

1993, chapter 15

## AN ACT TO AMEND THE ACT RESPECTING THE QUÉBEC PENSION PLAN AND OTHER LEGISLATIVE PROVISIONS

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### **Bill 43**

Introduced by Mr André Bourbeau, Minister of Manpower, Income Security and Vocational Training

Introduced 18 June 1992

Passage in principle 9 March 1993

Passage 15 June 1993

**Assented to 15 June 1993**

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**Coming into force: 1 January 1994, with the exception of sections 27, 28 and paragraph 1 of section 29, which come into force on 15 June 1993, and paragraph 8 of section 1, sections 7 to 10, 18 to 20, section 26, paragraphs 1 and 2 of section 30, section 32, paragraph 2 of section 33, sections 35, 36, 46, 47, 54 and 68, paragraphs 4 to 7 of section 82 and sections 104 and 111, which will come into force on 1 July 1993**

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### **Acts amended:**

Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001)

Automobile Insurance Act (R.S.Q., chapter A-25)

Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34)

Taxation Act (R.S.Q., chapter I-3)

Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)

Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)

Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10)



## CHAPTER 15

### **An Act to amend the Act respecting the Québec Pension Plan and other legislative provisions**

*[Assented to 15 June 1993]*

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

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

**I.** Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended

(1) by striking out paragraph *a*;

(2) by striking out the words “Legislative Council,” in the third line of paragraph *b*;

(3) by striking out paragraph *j*;

(4) in the French text, by replacing the word “contribution” in the second line of paragraph *k* by the word “cotisation”;

(5) in the French text, by replacing the word “contribution” in the first line of paragraph *l* by the word “cotisation”;

(6) by striking out paragraphs *n* and *p*;

(7) by replacing paragraph *s* by the following paragraph:

“assessment”

“(s) “assessment”: the determination of an amount payable to the Minister under this Act, including a new or additional assessment;”;

(8) by replacing paragraph *v* by the following paragraph:

“beneficiary of  
family  
allowance”

“(v) “beneficiary of family allowance”: the person who, in respect of a child less than seven years of age,

(1) receives an allowance under the Family Allowances Act (R.S.C., 1985, chapter F-1) or under the Act respecting family

assistance allowances (R.S.Q., chapter A-17), with the exception of the allowance paid under the latter Act for the month of the child's birth;

(2) is considered, in respect of the child and where no allowance is paid for the child under the Act respecting family assistance allowances, to be an eligible individual for the purposes of the child tax benefit provided for in the Income Tax Act (Statutes of Canada) or, where no person is considered as such in respect of the child, would have been so considered had he filed the notice prescribed for that purpose."

c. R-9,  
ss. 23.5  
and 23.6,  
added  
Delegation  
of powers

**2.** The said Act is amended by inserting, after section 23.4, the following sections:

**"23.5** The Board may delegate any of its powers resulting from this Act to a member of its board of directors or personnel or to a committee formed by it and composed of persons to whom it may delegate such powers. It may also, in the instrument of delegation, authorize the subdelegation of the powers enumerated therein. Where applicable, it shall identify the member of its board of directors or personnel to whom powers may be subdelegated. The instrument of delegation shall be published in the *Gazette officielle du Québec*.

Signature

**"23.6** No document is binding on or may be attributed to the Board unless it is signed by the president or, to the extent provided for in the instrument of delegation of powers or in the by-laws of internal management of the Board, by a member of its board of directors or personnel.

Signature

The Board may, on the conditions it fixes, allow a signature to be affixed by means of an automatic device to the documents it determines. It may also allow a facsimile of the signature to be engraved, lithographed or printed on the documents it determines. The facsimile has the same force as the signature itself."

c. R-9,  
s. 25, am.

**3.** Section 25 of the said Act is amended by replacing the words "any other officer of the Board designated by the regulations made for such purpose by the Board" in the second and third lines by the words "another member of its personnel designated by it, in writing, for that purpose,".

c. R-9,  
ss. 25.2  
and 25.3,  
added

**4.** The said Act is amended by inserting, after section 25.1, the following sections:

Transmis-  
sion of  
documents

**"25.2** The Board may, on the conditions it determines, authorize a person required to transmit a notice, report, statement

or other document to send it by means of a magnetic medium or electronic system.

Transcription

**“25.3** An intelligible transcription in writing of the data stored by the Board in a computer or on any other magnetic medium is a document of the Board and is proof of its contents where that transcription is certified by an authorized person.

Transcription

In the case of data sent to it pursuant to section 25.2, the transcription is valid only if it reproduces the data faithfully.”

c. R-9,  
s. 27, am.

**5.** Section 27 of the said Act is amended by replacing the words “officers and employees” in the first and second lines by the words “members of the personnel”.

c. R-9,  
s. 32, am.

**6.** Section 32 of the said Act is amended by replacing the words “officers and employees” in the first line by the words “members of the personnel”.

c. R-9,  
s. 41, am.

**7.** Section 41 of the said Act is amended

(1) by replacing the words “reduced to that proportion that the number of months after he reaches 18 years of age” in the third and fourth lines of the second paragraph by the words “equal to the amount obtained by multiplying that year’s Maximum Pensionable Earnings by the proportion that the number of months after the day preceding his eighteenth birthday”;

(2) by replacing the third paragraph by the following paragraph:

Exception

“Also, for a year in which one of the events mentioned in subparagraphs *a* to *d* of this paragraph occurs, the Maximum Pensionable Earnings of a worker are equal to the amount obtained by multiplying that year’s Maximum Pensionable Earnings by the proportion that the number of months prior to

(*a*) the first month which, by reason of a disability of the worker, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;

(*b*) the month in which a retirement pension becomes payable to him under this Act or under a similar plan; or

(*c*) the month of his seventieth birthday; or

(*d*) the month following his death,

as the case may be, bears to 12.”

c. R-9,  
s. 43, am.      **8.** Section 43 of the said Act is amended by replacing the second and third paragraphs by the following paragraph:

Exception      “However, where one of the events mentioned in the second or third paragraph of section 41 occurs, the personal exemption of the worker is equal to the amount obtained by multiplying the Basic Exemption by the proportion provided for therein.”

c. R-9,  
s. 45, am.      **9.** Section 45 of the said Act is amended by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) during any month which, by reason of a disability, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;”.

c. R-9,  
s. 48, am.      **10.** Section 48 of the said Act is amended

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

Pension-  
able self-  
employed  
earnings      “**48.** The pensionable self-employed earnings of a worker for a year are his self-employed earnings, excluding income referred to in the second paragraph of section 45.”;

(2) by replacing the words “reduced in the proportion that the number of months after he reaches 18 years of age” in the fourth and fifth lines of the second paragraph by the words “equal to the amount obtained by multiplying the amount of such earnings by the proportion that the number of months after the day preceding his eighteenth birthday”;

(3) by replacing the third paragraph by the following paragraph:

Exception      “Also, for a year in which one of the events mentioned in subparagraphs *a* to *c* of this paragraph occurs, the pensionable self-employed earnings of a worker are equal to the amount obtained by multiplying the amount of such self-employed earnings by the proportion that the number of months prior to

(a) the first month which, by reason of a disability of the worker, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101; or

(b) the month in which a retirement pension becomes payable to him under this Act or under a similar plan; or

(c) the month of his seventieth birthday,

as the case may be, bears to 12.”

c. R-9,  
s. 66, am.

**11.** Section 66 of the said Act is amended

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

Amount  
payable

“**66.** The Minister may determine any amount payable by an employer, including interest and penalties. He may also redetermine any such amount and make a new assessment or establish an additional assessment.”;

(2) in the French text, by replacing the word “cotisation” by the word “imposition”, with the necessary adaptations, wherever it appears in the second paragraph;

(3) by replacing the first two lines of the third paragraph by the words “Nevertheless, no assessment may be made by the Minister in respect of an employer after four years have”.

c. R-9,  
s. 74, am.

