the reduction of the surviving spouse's pension and with the time when retirement pension benefits begin to be paid where there has been a partition of earnings.

It specifically provides for the application of the Photographic Proof of Documents Act to the documents of the Board and authorizes their destruction after they have been reproduced.

The fiscal period of the Board is changed to coincide with the fiscal period of the Government. It rectifies a drafting error in a section concerning the presumption of accuracy of the data entered in the Record of Earnings after four years have elapsed from their entry in the Record. Finally, it authorizes the Record of Earnings to be corrected where, following a judgment or an arbitration award, it is apparent that income paid to an employee in a given year should have been paid in a previous year.

Sec. 1. *The proposed amendment to section 116g of this act extends the right of revision to decisions concerning the right to a partition of earnings rendered by the Board.*

Section 116g of this act presently reads as follows:

"116g. Upon receiving an application for partition at one of its offices, the Board shall effect the partition. It shall give notice thereof by registered mail to the person who made the application, as well as to the other former spouse concerned, if his address is known, providing each with a statement of the unadjusted pensionable earnings shown to his account in the Record of Earnings for the period contemplated in section 116b, before partition and after partition. The recourse provided in section 201 applies to the statement hereinabove mentioned.

The notice provided for in the preceding paragraph is deemed to have been received by the addressee on the day of mailing."

Sec. 2. *The proposed amendment to paragraph a of section 1 of the act is designed to give a more precise definition of the word "year" for the application of certain sections.*

Bill 56

An Act to amend the Act respecting the Québec Pension Plan

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1965 (1st
sess.), c.
24, s. 116g,
replaced.

1. Section 116g of the Québec Pension Plan (1965, 1st session, c. 24), enacted by section 5 of chapter 24 of the statutes of 1977, is replaced by the following section:

Partition
effected.

“116g. Upon receiving an application for partition at one of its offices, the Board shall effect the partition. It shall give notice thereof by registered mail to the person who made the application, as well as to the other former spouse concerned, if his address is known, providing each with a statement of the unadjusted pensionable earnings shown to his account in the Record of Earnings for the period contemplated in section 116b of the Québec Pension Plan (1965, 1st session, c. 24), before partition and after partition.

Request
from
former
spouse.
Provisions
applicable.

Where a former spouse is not satisfied with the decision of the Board, he may request the Board to reconsider it.

Sections 186 to 190 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) apply, *mutatis mutandis*, to such a request.”

R.S.Q.,
c. R-9,
s.1, am.

2. Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9) is amended by replacing paragraph *a* by the following paragraph:

“year”.

“(a) “year”: the calendar year, except in sections 91, 93, 114 and 186, where this word means a period of 365 consecutive days;”.

Sec. 3. *The amendment proposed to section 25 of the act clarifies the notion of "authenticity of documents or copies of documents issued by the Board".*

Section 25.1 of the act is entirely new law.

Sec. 4. *The proposed amendment to section 36 of the act is intended to substitute 31 March for 31 December as the date of the end of the fiscal period of the Board.*

Section 37 of the act presently reads as follows:

"37. The Board shall, not later than the last day of March in each year, submit to the Government a report on its operations for the previous year. Such report shall contain all the information which the Government may prescribe.

Such report shall be forthwith laid before the Assemblée nationale if in session or, if not, within fifteen days after the opening of the next session."

Sec. 5. *The proposed amendment to section 132 of the act is designed to rectify an error and state that a surviving spouse's pension is to be paid to a surviving spouse who is less than 45 years of age only if he is disabled or has a dependent child.*

The third paragraph of section 132 of the act presently reads as follows:

"Moreover, if the surviving spouse who is entitled to a surviving spouse's pension by reason of disability or of having dependent children ceases, after the death of the contributor, to be disabled or to have dependent children, the amount of the pension provided for in this section must be reduced by 1/120 for each month by which the age of the surviving spouse at that time is less than 45 years."

Sec. 6. *The amendment proposed to subparagraph e of the act is designed to postpone the payment of a retirement pension to the month following the last month of the pensionable period of a retired person rather than allow the*

R.S.Q.,
c. R-9,
s. 25, re-
placed.

3. Section 25 of the said act is replaced by the following sections:

Minutes
authentic.

"25. The minutes of the sittings of the Board, approved by it and signed by the secretary or by any other officer of the Board designated by the regulations made for such purpose by the Board are authentic; the same applies to documents and copies of documents emanating from the Board or forming part of its files or records, when certified by such persons.

