

1989, chapter 4

AN ACT TO AMEND THE FAMILY ALLOWANCES ACT AND OTHER LEGISLATION

Bill 73

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

Introduced 3 November 1988

Passage in principle 15 November 1988

Passage 5 April 1989

Assented to 6 April 1989

Coming into force: 6 April 1989

Acts amended:

Family Allowances Act (R.S.Q., chapter A-17)

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

Act respecting collective agreement decrees (R.S.Q., chapter D-2)

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

Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1)

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

Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2)

Act respecting income security (1988, chapter 51)





CHAPTER 4

An Act to amend the Family Allowances Act and other legislation

[Assented to 6 April 1989]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-17,
title
replaced

1. The title of the Family Allowances Act (R.S.Q., chapter A-17) is replaced by the following title: “An Act respecting family assistance allowances”.

c. A-17,
Div. I, II
and III,
replaced

2. Divisions I, II and III of the said Act are replaced by the following divisions:

“DIVISION I

“SCOPE

Family
assistance
allowances

“1. The allowances referred to in this Act are, except for the purposes of section 26, the family assistance allowances provided for in Division II.

Régie des
rentes

Family assistance allowances are granted by the Régie des rentes du Québec, hereinafter called “the Board”, in accordance with the formalities set out in section 27.2. They constitute the advance allowance referred to in section 1056.1 of the Taxation Act (R.S.Q., chapter I-3) and are deemed to be paid by the Minister of Revenue pursuant to that section.

Use

Allowances must be used for the welfare of the child in whose respect they are paid and of his family.

Family

“2. A family is composed of spouses and of the children cared or provided for by at least one of the spouses, or of a person without a spouse and the children he or she cares or provides for. The conditions

on which a person shall be considered, for the purposes of this Act, to be caring or providing for a child shall be determined by regulation.

Exception A person or family to whom a child is entrusted under the Act respecting social services and health services (R.S.Q., chapter S-5), the Youth Protection Act (R.S.Q., chapter P-34.1) or the Young Offenders Act (Statutes of Canada, 1982, chapter 110) shall not be considered as a family within the meaning of this Act in respect of the child.

Rank of children For the purposes of this Act, in establishing the rank of children in a family, account shall be taken only of those children who give entitlement to a family allowance, from the eldest to the youngest.

Spouses “3. The word “spouses” means persons married to each other who cohabit or persons who live together as husband and wife.

Temporary cessation of cohabitation Such persons remain spouses even if they temporarily cease to cohabit. The maximum period of cessation of cohabitation regarded as temporary and the circumstances in which that time limit does not apply shall be determined by regulation.

“DIVISION II

“FAMILY ASSISTANCE ALLOWANCES

“§ 1.—*Family allowance*

Family allowance “4. Every family is entitled to a monthly family allowance in respect of each unmarried child under 18 years of age who has or is deemed to have, within the meaning of the regulations, his principal residence in Québec.

Scale The allowance granted shall be determined according to a scale of amounts established by regulation on the basis of one or more of the following factors:

(1) the number of children in the family who give entitlement to a family allowance;

(2) the age of the child in whose respect the allowance is applied for;

(3) the rank of the child in the family.

Amount The amount of the allowance shall be established monthly, on the basis of the prescribed factors as they stand on the last day of the

month for which the allowance is payable, and the allowance shall be paid in the following month.

“§ 2.—*Allowance for handicapped children*

Handicapped child “5. Every family is entitled to a monthly allowance, in the amount prescribed by regulation, in respect of each child who is a handicapped child within the meaning of the regulations and in whose respect a family allowance is payable.

Examination To ascertain whether a child is handicapped, the Board may require that the child be examined by the physician or expert it designates. If the family fails to comply with the requirement, the allowance shall not be granted or, if it has already been granted, shall cease to be paid from the month following the month during which the examination should have been made.

Terms of payment “6. The allowance for handicapped children shall be paid in the month following any month for which it is payable.

“§ 3.—*Allowance for young children*

Child under six years of age “7. Every family is entitled to a monthly allowance in respect of each child under six years of age giving entitlement to a family allowance.

Scale The allowance granted shall be determined according to a scale of amounts established by regulation on the basis of one or both of the following factors:

(1) the number of children in the family who give entitlement to a family allowance;

(2) the rank of the child in whose respect the allowance is applied for.