**12.** Section 74 of the said Act is amended by replacing the words “such person” in the third line by the words “that worker”, and by replacing the words “assessment of such contribution” in the sixth line by the words “amount of the contribution payable by the worker”.

c. R-9,  
s. 76, am.

**13.** Section 76 of the said Act is amended by replacing the words “*mutatis mutandis*” in the second and third lines by the words “, adapted as required,”.

c. R-9,  
s. 86 and  
heading,  
replaced

**14.** Section 86 of the said Act and the heading preceding it are replaced by the following section and heading:

*“Child of a contributor*

Child

“**86.** A person under 18 years of age

(a) who is related to the contributor by blood or by adoption; or

(b) who is the stepson or stepdaughter of the contributor and resides with him; or

(c) who has been residing with the contributor for at least six months and for whom the contributor stands *in loco parentis*, on the condition that no person other than the contributor or the spouse of the contributor residing with him maintains that person; or

(d) who is maintained by the contributor in the conditions provided for by regulation,

is a child of the contributor.

Residence

The contributor and the person contemplated in the first paragraph do not cease to reside together if their separation is only temporary or is a result of illness or the pursuit of studies or any other cause considered valid by the Board.”

c. R-9,  
ss. 87-  
90 and  
headings,  
repealed  
c. R-9,  
ss. 91 and  
91.1, re-  
placed

**15.** Sections 87 to 90 of the said Act and the headings preceding them are repealed.

**16.** Sections 91 and 91.1 of the said Act are replaced by the following sections:

Surviving  
spouse

**“91.** Subject to section 91.1, any person who, on the day of the death of the contributor,

(a) is married to the contributor and is not legally separated from bed and board; or

(b) provided the contributor is either legally separated from bed and board or unmarried on the day of his death, has been living with the contributor in a *de facto* union for at least three years or, in the following cases, for at least one year:

- a child was or is to be born of their union,
- they have, together, adopted a child,
- one of them has adopted a child of the other,

qualifies as a surviving spouse.

Surviving  
spouse

For the purposes of subparagraph *b* of the first paragraph, the birth or adoption of a child during a marriage or period of *de facto* union prior to the period of *de facto* union in progress on the day of the death of the contributor, may enable a person to qualify as a surviving spouse.

Surviving  
spouse

**“91.1** Notwithstanding the first paragraph of section 91, the person who, on the day of the death of the contributor, is married to the contributor but is separated from bed and board as a result of a judgment which took effect in their regard before 1 July 1989, qualifies as a surviving spouse provided that no new judgment of separation from bed and board took effect in their regard after 30 June 1989, except if another person has been living in a *de facto* union with the contributor for at least three years.”

c. R-9,  
ss. 92  
and 93,  
repealed

**17.** Sections 92 and 93 of the said Act are repealed.

c. R-9,  
s. 95, am.

**18.** Section 95 of the said Act is amended

(1) by replacing the words “he is determined in prescribed manner” in the first and second lines of the first paragraph by the words “the Board declares him”;

(2) by replacing the word “However” in the first line of the third paragraph by the words “In addition”;

(3) by replacing the words “substantially gainful” in the third line of the third paragraph by the words “usual gainful”;

(4) by adding, at the end, the following paragraph:

Disabled  
person

“The Board may establish, by regulation, conditions and circumstances which, together, enable a person to be considered to be disabled.”

c. R-9,  
ss. 95.1-  
95.3, added

**19.** The said Act is amended by inserting, after section 95, the following sections:

Disability

**“95.1** For his disability to be established, a person must produce the history of his work and illness, the documents and medical reports pertaining to his state of health and any information or document determined by regulation or deemed useful by the Board.

Medical  
examina-  
tion

The person must also submit to any medical examination required by the Board, by the physician it designates.

Medical  
examina-  
tion

**“95.2** A person declared disabled must submit to any medical examination that the Board may require, by the physician it designates and on the date or within the time it fixes.

Presumption

A person who, without a reason considered valid by the Board, does not submit to such an examination, is presumed to have ceased to be disabled from the date on which he failed to submit to the examination.

Objection

**“95.3** If, for a reason considered valid by the Board, a person required to submit to a medical examination objects to its being carried out by the physician initially designated by the Board, the Board must designate another physician.”

c. R-9,  
s. 96, am.

**20.** Section 96 of the said Act is amended

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

Date

**“96.** The Board shall, according to the proof presented, fix the date on which a person became disabled or ceased to be disabled.”;



(2) by replacing that part of the second paragraph which precedes subparagraph *a* by the following:

Beginning  
of dis-  
ability

“However, the day on which a person’s disability begins may not, for the purposes of the disability pension, be fixed at a time earlier than the latest of the following dates:”;

(3) by striking out subparagraphs *b* and *d* of the second paragraph.

c. R-9,  
s. 96.2,  
am.

**21.** Section 96.2 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Months of  
indemnity

“However, the months prior to 1 January 1986 are not considered to be months of indemnity.”

c. R-9,  
ss. 96.3  
and 96.4,  
replaced

**22.** Sections 96.3 and 96.4 of the said Act are replaced by the following section:

Period of  
indemnity

**“96.3** A period of indemnity is a series of at least 24 consecutive months of indemnity. Such a period may nevertheless be less than 24 months where the contributor, being the beneficiary of the income replacement indemnity, reaches 65 years of age or dies, in which case his period of indemnity terminates at the end of the month preceding his sixty-fifth birthday or at the end of the month of his death.

Replacement  
indemnity

However, the replacement indemnity which becomes payable to a person not more than 90 days after an initial indemnity ceased to be payable to him is considered to be a continuation of that initial indemnity, provided it is payable to the person by reason of a recurrence, relapse or aggravation related to the initial employment injury and on the condition that the cessation of payment of the initial indemnity occurred after 31 December 1993. The period between cessation of the right to the initial indemnity and the time at which the second indemnity becomes payable shall not have the effect of interrupting the consecutive nature of the months of indemnity.

Periods of  
indemnity

For the purposes of sections 101 and 103, the months included in the first 24 months of the combined periods of indemnity of the contributor do not form part of such a period if they are prior to 1 January 1994.”

c. R-9,  
s. 97, am.

**23.** Section 97 of the said Act is amended by replacing the words “for which a disability pension was payable to him under this act or under a similar plan” in the second and third lines by the words “which are excluded from his contributory period under subparagraph *a* or *b* of the second paragraph of section 101”.

c. R-9,  
s. 99, am.

**24.** Section 99 of the said Act is amended

(1) by inserting the words “the day preceding” after the word “following” in the fourth line of the second paragraph;

(2) by replacing the third paragraph by the following paragraph:

Presumption

“For a year in which one of the events mentioned in subparagraphs *a* to *d* of this paragraph occurs, the contribution of a contributor shall be deemed to have been made for earnings relating to the months in the year which, as the case may be, are prior to

(a) the first month which, by reason of a disability of the contributor, is excluded from his contributory period under subparagraph *a* of the second paragraph of section 101;

(b) the month in which a retirement pension becomes payable to him under this Act or under a similar plan;

(c) the month of his seventieth birthday;

(d) the month following his death.”;

(3) in the French text, by replacing the word “contribution” wherever it occurs by the word “cotisation”.

c. R-9,  
s. 99.1,  
repealed

**25.** Section 99.1 of the said Act is repealed.

c. R-9,  
s. 101,  
replaced

**26.** Section 101 of the said Act is replaced by the following section:

Contributo-  
ry period

**“101.** The contributory period of a person begins on his eighteenth birthday, or on 1 January 1966 if he reached 18 years of age before that date. It terminates at the end of the earliest of the following months:

(a) the month preceding the month in which a retirement pension becomes payable to him under this Act or under a similar plan;

(b) the month preceding his seventieth birthday;

(c) the month of his death.