Act appli-
cable.

"25.1 The Photographic Proof of Documents Act (R.S.Q., c. P-22) applies to documents and copies of documents emanating from the Board or forming part of its files or records except that, notwithstanding section 2 of that act, such documents or copies may be destroyed as soon as they have been reproduced."

R.S.Q.,
c. R-9,
ss. 36, 37,
replaced.

4. Sections 36 and 37 of the said act are replaced by the following sections:

Fiscal
period.

"36. The fiscal period of the Board ends on 31 March each year.

Report.

"37. The Board shall, not later than 30 June each year, submit to the Ministre des affaires sociales a report of its activities for the preceding fiscal period. That report must also contain all the information which the Ministre des affaires sociales may prescribe.

Tabling.

The Ministre des affaires sociales shall table that report before the Assemblée nationale within 30 days of receiving it if it is in session; if he receives it while it is not sitting, he shall table it within 30 days of the opening of the next session or, as the case may be, within 15 days of resumption."

R.S.Q.,
c. R-9,
s. 132, am.

5. Section 132 of the said act is amended by replacing the third paragraph by the following paragraph:

Reduction
of the
amount of
pension.

"Moreover, if the surviving spouse who is entitled to a surviving spouse's pension of an amount not affected by the reduction provided for in the second paragraph by reason of disability or of having dependent children ceases, after the death of the contributor, to be disabled or to have dependent children, as the case may be, the amount of the pension provided for in this section must be reduced by 1/120 for each month by which the age of the surviving spouse at that time is less than 45 years."

R.S.Q.,
c. R-9,
s. 157, am.

6. Section 157 of the said act is amended by replacing subparagraph *e* of the second paragraph by the following subparagraph:

pension to be paid for a month included in the pensionable period of the retired person.

Subparagraph e of section 157 of the act presently reads as follows:

"However, no retirement pension is payable for any month preceding the latest of the following months:

(a) ...

(e) the latest month for which unadjusted pensionable earnings were allotted to the beneficiary following a partition provided for in section 116a of the Québec Pension Plan, 1965 (1st session), c. 24."

Sec. 7. The object of the proposed amendment to the first paragraph of section 194 of the act is to establish the method of computing the four year delay for an entry made in the Record of Earnings from the actual date of entry in the record rather than from the year in respect of which the entry was made.

The first paragraph of section 194 presently reads as follows:

*"**194.** Notwithstanding section 193, there is a presumption *juris et de jure* that any entry in the Record of Earnings relating to the earnings or to a contribution is accurate, after four years have elapsed from the end of the year for which this entry has been made."*

The fourth, fifth and sixth paragraphs of this section are entirely new law. Furthermore, they authorize the rectification of the Record of Earnings of a contributing employee where, following a judgment or an arbitration award, it is apparent that income was paid in a given year whereas it should have been paid in a previous year.

“(e) the month following the latest month for which unadjusted pensionable earnings were allotted to the beneficiary following a partition provided for in section 116a of the Québec Pension Plan (1965, 1st session, c. 24).”

R.S.Q.,
c. R-9,
s. 194, am.

7. Section 194 of the said act is amended:

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

Presump-
tion.

“**194.** Notwithstanding section 193, there is an irrebutable presumption that any entry in the Record of Earnings relating to the earnings or to a contribution is accurate, after four years have elapsed from the end of the year for which this entry has been made.”;

(b) by adding at the end the following paragraphs:

Rectifica-
tion of the
pension-
able salary.

“Similarly, where, following a judgment or an arbitration award declaring that an employee who has been dismissed or suspended by his employer should not have been so dismissed or suspended, such employee receives in the course of one year income that he should have received in the course of a preceding year, the Board may, taking that income into account, rectify the amount of the pensionable salary shown to the account of such employee in the Record of Earnings.

Presump-
tion.

For the purposes of this act, the employee is presumed to have received such pensionable salary in the year in respect of which he was thus registered in the Record of Earnings.

Provisions
applicable.

The fourth and fifth paragraphs apply only if the employee, within 365 days from the date of the judgment or arbitration award, pays his contribution for the previous year in question by making for that year the election contemplated in section 55.”

Interpreta-
tion.

8. For the application of sections 36 and 37 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), replaced by section 4, the period extending from 1 January to 31 March 1980 is included in the fiscal period 1979-1980 of the Régie des rentes du Québec.

Coming
into force.

9. This act comes into force on the day of its sanction.