Amount and terms of payment The amount of the allowance shall be established monthly, on the basis of the factors provided in the second paragraph as they stand on the last day of the month for which the allowance is payable, and the allowance shall be paid in the following month.

“§ 4.—*Allowances for newborn children*

Allowance for newborn child “8. Every family is entitled to an allowance, in the amount prescribed by regulation, upon the birth of a first or second child, or upon the adoption of a child of that rank if he is placed for adoption in the family before the age of two. To become entitled to an allowance

for newborn children, a family must first be entitled to a family allowance in respect of the new child for the month of his birth or, in the case of an adoption, for the month of his placement in the family.

Terms of
payment

The allowance for newborn children is payable in a lump sum in the month following the month of the child's birth or following the month during which the adoption judgment is pronounced, as the case may be.

Quarterly
allowance

“9. Every family already including two children giving entitlement to a family allowance to which a third child under two years of age also giving entitlement to a family allowance is added, is entitled to a quarterly allowance in the amount prescribed by regulation.

First
quarter

The first quarter serving as a basis for the payment of the allowance begins with the first month following the month of the child's birth.

Beginning
of
payment

The allowance is payable, in the case of the birth of a child, from the quarter beginning with the month following the month of his birth and, in every other case, from the quarter following the quarter during which the child becomes a member of the family.

Restriction

The allowance is not payable for a particular quarter if a family allowance is not payable in respect of the child for the month preceding the first month of the quarter or if on the last day of the preceding quarter, the child had changed rank and become the first or second child in the family. The allowance shall cease to be paid from the quarter following the quarter during which the child reaches two years of age.

Quarterly
amount

However, if a child becomes a member of the family during the quarter during which he reaches two years of age, the family is entitled to a single quarterly amount which shall be paid in the month following the month during which the child becomes a member of the family.

Continuance
or renewal

“10. Allowances for newborn children shall continue to be paid or shall again be granted, as the case may be, in respect of a child who,

(1) having previously given entitlement to such an allowance, becomes, by adoption, the first or second child in another family, provided that neither spouse in that family was at any time a member of the child's previous family or families;

(2) having been the first or second child in his family becomes the third child or a subsequent child in his or in another family;

(3) having been the third child or a subsequent child in his family becomes the third child or a subsequent child in another family.

Maximum
amount

The maximum amount of allowances for newborn children payable in respect of a child shall be prescribed by regulation.

Principal
residence
in Québec

"11. A family who has been entitled only to a single quarterly allowance payment for a newborn child or a child placed for adoption by reason either of the child's death or of his becoming the first or second child in the family, is entitled to the allowance provided for in section 8 for a first or second child, less the quarterly allowance already received, provided that the person who received the quarterly allowance has his principal residence in Québec in the month immediately following the end of the quarter concerned.

Death or
change
of rank

The allowance shall be paid, in the quarter following the quarter during which, as the case may be, the child died, the child changed rank or, in the case of the change of rank of a child placed for adoption, the adoption judgment was pronounced.

Canadian
citizenship

"12. No allowance for newborn children is granted unless the person who cares or provides for a child, or his spouse, is a Canadian citizen or a permanent resident of Canada within the meaning of the Immigration Act (Statutes of Canada, 1976-77, chapter 52).

Restriction

No allowance for newborn children is payable in respect of a child who is placed pursuant to the Youth Protection Act or the Act respecting health services and social services.

"§ 5.—Miscellaneous provisions

First
month of
payment

"13. No allowance, except the allowance for newborn children payable under section 8 in the case of the adoption of a child, shall be granted for any month preceding by more than 11 months the month during which an allowance is applied for.

Change in
the amount

Any change in the amount of a family allowance, allowance for young children or allowance for newborn children has effect from the month or quarter following the month or quarter during which the event entailing the change occurs in the family concerned.

"DIVISION III

"PAYMENT AND RECOVERY OF ALLOWANCES

Person
receiving
payment

"14. Family assistance allowances shall be paid to the person who cares for the child, in the manner prescribed by regulation and in the following order of priority:

(1) the mother;

(2) the father or, if he consents thereto, his spouse.

Other
person

If the child is cared for by none of the persons listed above, the allowances shall be paid to the person who provides for the child.

Administra-
tion of
allowances

Where the person to whom the allowances are paid is not capable of administering them or does not use them for the welfare of the child or of his family, the Board may pay the allowances to another person it designates. The designated person shall administer the allowances according to the rules prescribed by regulation and shall, on request, render an account of his administration to the Board.