Contributo-  
ry period

The contributory period does not include any month

(a) for which a disability pension is payable to the contributor under this Act or under a similar plan, or if the date of disability fixed in his respect under section 96 or under a similar plan is later than 30 June 1993, any month which falls between the month in which he

became disabled and the first month for which the pension is payable to him;

(b) included in a period of indemnity of the contributor, if the same month is included in a year for which his unadjusted pensionable earnings do not exceed his personal exemption;

(c) for which the contributor is the beneficiary of a family allowance, if the same month is included in a year for which his unadjusted pensionable earnings do not exceed his personal exemption.”

c. R-9,  
s. 102.1,  
am.

**27.** Section 102.1 of the said Act is amended by inserting the words “, or in a subsequent judgment,” after the word “marriage” in the third line of the second paragraph.

c. R-9,  
s. 102.3,  
am.

**28.** Section 102.3 of the said Act is amended by inserting the words “, or in a subsequent judgment,” after the word “separation” in the eighth line.

c. R-9,  
s. 102.3.1,  
am.

**29.** Section 102.3.1 of the said Act is amended

(1) by inserting the words “or a later application concerning partition of earnings” after the word “marriage” in the second line;

(2) by replacing the word “Earnings” in the fifth line by the words “Contributors for the period of the marriage”.

c. R-9,  
s. 102.4,  
am.

**30.** Section 102.4 of the said Act is amended

(1) by striking out the words “disability pension or” in the first line of subparagraph *c* of the first paragraph;

(2) by inserting, after subparagraph *c* of the first paragraph, the following subparagraph:

“(c.1) months which, by reason of a disability, are excluded from the contributory period of either of the former spouses under subparagraph *a* of the second paragraph of section 101;”;

(3) by striking out subparagraph *d* of the first paragraph;

(4) in the French text, by replacing the word “contribution” in the second line of the second paragraph by the word “cotisation”.

c. R-9,  
s. 102.7.1,  
am.

**31.** Section 102.7.1 of the said Act is amended by adding, after the first paragraph, the following paragraph:

Review

"A spouse or an applicant may apply for a review of the decision of the Board within the time prescribed in section 186."

c. R-9,  
ss. 102.11-  
104,  
replaced

**32.** Sections 102.11 to 104 of the said Act are replaced by the following sections:

Deduction  
of months

**103.** In calculating the average monthly pensionable earnings of a contributor, there may be deducted from the total number of months in his contributory period those months for which the contributor's pensionable earnings are less than his average monthly pensionable earnings calculated before a deduction is made pursuant to this section or section 104, provided that during such drop-out months the contributor was the beneficiary of a family allowance or that the drop-out months were included in a period of indemnity of the contributor, and that the deduction is to the advantage of the beneficiary of the benefit.

Deduction

However, the deduction may not have the effect of reducing the contributory period to a number of months which is less, as the case may be, than

(a) the initial number of the contributory months of the contributor, as regards the establishment of the initial monthly amount of a retirement pension;

(b) 24 months, as regards the establishment of the initial monthly amount of a disability pension;

(c) 36 months, as regards the establishment of the initial monthly amount of a surviving spouse's pension and the amount of a death benefit in respect of a contributor who dies after 31 December 1993 and who is not, at the time of his death, the beneficiary of a retirement pension payable under this Act or under a similar plan.

Deduction

The deduction is effected beginning with the months for which the pensionable earnings are the lowest; as a consequence of the deduction, the sum of the pensionable earnings corresponding to the drop-out months is subtracted from the total of the pensionable earnings of the contributor.

Deduction  
of months

**104.** Where the total number of months in the contributory period of the contributor, after a deduction, if any, under section 103, exceeds 120, there shall be deducted from that period a number of months equal to the lesser of the following:

(a) 15 % of the total number of months, counting any fraction of a month as a whole month;

(b) the number of months by which the total number exceeds 120.

Deduction

The deduction is effected by choosing the months for which the pensionable earnings are the lowest; as a consequence of the deduction, the sum of the pensionable earnings corresponding to the drop-out months is subtracted from the total of the pensionable earnings of the contributor."

c. R-9,  
s. 105, am.

**33.** Section 105 of the said Act is amended

(1) by replacing the words "contributor who has reached 60 years of age" in the first and second lines of paragraph *a* by the words "qualified contributor";

(2) in the French text, by replacing the words "admissible invalide" in paragraph *b* by the words "invalide admissible";

(3) by replacing the words "the estate of a qualified contributor" in paragraph *c* by the words "the person to whom it is payable pursuant to section 168";

(4) by striking out the words "if, at the death of that contributor, the surviving spouse has reached 35 years of age, or is disabled or has dependent children" in the second, third and fourth lines of paragraph *d*.

c. R-9,  
s. 105.2,  
added

**34.** The said Act is amended by inserting, after section 105.1, the following section:

Disability  
pension

**"105.2** Notwithstanding paragraph *b* of section 105, no disability pension is payable to a contributor with respect to a month for which a replacement indemnity within the meaning of section 96.1 is payable to him."

c. R-9,  
s. 106,  
replaced

**35.** Section 106 of the said Act is replaced by the following section:

Disability  
pension

**"106.** A contributor is qualified for a disability pension only if he is under 65 years of age, is disabled and has paid contributions for one of the following groups of years:

(a) two of the last three years in his contributory period, or two years if his contributory period comprises only two years;

(b) five of the last ten years in his contributory period;

(c) half of the total number of years in his contributory period, but not less than two years.

Contributory period

For the purposes of the first paragraph, the contributory period of the contributor terminates at the end of the month in which he became disabled.”

c. R-9,  
s. 106.1,  
replaced

**36.** Section 106.1 of the said Act is replaced by the following section:

Disability pension

**“106.1** A disabled contributor 60 years of age or over but under 65 years of age who, by reason of his disability and before 1 July 1993, ceased to pursue the substantially gainful occupation he held is entitled to a disability pension if he has paid contributions for one-third of the total number of years in his contributory period but for at least five years, or for at least ten years.”

c. R-9,  
s. 106.3,  
added

**37.** The said Act is amended by inserting, after section 106.2, the following section:

Retirement pension

**“106.3** A contributor is qualified for a retirement pension from the age of 65 or, if he has ceased working within the meaning of section 158.2, from the age of 60.”

c. R-9,  
s. 108, am.

**38.** Section 108 of the said Act is amended by inserting the words “and one death benefit” after the word “pension” in the first line.

c. R-9,  
s. 114, am.

**39.** Section 114 of the said Act is amended by adding, at the end, the words “or that, at the time of his marriage, he had been living in a *de facto* union with his spouse for a period which, added to the period of their marriage, would enable the spouse to qualify under subparagraph *b* of the first paragraph of section 91.”

c. R-9,  
s. 115,  
repealed

**40.** Section 115 of the said Act is repealed.

c. R-9,  
s. 118,  
replaced

**41.** Section 118 of the said Act is replaced by the following section:

Incomplete data

**“118.** Where the data furnished by Statistics Canada are incomplete on 1 December of a year, the Board may, to establish the Pension Index, use the data which are available at that time.

Adjustment

Where Statistics Canada uses a new reference year or applies a new method in calculating the monthly Consumer Price Index, the Board shall, from 1 January of the year following the change, adjust the Pension Indexes calculated for the preceding years. The adjustment is made according to the ratio that the new Consumer Price Index bears to the former Consumer Price Index.”

c. R-9,  
s. 119, am.

**42.** Section 119 of the said Act is amended

(1) by striking out the word “rate” in the first line of paragraphs 1 and 2 of subparagraph *a* of the second paragraph;

(2) by striking out the fourth paragraph.

c. R-9,  
ss. 121  
and 122,  
replaced  
Average  
monthly  
pensionable  
earnings

**43.** Sections 121 and 122 of the said Act are replaced by the following section:

“**121.** In calculating the retirement pension of a contributor, the amount of his average monthly pensionable earnings is obtained by dividing his total pensionable earnings by the greater of the basic number of contributory months determined in his regard and the total number of months included in his contributory period.”

c. R-9,  
s. 123, am.

**44.** Section 123 of the said Act is amended by striking out the word “rate” in paragraph *a*.

c. R-9,  
s. 124, am.

**45.** Section 124 of the said Act is amended by striking out the word “rate” wherever it appears.

c. R-9,  
s. 126, am.

**46.** Section 126 of the said Act is amended by replacing the figure “60” in the fourth line by the figure “24”.

c. R-9,  
s. 127,  
replaced

**47.** Section 127 of the said Act is replaced by the following section:

Contributo-  
ry period

“**127.** For the purpose of calculating a disability pension, the contributory period of a contributor terminates at the end of the month in which he became disabled.”

c. R-9,  
s. 128, am.

**48.** Section 128 of the said Act is amended by striking out the words “payable to the estate of a contributor” in the first line.

c. R-9,  
s. 129, am.

**49.** Section 129 of the said Act is amended

(1) by adding, at the end of the first paragraph, the following sentence: “In establishing the amount of the retirement pension, a partition effected pursuant to sections 158.3 to 158.8 or a similar plan shall not be taken into account.”;

(2) by inserting the words “the greater of 36 and” after the words “bears to” in the sixth line of the second paragraph.

c. R-9,  
s. 131, am.

**50.** Section 131 of the said Act is amended by replacing the last two lines by the words “earnings is calculated by dividing the total

of such earnings by the greater of 36 and the total number of months in his contributory period.”

c. R-9,  
ss. 132-  
137.1,  
replaced

Basic  
monthly  
amount

**51.** Sections 132 to 137.1 of the said Act are replaced by the following sections:

**“132.** The basic monthly amount of the surviving spouse’s pension is established in accordance with sections 133 to 137 for the month from which such a pension is payable.

Change in  
situation

Any change for a given month in the situation of the beneficiary shall give rise to a new calculation of the basic monthly amount of his pension.

Basic  
monthly  
amount

**“133.** The basic monthly amount of the surviving spouse’s pension of a spouse under 65 years of age to whom neither a disability pension nor a retirement pension is payable under this Act or under a similar plan is equal to 37.5 % of the retirement pension of the contributor, to which the amount of the flat benefit applicable in each case is added:

(a) \$80 where the spouse is under 45 years of age, is not disabled and has no child of the contributor dependent on him;

(b) \$290 where the spouse is under 45 years of age, is not disabled and has at least one child of the contributor dependent on him;

(c) \$312.33 if he is under 55 years of age, disabled or 45 years of age or over;

(d) \$399.59 if he is 55 years of age or over.

Flat  
benefits

For the year 1994 and subsequent years, the amounts of the flat benefits fixed in subparagraphs *a*, *b* and *c* of the first paragraph are adjusted in accordance with section 119.

Flat  
benefit

For a year in which the result of the adjustment of the amount set out in subparagraph *c* of the first paragraph is equal to or greater than the amount set out in subparagraph *d* of that paragraph, and for subsequent years, the amount of the flat benefit applicable in calculating the pension of the spouse shall, even though the spouse has reached 55 years of age, be the amount set out in the said subparagraph *c*, adjusted in accordance with section 119.

Child of  
contributor

**“133.1** For the purposes of subparagraphs *a* and *b* of the first paragraph of section 133, a surviving spouse has a child of the contributor dependent on him if he resides with that child or maintains him in the conditions provided for by regulation.



Child of contributor Any person who, were it not for his age, would be a child of the contributor and who has been disabled since his eighteenth birthday or since the death of the contributor if, at the time of the contributor's death, he was 18 years of age or over, is also a child of the contributor.

Residence The surviving spouse and a child do not cease to reside together if their separation is only temporary or is a result of illness or the pursuit of studies or any other cause considered valid by the Board.

Child of contributor In addition, a child does not lose his status as a child of the contributor solely by reason of his adoption by the surviving spouse or his new spouse.

Basic monthly amount **"134.** The basic monthly amount of the surviving spouse's pension of a spouse who is 65 years of age or over to whom no retirement pension is payable under this Act or under a similar plan, is equal to 60 % of the retirement pension of the contributor.

Basic monthly amount **"135.** The basic monthly amount of the surviving spouse's pension of a spouse to whom a disability pension is payable under this Act or under a similar plan is equal to the lesser of D and E, calculated as follows:

$$\begin{aligned} a \times 37.5 \% &= D \\ b - c &= E \end{aligned}$$

where

"a" is the amount of the retirement pension of the contributor;

"b" is 25 % of one-twelfth of the average Maximum Pensionable Earnings for the year of the month for which the basic monthly amount is established and the two preceding years;

"c" is the amount of the disability pension payable to the surviving spouse for the month for which the basic monthly amount is established, reduced by the amount of the flat benefit included in the disability pension for that month.

Basic monthly amount In the case of a spouse who is 55 years of age or over, the basic monthly amount of the surviving spouse's pension also includes the difference between the amount of the flat benefit which, if no disability pension were payable to him, would be included in his surviving spouse's pension for the month for which the basic monthly amount is established and the amount of the flat benefit included in his disability pension for that month.

Basic  
monthly  
amount

**“136.** The basic monthly amount of the surviving spouse’s pension of a spouse to whom a retirement pension is payable under this Act or under a similar plan is equal

(a) in the case of a spouse who is under 65 years of age, to the amount of the flat benefit which, if no retirement pension were payable to him, would be included in his surviving spouse’s pension for the month for which the basic monthly amount is established, to which the lesser of E and F, calculated as follows, is added:

$$\begin{aligned} a \times 37.5 \% &= E \\ c - d &= F \end{aligned}$$

(b) in the case of a spouse who is 65 years of age or over, to the lesser of the amounts obtained pursuant to the following paragraphs:

i.  $c - d$

ii. the greater of G and H, calculated as follows:

$$a \times 37.5 \% = G$$

$$(a \times 60 \%) - (d \times 40 \%) = H$$

where

“a” represents the amount of the retirement pension of the contributor;

“c” is 25 % of one-twelfth of the average Maximum Pensionable Earnings for the year of the month for which the basic monthly amount is established and the two preceding years, adjusted in accordance with section 120.1 by taking account of the age of the surviving spouse at the time of his retirement;

“d” represents the amount of the retirement pension payable to the surviving spouse for the month for which the basic monthly amount is established, calculated without taking account of a partition, if any, of the retirement pension effected pursuant to sections 158.3 to 158.8 or a similar plan.

Amount of  
retirement  
pension

**“137.** The amount of the retirement pension of the contributor to be used in calculating the basic monthly amount of the surviving spouse’s pension is the amount set out in section 129 or 130 for calculating the death benefit, adjusted by multiplying it by the ratio that the Pension Index for the year of the month for which the basic monthly amount is established bears to the Pension Index for the year

of the death of the contributor. The limits on the Pension Index prescribed by subparagraphs *a* and *b* of the second paragraph of section 117 do not apply to the adjustment.”

c. R-9,  
s. 138,  
replaced

**52.** Section 138 of the said Act is replaced by the following section:

Basic  
monthly  
amount

**“138.** The basic monthly amount of an orphan’s pension and a disabled contributor’s child’s pension is fixed at \$50. For 1994 and subsequent years, this amount is adjusted in accordance with section 119.”

c. R-9,  
s. 139, am.

**53.** Section 139 of the said Act is amended

(1) by replacing the second and third lines of the first paragraph by the following words: “made to the Board in writing and payment thereof has been authorized. The application must be made on the form prescribed by the Board or contain the information required therein.”;

(2) by adding, after the second paragraph, the following paragraphs:

Presumption

“The beneficiary of a disability pension or a replacement indemnity is presumed to have made an application for a retirement pension in the month preceding his sixty-fifth birthday.