Principal
residence
in Québec

Subject to the first paragraph of section 12, the persons referred to in the preceding paragraphs must have or be deemed to have, within the meaning of the regulations, their principal residence in Québec in order to receive the allowances.

Cessation
of
entitlement
to an
allowance

"15. Where a family ceases to be entitled to an allowance or where the person who receives the allowance is not entitled to receive it, the person who receives the allowance must notify the Board in writing without delay.

Repayment
of an
allowance

"16. Any person who receives an allowance to which he is not entitled or who uses an allowance for another purpose than the welfare of the child or of his family, must repay the amount received.

Exception

However, where the allowance should have been paid to another person, the payment shall be regarded as validly made if the allowance has been used for the welfare of the child or of his family.

Recovery

"16.1 Any allowance paid where it was not due may be recovered as a debt due to the public treasury.

Recovery
by deduction

The allowance may also be recovered by way of a deduction from future allowances payable to the person who received it; however, the deduction shall not exceed the percentage prescribed by regulation unless the debtor consents thereto.

Waiving of
recovery

The Board may grant the release of a debt, up to the amount prescribed by regulation, in respect of any allowance paid where it was not due if the Board is of the opinion that it cannot be recovered in light of the circumstances.

Prescription

"16.2 Entitlement to any allowance granted by the Board which has not been paid to the person entitled to it for a reason attributable to him, including, but not limited to, failure to report his new address

or to cash a cheque he received, is prescribed by five years from the last day of the month in which the payment should have been made.

Prescription

However, where the allowance cheque was issued after the end of the month in which it should have been issued, the prescription period of five years runs from the date of the notice of the decision confirming entitlement to the allowance.

Unassignability and unseizability

"16.3 Allowances are unassignable and unseizable. They do not become part of the patrimony of the person who receives them."

c. A-17,
s. 23, am.

3. Section 23 of the said Act is amended by adding the words "within the meaning of the regulations" after the word "plan" in the fifth line of the first paragraph.

c. A-17,
s. 25, re-
placed
Regulations

4. Section 25 of the said Act is replaced by the following section:

"25. The Government may, by regulation,

(1) determine the conditions on which a person shall be considered to be caring or providing for a child;

(2) determine the maximum period of cessation of cohabitation of spouses regarded as temporary and the circumstances in which that time limit does not apply;

(3) establish the scales of amounts granted as family allowances and as allowances for young children, and the amount of the other allowances granted under Division II; the scales pertaining to family allowances and allowances for young children may vary according to the number of children in the family who give entitlement to a family allowance, the rank of the child in whose respect the allowance is applied for and, in the case of family allowances, the age of the child;

(4) determine the cases or the circumstances in which a child or a person referred to in section 14 has or is deemed to have his principal residence in Québec;

(5) determine, for the purposes of section 5, the meaning of "handicapped child";

(6) fix, for the purposes of the second paragraph of section 10, the maximum amount of allowances for newborn children payable in respect of a child;

(7) prescribe the terms and conditions of payment of family assistance allowances;

(8) prescribe the rules to be followed by a person designated by the Board to administer allowances;

(9) fix, in relation to the number of payments to be made or other factors, the maximum percentage of the deduction from future allowances for the recovery of any allowance paid where it was not due;

(10) fix the maximum amount in respect of which the Board may grant the release of a debt resulting from the payment of an allowance where it was not due;

(11) prescribe, for the purposes of section 23, the conditions a plan must meet to be considered as similar to the allowance plan provided for in Division II;

(12) revise the monthly allowance rates provided in subparagraphs *a* and *b* of the first paragraph of section 26 and determine the date on which the new rates take effect;

(13) take the necessary action to implement any agreements made under section 27.3."

c. A-17,
s. 26, am.

5. Section 26 of the said Act is amended by adding, at the end, the following paragraph:

Revision of
rates

"The Government, by regulation, may revise the rates provided in subparagraphs *a* and *b* of the first paragraph and determine the date on which the new rates take effect."

c. A-17,
s. 27, am.

6. Section 27 of the said Act is amended by replacing the figure "25" in the first line of the first paragraph by the figure "24".

c. A-17,
ss. 27.1
to 27.3,
added
Carrying
out of
the Act

7. The said Act is amended by inserting, after section 27, the following sections:

"27.1 The Régie des rentes du Québec is responsible for the carrying out of this Act and sections 26, 30 and 31 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) apply for such purpose.