Presumption

In addition, a contributor who is 65 years of age or over who belongs to a group defined by regulation is, if the Board is in possession of sufficient information in his regard to begin payment of the retirement pension, presumed to have made an application for a retirement pension on the date fixed in accordance with the regulation.”

c. R-9,  
s. 139.1,  
am.

**54.** Section 139.1 of the said Act is amended by adding, at the end, the following paragraph:

Application  
for dis-  
ability  
pension

“Where a beneficiary of a retirement pension makes an application for a disability pension within six months after the first payment of the retirement pension, he shall be granted a period of two months, beginning upon acceptance of his application for a disability pension, so that he may cancel his application for a retirement pension.”

c. R-9,  
s. 139.2,  
am.

**55.** Section 139.2 of the said Act is amended

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

Presumption

**“139.2** An application for a benefit is presumed to be made on the day it is received at an office of the Board. However, where it is received by mail on the first working day of a month, an application is presumed to have been received the previous month if the last day of that month is not a working day.”;

(2) by adding, after the second paragraph, the following paragraph:

Application  
for dis-  
ability  
pension

“The Board may consider that an application for a disability pension, made by a contributor in respect of whom a claim for an employment injury has been made to the Commission de la santé et de la sécurité du travail, is made on the date of that claim, if the disability invoked may be connected to the subject of the claim to the Commission.”

c. R-9,  
s. 140,  
replaced

**56.** Section 140 of the said Act is replaced by the following section:

Consider-  
ation

**“140.** The Board shall, forthwith, consider the application, render its decision and determine the amount of the benefit payable, if any. It shall notify the applicant, in writing, of the decision rendered and of his right to apply for a review within the time prescribed in section 186.

Consider-  
ation

It may suspend consideration of an application for a period not exceeding one year, in order to permit a person to furnish the proof required to determine his qualification. It may also suspend consideration of an application for a disability pension made by a contributor contemplated in the third paragraph of section 139.2 for a period not exceeding six months from receipt thereof, unless the decision concerning his claim does not recognize that he is entitled to a replacement indemnity.”

c. R-9,  
s. 142.1,  
added

**57.** The said Act is amended by inserting, after section 142, the following section:

Single  
payment

**“142.1** The Board may, in the cases and in accordance with the terms and conditions determined by regulation, replace monthly payments of a pension by a single payment equivalent to the amount of the pension or several payments made at intervals other than monthly intervals.”

c. R-9,  
s. 143.0.1,  
added

**58.** The said Act is amended by inserting, after section 143, the following section:

## Interest

**"143.0.1** A benefit bears interest from the first day of the fifth month following the month in which the application is received. However, a benefit which becomes payable after the fourth month following the month of the application bears interest from the first day of the month following the month in which it becomes payable. However, no interest is payable if the total interest due is less than \$1.

## Rate of interest

The rate of interest is the rate fixed pursuant to the second paragraph of section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31). The interest is capitalized daily."

c. R-9,  
ss. 147-  
155,  
replaced

**59.** Sections 147 to 155 of the said Act are replaced by the following heading and sections:

*"Recovery of benefits*

## Benefit

**"147.** A person who has received a benefit to which he was not entitled, or in excess of the amount to which he was entitled, shall repay to the Board, with interest received if the full amount of the benefit was received without entitlement, the amounts received to which he was not entitled, except if such amounts were paid as a result of an administrative error that the person could not reasonably have noticed.

## Recovery

**"148.** An amount received more than three years previously by a person not entitled thereto cannot be recovered by the Board, except in the case of a disability pension paid to the debtor in respect of a month for which a replacement indemnity is payable to him or in the case of bad faith by the debtor. In such cases, recovery is prescribed by three years from the date on which the Board became aware that a replacement indemnity had become payable to the debtor or that he was in bad faith.

## Formal notice

**"149.** The formal notice to repay an amount received without entitlement shall state the reasons why the debt is owed, the amount of the debt and the right of the debtor to apply for a review of the decision within the period prescribed by section 186.

## Prescription

The formal notice interrupts prescription.

## Repayment

**"150.** The debtor shall repay any amount owed within the time and in accordance with the terms and conditions prescribed by regulation, unless the Board agrees to another time or other terms and conditions for payment.

## Deductions

Notwithstanding the application for review or the bringing of an appeal by the debtor, the Board may make deductions from any

benefit payable to the debtor, up to the percentage or amount fixed by regulation or up to a lower percentage or smaller amount that it considers fair in view of the financial situation of the debtor.

Certificate

**“151.** If the amount is not recovered, the Board may, upon expiry of the period for applying for a review or bringing an appeal or, where applicable, on the day following a decision of the Commission des affaires sociales confirming all or part of the decision of the Board, issue a certificate

(1) stating the name and address of the debtor;

(2) attesting to the amount of the debt;

(3) attesting to the debtor's failure to appeal from the decision rendered under section 149 or, where that is the case, referring to the final decision which upholds that decision.

Decision

Upon the filing of the certificate at the office of the court of competent jurisdiction, the decision of the Board or of the Commission des affaires sociales becomes executory as if it were a final judgment without appeal of that court and has all the effects of such a decision.

Debt

**“152.** The Board may, even after the decision becomes executory, remit all or part of the debt if it considers, in view of the circumstances, that it should not recover it.”

c. R-9,  
s. 158.2,  
am.

**60.** Section 158.2 of the said Act is amended by inserting the figure “106.3,” after the word “sections” in the first line of the first paragraph.

c. R-9,  
ss. 158.3-  
158.8,  
added

**61.** The said Act is amended by inserting, after section 158.2, the following heading and sections:

*“Partition of a retirement pension between spouses*

Partition

**“158.3** A retirement pension may, upon a written application by the beneficiary or his spouse, be partitioned between them provided they are married and not legally separated from bed and board, and provided the spouse of the beneficiary satisfies one of the following conditions:

(a) he is the beneficiary of a retirement pension payable under this Act;

(b) he is the beneficiary of a retirement pension payable under a similar plan, and an agreement entered into with the authority which administers that plan permits such a partition;

(c) he has reached 60 years of age and is not a contributor within the meaning of paragraph *l* of section 1 or a similar plan.

**Partition** Any partition made in favour of a spouse to whom subparagraph *a* or *b* of the first paragraph applies shall result in the partition of his own pension; in the case of subparagraph *b*, partition is effected in accordance with the agreement referred to therein.

**Application** “**158.4** Upon receipt of an application for partition from one of the spouses, the Board shall notify the other spouse.

**Retirement pension** “**158.5** The part of the retirement pension to which the spouse is entitled is equal to the amount *P* obtained by the following formula:

$$r \times \frac{m}{c} = P$$

where

“*r*” is the amount of the retirement pension which, if such a partition were not effected, would be payable for the month following the month in which the application for partition is approved;

“*m*” is one-half of the number of months in the period of marriage of the spouses;

“*c*” is the number of months in the combined contributory period of the spouses.

**Contributory period and period of marriage** “**158.6** For the purposes of section 158.5,

(1) the combined contributory period of the spouses is the period which begins on the date on which the contributory period of the older spouse begins and which terminates, as the case may be,

(a) on the date of the end of the contributory period of the spouses which terminated last, where both spouses are beneficiaries of a retirement pension;

(b) at the end of the later of the following months, where one of the spouses is the beneficiary of a retirement pension and the other is not a contributor:

– the month in which the contributory period of the spouse who is a beneficiary ends, and

– the earliest of the month in which the application for partition is approved and the month preceding the seventieth birthday of the spouse who is not a contributor.

Combined  
contributo-  
ry period

In cases to which subparagraphs *a* and *b* of the first paragraph of section 158.3 apply, the combined contributory period does not include any month which, pursuant to the second paragraph of section 101, is excluded from the contributory period of one of the spouses if it is also excluded from the contributory period of the other spouse.

(2) the period of marriage of the spouses is the period which begins on the first day of the month of their marriage and terminates on the last day of their combined contributory period. Any month which is not part of their combined contributory period is excluded.

Effective  
date

**“158.7** Partition of the retirement pension is effective in the month following the month in which the Board approved the application.

Notice

The Board shall notify both spouses as soon as it has approved the partition. The notice shall inform the spouses of their right to apply for a review of the decision of the Board within the time prescribed by section 186.

Effective  
period

**“158.8** Partition of the retirement pension ceases to be effective at the end of the month in which one of the following events occurs:

(a) the death of either of the spouses;

(b) the Board is informed that a spouse to whom subparagraph *c* of the first paragraph of section 158.3 applies has become a contributor;

(c) the Board receives one of the following documents:

– a judgment of divorce, annulment of marriage or separation from bed and board of the spouses, or

– an application for cessation of partition of the pension signed by both spouses.”

c. R-9,  
s. 165.1,  
repealed

**62.** Section 165.1 of the said Act is repealed.

c. R-9,  
s. 166, am.

**63.** Section 166 of the said Act is amended by inserting the words “, and at the end of the month which precedes the month in which a replacement indemnity becomes payable to him” after the word “plan” in the third line of the second paragraph.

c. R-9,  
s. 167,  
repealed

**64.** Section 167 of the said Act is repealed.



c. R-9,  
s. 168,  
replaced

**65.** Section 168 of the said Act is replaced by the following section:

Death  
benefit

**“168.** A death benefit shall be granted, upon production of vouchers, to the person who has paid the funeral expenses, up to the amount of such expenses, provided that the person applies therefor within 60 days after the death of the contributor.

Death  
benefit

Where he fails to apply within that time, the death benefit shall be granted to the first of the following persons who applies therefor:

(a) the person contemplated in the first paragraph, but only up to the amount of the funeral expenses;

(b) the heirs of the contributor or, where there are no heirs, his surviving spouse or, where there is no surviving spouse, his descendants or, where there is no surviving spouse or descendants, his ascendants.

Difference

Where the amount of the funeral expenses granted to the person who paid them is less than the amount of the death benefit, the difference shall be paid in accordance with subparagraph *b* of the second paragraph.”

c. R-9,  
s. 169, am.

**66.** Section 169 of the said Act is amended by replacing the last two lines by the following words: “the heirs of a contributor by one of them or by the testamentary executor.”

c. R-9,  
s. 170, am.

**67.** Section 170 of the said Act is amended by striking out the words “if, at his death, the surviving spouse had reached 35 years of age, had dependent children or was disabled” in the second, third and fourth lines of the first paragraph.

c. R-9,  
s. 172, am.

**68.** Section 172 of the said Act is amended by adding, at the end of the third paragraph, the words “, but not before the disability pension becomes payable”.

c. R-9,  
s. 174, am.

**69.** Section 174 of the said Act is amended

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

Cessation  
of payment

**“174.** An orphan’s pension or a disabled contributor’s child’s pension ceases to be payable at the end of the month preceding the eighteenth birthday of the beneficiary or at the end of the month of his death. The disabled contributor’s child’s pension also ceases to be payable at the end of the month in which the beneficiary ceases to be a child of the contributor within the meaning of section 86, or at the

end of the month in which the disability pension ceases to be payable to the contributor.”;

(2) by striking out the word “dependent” in the second line of the second paragraph;

(3) by striking out the words “by the surviving spouse, to the exclusion of every other person,” in the first and second lines of the third paragraph.

c. R-9,  
s. 175, am. **70.** Section 175 of the said Act is amended by replacing the first paragraph by the following paragraph:

Payment **“175.** An orphan’s pension or a disabled contributor’s child’s pension shall be paid to the person who maintains the beneficiary in the conditions provided for by regulation; otherwise, it shall be paid to the person designated by the Board.”

c. R-9,  
s. 177.1,  
am. **71.** Section 177.1 of the said Act is amended by replacing the word and figure “section 102.1” in the third line by the words and figures “sections 102.1 and 158.3”.

c. R-9,  
s. 180.2,  
added **72.** The said Act is amended by inserting, after section 180.1, the following section and headings:

#### “DIVISION VI

##### “ADMINISTRATIVE AGREEMENTS

Agreement **“180.2** The Board and the Commission de la santé et de la sécurité du travail shall enter into an agreement for the transmission of the information and documents required for the purposes of this Act and the regulations, and the Acts and regulations administered by the Commission.

Agreement In particular, such an agreement shall permit

(a) the fixing of the date on which, pursuant to the third paragraph of section 139.2, an application for a disability pension is presumed to be made;

(b) the identification, for the purposes of sections 96.1 to 96.3, 97, 101, 103, 105.2, 139, 148 and 166, of contributors who are beneficiaries of a replacement indemnity and the months for which that indemnity is payable to them;

(c) the determination of the amounts of disability pension which may be recovered on the ground that a replacement indemnity was

payable to the beneficiary and the terms and conditions of application for and payment of such amounts in accordance with the third paragraph of section 144 of the Act respecting industrial accidents and occupational diseases;

(d) the identification of contributors who are beneficiaries of a disability pension, the months for which that pension is payable to them and the amount of that pension.”

c. R-9,  
Title V,  
Div. I,  
heading,  
am.

**73.** The heading of Division I of Title V of the said Act is amended by replacing the word “CONTRIBUTIONS” by the words “DECISIONS OF THE MINISTER”.

c. R-9,  
Title V,  
Div. II,  
heading,  
am.

**74.** The heading of Division II of Title V of the said Act is amended by replacing the word “BENEFITS” by the words “DECISIONS OF THE BOARD”.

c. R-9,  
ss. 186-  
188,  
replaced  
Review

**75.** Sections 186 to 188 of the said Act are replaced by the following sections:

**“186.** Any interested person may, within one year after the mailing of a decision of the Board, apply in writing for a review of that decision. The application for review must state briefly the grounds on which it is based.

Failure

The Board may relieve a person of the consequences of his failure to make such an application within the time prescribed if that person shows that he could not do so for a valid reason.

Consider-  
ation

**“187.** The Board shall consider the application forthwith and render its decision.

Decision

**“188.** The decision, with reasons, shall be in writing and shall be transmitted to the interested person together with a mention of his right to bring an appeal to the Commission des affaires sociales within the time and in accordance with the terms and conditions prescribed by the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34).”

c. R-9,  
s. 190,  
repealed  
c. R-9,  
s. 192, am.

**76.** Section 190 of the said Act is repealed.

**77.** Section 192 of the said Act is amended

(1) by replacing the words “prescribed manner” in the third line of the first paragraph by the word “writing”;

(2) by replacing the word “Earnings” in the fifth line of the first paragraph by the word “Contributors”;

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

Statement  
of earnings

“The Board is not bound to satisfy more than one application for a statement of earnings in any period of 12 months, unless the contributor shows that such information is necessary to him.”

c. R-9,  
s. 193, am.

**78.** Section 193 of the said Act is amended

(1) by replacing the word “reconsidered” in the second line of the first paragraph by the word “reviewed”;

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

Applicable  
provisions

“Sections 186 to 189 apply to any such request.”;

(3) by replacing the word “Earnings” in the first line of the third paragraph by the word “Contributors”.

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

**79.** Section 194 of the said Act is amended

(1) by replacing the first, second and third paragraphs by the following paragraphs:

Rectifica-  
tion

**194.** The Board may, of its own initiative or at the request of an interested person, rectify any entry in the Record of Contributors; in the case of an entry based on information obtained pursuant to section 211, the rectification shall be made in the conditions provided for in the agreement referred to in that section.