Application
to the
Board

"27.2 To receive an allowance, a person must apply for it to the Board and furnish any document or information required by the Board. The Board may hold that an application for a family allowance under the Family Allowances Act, 1973 (Statutes of Canada, 1973-74, chapter 44) is valid as an application for a family allowance under this Act. Any application for a family allowance in respect of a child also

serves as an application for allowance for young children and for an allowance for newborn children.

Documents
required

Moreover, every person who receives an allowance must furnish any document or information required by the Board for the purpose of ascertaining whether the family is entitled to the allowance, whether the person is entitled to receive it and whether it is used according to law.

Examination

The Board shall examine the required documents and information with dispatch and, in its decision, shall inform the person concerned of his right to apply for a review of the decision within the time indicated in section 18. If the Board has reason to believe that the person is no longer entitled to receive the allowance or if the person fails to furnish the required documents or information, the Board may suspend payment of the allowance while it ascertains whether the family is entitled to the allowance, whether the person receiving it is entitled to receive it and whether it is used according to law; notice of the suspension shall be given to the person in writing.

Agreements
with other
countries

“27.3 Where the law of a foreign country provides for the payment of allowances similar to those provided for in this Act, the Minister may, in accordance with the Act respecting the Ministère des Affaires internationales (1988, chapter 41), enter with the government of that country or with one of its departments or agencies into agreements

(1) prescribing special provisions, even departures from this Act, respecting the entitlement of the family of a national of that country who resides or works in Québec to an allowance in respect of a child of his family who is accompanying him, and respecting the conditions a person must meet to receive the allowance;

(2) determining on what conditions and according to what terms and conditions allowances under this Act may be paid to the family of such a national;

(3) determining on what conditions and according to what terms and conditions allowances under the law of that country may be paid to the family of a Canadian national who resides or works in that country and who had his principal residence in Québec up to his departure for that country, in respect of a child of his family who is accompanying him;

(4) prescribing special provisions concerning the financial adjustments required by the agreements;

(5) establishing procedures for the exchange of information for the purpose of implementing the agreements.

Implementa-
tion of
agreements

The Government may make such regulations as it considers necessary for the implementation of the agreements.”

c. A-17,
s. 32,
replaced
Minister
responsible

8. Section 32 of the said Act is replaced by the following section:

“32. The Minister of Manpower and Income Security is responsible for the administration of this Act.”

AMENDING PROVISIONS

ACT RESPECTING THE COMMISSION DES AFFAIRES SOCIALES

c. C-34,
s. 21, am.

9. Section 21 of the Act respecting the Commission des affaires sociales (R.S.Q., chapter C-34), amended by section 47 of chapter 68, section 57 of chapter 85 and section 149 of chapter 107 of the statutes of 1987, is again amended by replacing the words “Family Allowances Act” in the second line of paragraph *b* by the words “Act respecting family assistance allowances”.

ACT RESPECTING COLLECTIVE AGREEMENT DECREES

c. D-2,
s. 1, am.

10. Section 1 of the Act respecting collective agreement decrees (R.S.Q., chapter D-2) is amended by striking out the words “The word does not include family allowances” in the third and fourth lines of paragraph *i*.

TAXATION ACT

c. I-3,
ss. 1056.1
to 1056.3,
replaced
Advance
child
allowance

11. Sections 1056.1 to 1056.3 of the Taxation Act (R.S.Q., chapter I-3) are replaced by the following sections:

“1056.1 Notwithstanding any other provision of this Act, the Minister shall pay an advance child allowance to every individual who is entitled thereto under this Title.

Terms and
conditions

“1056.2 The individual who is entitled to an advance child allowance, the amount to which he is entitled, the date and the terms and conditions of payment of the allowance and any other measure required for the fulfilment of the obligation under section 1056.1 are determined pursuant to the Act respecting family assistance allowances (R.S.Q., chapter A-17).

Allowance
deemed
paid

“1056.3 Any amount paid under section 1056.1 to an individual as an advance child allowance for a taxation year is deemed to be an

instalment on account of the amount the individual is deemed to have paid under section 776.5.1 for the year.”

ACT RESPECTING OFFENCES RELATING TO ALCOHOLIC BEVERAGES

c. I-8.1,
s. 108, am.