Rectifica-  
tion

However, an entry relating to pensionable earnings or contributions which has been in the register for more than four years may be rectified only by reason of an increase, a change made within the scope of a partition of unadjusted pensionable earnings under section 102.1 or a similar plan, or a change whose object is to deduct amounts registered under a similar plan which were registered under this Act by error.”;

(2) by replacing the word “Earnings” in the eighth line of the fourth paragraph by the word “Contributors”;

(3) by replacing the words “fourth and fifth” in the first line of the sixth paragraph by the words “third and fourth”;

(4) in the French text, by replacing the word “contribution” in the third line of the sixth paragraph by the word “cotisation”.

c. R-9,  
s. 195, am.

**30.** Section 195 of the said Act is amended

(1) by replacing the word “Earnings” in the third line of the first paragraph by the word “Contributors”;

(2) by replacing the sixth and seventh lines of the first paragraph by the words “Board shall again notify him by transmitting a corrected statement to him at his last known address.”;

(3) by replacing the second and third lines of the second paragraph by the words “such a decision be reviewed by the Board in accordance with sections 186 to 189.”

c. R-9,  
s. 211, am.

**31.** Section 211 of the said Act is amended

(1) in the French text, by replacing the word “contributions” in the fifth line of the second paragraph by the word “cotisations”;

(2) by replacing the word “reconsidered” in the seventh line of the second paragraph by the word “reviewed”.

c. R-9,  
s. 219, am.

**32.** Section 219 of the said Act is amended

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

“(c) determining the conditions that persons to whom section 86, 133.1 or 175 applies must satisfy and the information they must furnish to be considered to maintain another person;”;

(2) by inserting the words “, applications for the partition of a retirement pension” after the word “benefits” in the second line of paragraph *g*;

(3) by inserting the words “, an application for the partition of a retirement pension” after the word “benefits” in the second line of paragraph *h*;

(4) by inserting, after paragraph *h*, the following paragraph:

“(h.1) determining, for the purposes of the second paragraph of section 95, the method of calculating the annual income required to qualify an occupation as being substantially gainful;”;

(5) by striking out paragraph *i*;

(6) by adding, at the end of paragraph *i.1*, the words “, and the circumstances and conditions under which the gainful occupation of a person constitutes his usual occupation”;

(7) by replacing paragraph *j* by the following paragraphs:

“(j) determining the information and documents to be produced to prove a disability;

“(j.1) establishing the conditions and circumstances in which a person may be considered to be disabled for the purposes of sections 95 and 96;

“(j.2) establishing the criteria which, for the purposes of the fourth paragraph of section 139, enable groups of contributors to be identified, and establishing the manner of fixing the date on which a contributor is presumed to have made an application for a retirement pension;”;

(8) by replacing paragraph *k* by the following paragraph:

“(k) determining the cases which may give rise to the payment referred to in section 142.1 and the terms and conditions of such a payment, prescribing the method to be used to calculate the amount of the single payment or to establish the interval between payments;”;

(9) by inserting, after paragraph *k.1*, the following paragraphs:

“(k.2) establishing, for the purposes of section 143.0.1, the method of computing interest;

“(k.3) prescribing, for the purposes of section 150, the times and the terms and conditions of repayment of sums that may be recovered and the percentage and monthly amount up to which the Board may make deductions from benefits to compensate a debt;”;

(10) by striking out paragraph *q*;

(11) by replacing the word and figure “and 124” in the second line of paragraph *s* by the word and figures “, 124 and 133”.

c. R-9,  
s. 220, am.

**83.** Section 220 of the said Act is amended by striking out the words “, other than those contemplated in paragraph *q* of section 219,” in the first and second lines.

c. R-9,  
French text,  
words re-  
placed

**84.** The French text of the said Act is amended by replacing the words “contribution” and “contributions” respectively by the words “cotisation” and “cotisations” in sections 8 and 34, in the heading of Title III, in section 44.1 and in the heading preceding it, in the heading of Division IV of Title III, in section 50 and the heading preceding it, in section 50.1 amended by section 220 of chapter 1 of the statutes of

1992, in sections 51 to 53 and the headings preceding them, in sections 54 to 58, in the heading of Division VI of Title III, in section 59, in the heading preceding section 63, in sections 64, 65, 71 and 72, in the heading of Division VII of Title III, in sections 75, 77 to 79, in section 81, amended by section 292 of chapter 21 of the statutes of 1992, and in sections 85, 98, 107, 179, 180, 191, 200, 203, 214, 216 and 229.

c. R-9,  
French  
text, word  
replaced

**85.** The French text of the said Act is amended by replacing the word “cotisation” by the word “imposition”, adapted as required, in the heading preceding section 65, in section 67, in section 68, amended by section 19 of chapter 31 of the statutes of 1992, and in the heading preceding it, in section 69, in the third paragraph of section 71 and in section 184, replaced by section 2 of chapter 13 of the statutes of 1991.

c. R-9,  
expression  
replaced

**86.** The said Act is amended by replacing the expression “Record of Earnings” by the expression “Record of Contributors” in the heading of Division I of Title VI and in section 191.

#### AMENDING PROVISIONS

c. A-3.001,  
s. 42.1,  
added

**87.** The Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting, after section 42, the following section:

Agreement

**“42.1** The Commission and the Régie des rentes du Québec shall enter into an agreement for the transmission of the information and documents required for the purposes of the Acts and regulations administered by the Commission and for the purposes of the Act respecting the Québec Pension Plan and the regulations thereunder.

Agreement

In particular, such an agreement shall permit

(a) the fixing of the date on which, pursuant to the third paragraph of section 139.2 of the Act respecting the Québec Pension Plan, an application for a disability pension is presumed to be made;

(b) the identification, for the purposes of sections 96.1 to 96.3, 97, 101, 103, 105.2, 139, 148 and 166 of that Act, of contributors who are beneficiaries of an income replacement indemnity and the months for which that indemnity is payable to them;

(c) the determination of the amounts of disability pension which may be recovered by the Board on the ground that an income replacement indemnity was payable to the beneficiary and, for the purposes of the deductions provided for in the third paragraph of

section 144 of this Act, the determination of the terms and conditions of application for and payment of such amounts;

(d) the identification of contributors who are beneficiaries of a disability pension, the months for which that pension is payable to them and the amount of that pension.”

c. A-3.001,  
s. 63,  
French text,  
am. **88.** The French text of section 63 of the said Act is amended by replacing the word “contribution” in the first line of subparagraph 3 of the first paragraph by the word “cotisation”.

c. A-3.001,  
s. 144, am. **89.** Section 144 of the said Act is amended by adding, at the end, the following paragraph:

Deduction “It shall also, at the request of the Régie des rentes du Québec, deduct from the income replacement indemnity payable to a person under this Act, the amounts of disability pension paid to that person under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) which may be recovered under that Act. It shall pay the amounts so deducted to the Board.”

c. A-3.001,  
ss. 518  
and 519,  
repealed **90.** Sections 518 and 519 of the said Act are repealed.

c. A-25,  
s. 52,  
French text,  
am. **91.** The French text of section 52 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended by replacing the word “contribution” in the seventh line of the first paragraph by the word “cotisation”.

c. C-34,  
s. 21, am. **92.** Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34) is amended by replacing the word “reconsideration” in the first line of paragraph *k* by the word “review”.

c. I-3,  
s. 70,  
French text,  
am. **93.** The French text of section 70 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing the word “contribution” in the first line of paragraph *b* by the word “cotisation”.

c. I-3,  
s. 75,  
French text,  
am. **94.** The French text of section 75 of the said Act is amended  
(1) by replacing the word “contribution” in the fourth line by the word “cotisation”;

(2) by inserting the words “de contribution d’employeur” after the words “du Québec ou” in the eighth line.

c. I-3,  
s. 336,  
French text,  
am. **95.** The French text of section 336 of the said Act, amended by section 30 of chapter 1 of the statutes of 1992, is again amended by



replacing the word “cotisation” in the first line of paragraph iii of subparagraph *e* of subsection 1 by the word “imposition”.

c. I-3,  
s. 339,  
French text,  
am. **96.** The French text of section 339 of the said Act is amended by replacing the word “contribution” in paragraph *a* by the word “cotisation”.

c. M-31,  
s. 93.2,  
French text,  
am. **97.** The French text of section 93.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 5 of chapter 13 of the statutes of 1991 and by section 601 of chapter 67 of the statutes of 1991, is again amended by replacing the word “cotisation” in paragraphs *g* and *h* by the word “imposition”.

c. R-10,  
s. 124,  
French text,  
am. **98.** The French text of section 124 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing the word “contribution” in the eighth line of the first paragraph by the word “cotisation”.

#### TRANSITIONAL AND FINAL PROVISIONS

Calculation  
of surviv-  
ing spouse's  
pension **99.** The surviving spouse's pension of a person who, on 31 December 1993, is the beneficiary thereof continues to be calculated in accordance with the provisions of the Act respecting the Québec Pension Plan in force on that date until such time as a change in his situation gives rise to a new calculation of the basic monthly amount pursuant to sections 132 to 137 of the Act respecting the Québec Pension Plan as enacted by section 51. From the time such a change occurs, the amount of that person's pension is calculated in accordance with the abovementioned sections, although without application of the limit of 36 months prescribed for establishing the amount of the retirement pension of the contributor.

Calculation  
of pension **However,** if on 31 December 1993 the spouse is the beneficiary of a reduced pension or is at least 55 years of age and the beneficiary of a disability pension, the pension is, from the month of January 1994, calculated in accordance with sections 132 to 137 of the Act respecting the Québec Pension Plan as enacted by section 51, although without application of the limit of 36 months prescribed for establishing the amount of the retirement pension of the contributor, provided the pension so calculated for that month is greater than the pension to which the spouse would be entitled for that month under the Act respecting the Québec Pension Plan as it read before 1 January 1994.

Unreduced  
pension **100.** A surviving spouse who, after the reduction of his pension under the fourth paragraph of section 132 of the Act respecting the

Québec Pension Plan as it read before 1 January 1994, once again becomes disabled or has a child of the contributor dependent on him, is entitled to an unreduced pension for every month between 31 December 1992 and 1 January 1994 in which he was disabled or a child of the contributor was dependent on him.

Surviving  
spouse

**101.** In respect of a contributor who died between 3 April 1985 and 1 January 1994, the person who, on the day of the death of the contributor, had been living in a *de facto* union with him for at least a year is qualified as a surviving spouse if neither was married to another person and if, as the case may be,

- a child was born of their union,
- they had, together, adopted a child,
- one of them had adopted a child of the other.

Surviving  
spouse

The birth or adoption of a child during a marriage or period of *de facto* union prior to the period of *de facto* union in progress on the day of the death of the contributor also qualifies such a person as a surviving spouse.

Applica-  
bility

The provisions of this section apply to every application for a surviving spouse's pension, including applications made before 1 January 1994.

Presumption

**102.** A presumption existing on 31 December 1993 under section 88 of the Act respecting the Québec Pension Plan, as it read before 1 January 1994, as to the dependency of the contributor's child on the surviving spouse, if the spouse was under 45 years of age on 1 January 1994, continues to exist for as long as the surviving spouse resides with or substantially maintains that child, but only until the surviving spouse reaches 45 years of age.

Eligibility

**103.** The surviving spouse of a contributor who died before 1 January 1994 who, solely by reason of his age, was not eligible for a surviving spouse's pension on the day of the death of the contributor or who has ceased to be eligible, is, from 1 January 1994, eligible for that pension; the amount of the pension is calculated in accordance with sections 132 to 137 of the Act respecting the Québec Pension Plan.

Application

**104.** The provisions of the Act respecting the Québec Pension Plan, as they read before 1 July 1993, concerning disability pensions, shall continue to apply to applications made before 1 July 1994 if the date of disability invoked is prior to 1 July 1993.

**Application** The provisions of the said Act, as amended by this Act, shall apply, however, to every such application where the contributor, pursuant to the provisions referred to in the first paragraph, cannot be recognized as a qualified disabled contributor on a date prior to 1 July 1993. The date on which the contributor became disabled, if that is the case, cannot then be fixed at a date prior to 1 July 1993.

**Unmarried child** **105.** For the purposes of the orphan's pension and the disabled contributor's child's pension, an unmarried child 18 years of age or over but under 25, of a contributor who becomes disabled or dies before 1 January 1994, is also a child of such a contributor provided he has attended an educational institution on a full-time basis substantially without interruption since

(1) the day of the death of the contributor or the day on which the contributor became disabled; or

(2) the day of his eighteenth birthday, if that day occurs after the day mentioned in subparagraph 1.

**Applicable provisions** The provisions of sections 43 to 45 of the Regulation respecting Benefits (R.R.Q., c. R-9, r. 5), in force on 31 December 1993, shall continue to apply, adapted as required, to determine the eligibility of a child to whom the first paragraph applies.

**End of effect** This section shall cease to be effective on 31 December 2000.

**Applicability** **106.** Section 105.2 of the Act respecting the Québec Pension Plan applies in respect of every month after 31 December 1985.

**Applicability** However, in respect of a person who became entitled to an income replacement indemnity before 1 January 1986 or who, before 18 June 1992, became entitled to such an indemnity when he was already entitled to a disability pension, this section does not apply to any months prior to the latter date which are included in the series of months for which such an indemnity is payable to him. If the person, on 31 December 1993, is entitled to both a disability pension and an income replacement indemnity, this section applies only from the month following the month in which he ceases to be entitled to either of the benefits.

**Applicability** In addition, where section 105.2 of the Act respecting the Québec Pension Plan is not applicable for a given month in respect of a person to whom the second paragraph applies, sections 96.2, 96.3 and 97, subparagraph *b* of the second paragraph of section 101 and section 103 of that Act, to the extent that they refer to a period of indemnity, do not apply for that month.

- Presumption**     **107.** An application for a disability pension shall not, under the third paragraph of section 139.2 of the Act respecting the Québec Pension Plan, be considered to be made on a date prior to 1 January 1994 even where the claim has been filed with the Commission de la santé et de la sécurité du travail before that date.
- Applicability**     **108.** Section 97 of the Act respecting the Québec Pension Plan applies only to retirement pensions which become payable after 31 December 1993.
- Interest**     **109.** No interest is payable under section 143.0.1 of the Act respecting the Québec Pension Plan in respect of any month prior to 1 May 1994.
- Three-year period**     **110.** The period of three years prescribed by section 148 of the Act respecting the Québec Pension Plan runs from 1 January 1994 in respect of any sum due before that date.
- Regulations**     **111.** Regulations which will be made until 30 June 1994 under section 219 of the Act respecting the Québec Pension Plan may provide that they apply from any date not prior to 1 January 1994 or, in the case of regulations made under paragraphs *h.1*, *i*, *i.1*, *j* and *j.1* of that section, not prior to 1 July 1993.
- Coming into force**     **112.** With the exception of sections 27, 28 and paragraph 1 of section 29, which come into force on 15 June 1993, and paragraph 8 of section 1, sections 7 to 10, 18 to 20, section 26, paragraphs 1 and 2 of section 30, section 32, paragraph 2 of section 33, sections 35, 36, 46, 47, 54 and 68, paragraphs 4 to 7 of section 82 and sections 104 and 111, which will come into force on 1 July 1993, this Act will come into force on 1 January 1994.
- Effect**     However, the following provisions of the Act respecting the Québec Pension Plan will have effect only from 1 January 1994: subparagraph *b* of the second paragraph of section 101 enacted by section 26, section 103 enacted by section 32, to the extent that it refers to the deduction of months included in a period of indemnity of the contributor, sections 106 and 106.1 enacted by sections 35 and 36, to the extent that, in the French text, the word “cotisation” is used instead of the word “contribution”, and paragraph *j.2* of section 219 enacted by paragraph 7 of section 82.