12. Section 108 of the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) is amended by inserting, after the word “salaries” in the third line of paragraph 6, the words “, family assistance allowances”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

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

13. Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing the last four lines of paragraph *v* by the following: “(Statutes of Canada, 1970, chapter F-1) or the Family Allowances Act, 1973 (Statutes of Canada, 1973-74, chapter 44) or any allowance paid before 1 May 1988 under the Family Allowances Act (R.S.Q., chapter A-17) or paid under the Act respecting family assistance allowances (R.S.Q., chapter A-17), to any person designated in the said Acts.”

ACT RESPECTING INCOME SECURITY FOR CREE HUNTERS AND TRAPPERS WHO ARE
BENEFICIARIES UNDER THE AGREEMENT CONCERNING JAMES BAY AND
NORTHERN QUÉBEC

c. S-3.2,
s. 1, am.

14. Section 1 of the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2) is amended by replacing the words “Québec Family Allowances Act” in the third and fourth lines of paragraph *r* by the words “Act respecting family assistance allowances”.

c. S-3.2,
s. 10, am.

15. Section 10 of the said Act is amended by inserting the words “paid under the Family Allowances Act, 1973 (Statutes of Canada, 1973-74, chapter 44), allowances paid under the Act respecting family assistance allowances (R.S.Q., chapter A-17)” after the word “allowances” in the second line of subparagraph *e* of the first paragraph.

ACT RESPECTING INCOME SECURITY

1988,
c. 51,
ss. 98
and 99,
repealed

16. Sections 98 and 99 of the Act respecting income security (1988, chapter 51) are repealed.

TRANSITIONAL AND FINAL PROVISIONS

Allowance
for
newborn
children

17. No allowance for newborn children under section 8 of the Act respecting family assistance allowances shall be granted in respect of any child born or placed for adoption before 1 May 1988 and no allowance for newborn children under section 9 of the said Act shall be granted for any quarter prior to the quarter beginning on 1 March 1988.

Allowance
for young
children

18. No allowance for young children under section 7 of the Act respecting family assistance allowances shall be granted for any month prior to December 1988.

Monthly
allowance

The minimum monthly allowance for young children granted to a family for the year 1989 shall be

(1) \$8.34 if, for the month of January of that year, the allowance is granted in respect of only one child under six years of age;

(2) \$25.00 if, for that month, the allowance is granted in respect of two children under six years of age;

(3) \$66.67 if, for that month, the allowance is granted in respect of three children under six years of age.

Family
with more
than three
young
children

Where the family includes, in that month, more than three children under six years of age giving entitlement to the allowance, an additional monthly amount of \$41.67 shall be granted in respect of each additional child.

Adjustment
payment
in
December
1989

The Régie des rentes du Québec shall pay, during the month of December 1989, the difference, if any, computed for each month of the year, between the minimum monthly allowance under this section and the monthly allowance for young children paid under the Act respecting family assistance allowances.

Applicability
of
regulations

19. Regulations made before 1 January 1990 under paragraphs 1 to 7 of section 25 of the Act respecting family assistance allowances may prescribe that they apply, to the extent that they pertain to the allowance for newborn children under section 9 of the said Act, from any date not prior to 1 March 1988 and, to the extent that they pertain to any other allowance, from any date not prior to 1 May 1988.

References
to former
Act

20. In every regulation, order, order in council, decree, contract, accord, agreement or other instrument, any reference to the Family Allowances Act (R.S.Q., chapter A-17) or to any provision

thereof is deemed to be a reference to the Act respecting family assistance allowances or to the corresponding provision thereof.

Amendments

The Government, the person or body empowered to make any such regulation, order, order in council or decree or the parties empowered to sign any such contract, accord, agreement or other instrument, may amend it before 1 January 1990 so as to make it consistent with the Act respecting family assistance allowances and may stipulate that the amendments have effect from the dates indicated in any of sections 17 to 19 and 23 of this Act.

**Agreements
with
governments
of foreign
countries**

21. Any agreement entered into before 1 May 1988 with the government of a foreign country the law of which provides for the payment of allowances similar to those granted under the Family Allowances Act (R.S.Q., chapter A-17) is deemed to have been entered into under section 27.3 of the Act respecting family assistance allowances.

**Provisions
applicable**

22. Sections 16 to 16.3 of the Act respecting family assistance allowances apply to every allowance paid under the Family Allowances Act before 1 May 1988.

**Coming
into
force**

23. This Act comes into force on 6 April 1989; it has effect from 1 May 1988, except for section 16 and subject to sections 17 to 20.