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AN ACT TO AMEND THE COURTS OF JUSTICE ACT

Bill 36

Introduced by Mr Herbert Marx, Minister of Justice

Introduced 14 May 1987

Passage in principle 12 June 1987

Passage 23 June 1987

Assented to 23 June 1987

Coming into force: 23 June 1987, except paragraphs 2 and 4 of section 3, which will come into force on the date fixed by the Government

Act amended:

Courts of Justice Act (R.S.Q., chapter T-16)





CHAPTER 50

An Act to amend the Courts of Justice Act

[Assented to 23 June 1987]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. T-16,
ss. 5.3, 5.4,
added **1.** The Courts of Justice Act (R.S.Q., chapter T-16) is amended by inserting, after section 5.2, the following sections:

New ap-
pointment

“5.3 A judge of the Municipal Court of Montréal, Laval or Québec having held the office of chief judge for at least seven years who is appointed as a judge to another of the said municipal courts, the Provincial Court, the Court of the Sessions of the Peace or the Youth Court is entitled to receive, until his salary as a judge following such appointment is equal to the amount of salary and additional remuneration he was receiving when he ceased to hold the office of chief judge, the difference between the latter amount and his salary.

Transfera-
bility agree-
ments

“5.4 The Commission administrative des régimes de retraite et d’assurances, with the authorization of the Government, and the municipalities of Montréal, Laval and Québec may make transferability agreements amongst themselves to allow a judge contemplated by the pension plan of the judges of the Municipal Court of Montréal, Laval or Québec or by the pension plan provided for in Part VI to be credited with all or part of his years of service credited in another retirement plan in which he participated, being either the pension plan of the Municipal Court of Montréal, Laval or Québec, the retirement plan provided for in Part VI or the retirement plan provided for in sections 100 and following.

Effect

An agreement under the first paragraph may take effect on any earlier date fixed therein.

Required
sums

The sums required for the administration of this section are received or paid as provided in the retirement plans concerned.

Spread pay-
ment

The amount that one of the parties to an agreement contemplated in the first paragraph undertakes to pay as the contributory amount of the employer shall, on that party's request, be spread over a period not exceeding five years, with interest at the rate determined pursuant to subparagraph *b* of the first paragraph of section 246."

c. T-16,
s. 21, am.

2. Section 21 of the said Act is amended by replacing the figure "132" in the second line of the first paragraph by the figure "137".

c. T-16,
s. 32, am.

3. Section 32 of the said Act is amended

(1) by replacing the figure "82" in the second line of the first paragraph of subparagraph 1 of the first paragraph by the figure "85";

(2) by inserting, after subparagraph 1 of the first paragraph, the following subparagraph:

"(1.1) For the district of Longueuil, with residence in the city of Longueuil or in its vicinity, one judge;";

(3) by replacing the figure "29" in the second line of subparagraph 2 of the first paragraph by the figure "30";

(4) by replacing subparagraph 6 of the first paragraph by the following subparagraph:

"(6) For the districts of Saint-François and Bedford, three judges, including two with residence at Sherbrooke or in the vicinity and one with residence at Cowansville or in the vicinity;".

c. T-16, s.
84.11, am.

4. Section 84.11 of the said Act is amended by adding, at the end, the following paragraph:

Appoint-
ment to Mu-
nicipal
Court

"The same applies to a judge of the sessions who has held the office of chief judge, senior associate chief judge or associate chief judge for at least seven years or the office of coordinating judge for at least five years and who is appointed to the Municipal Court of Montréal, Laval or Québec."

c. T-16,
s. 108, am.

5. Section 108 of the said Act is amended

(1) by striking out the words "out of the consolidated revenue fund" in the third and fourth lines;

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

Consolidat-
ed revenue
fund "All sums paid under the retirement plan provided for by this
subdivision shall be taken out of the consolidated revenue fund."

c. T-16,
s. 237, am. **6.** Section 237 of the said Act is amended by striking out the words
", out of the consolidated revenue fund" in the third line.

c. T-16,
s. 246.1,
added **7.** The said Act is amended by inserting, after section 246, the
following section:

Consolidat-
ed revenue
fund "**246.1** All sums collected under the retirement plan provided
for by this Part shall be paid into the consolidated revenue fund. All
sums required for the administration of the plan shall be taken out of
the consolidated revenue fund."

c. T-16,
s. 248, am. **8.** Section 248 of the said Act is amended

(1) by replacing the words "a body representative of the judges
of these courts" in the fourth and fifth lines of paragraph *e* by the words
"the Conférence des juges du Québec";

(2) by replacing the words "a body representative of the judges
of these courts" in the third and fourth lines of paragraph *e.1* by the
words "the Conférence des juges municipaux du Québec".

c. T-16,
s. 258, am. **9.** Section 258 of the said Act is amended by replacing the words
"a body representative of the judges contemplated in paragraph *e* of
section 248 with" in the third, fourth and fifth lines by the words "the
Conférence des juges du Québec, the Conférence des juges municipaux
du Québec".

Interpreta-
tion **10.** For the purposes of sections 10 to 17,

"Act of
1978" (1) "Act of 1978" means the Act to amend the Courts of Justice
Act and the Code of Civil Procedure and to establish the Conseil de
la magistrature (1978, chapter 19);

"Act of
1979" (2) "Act of 1979" means the Act to amend the Courts of Justice
Act, the Government and Public Employees Retirement Plan and other
legislation (1979, chapter 42);

"judge" (3) "judge" means a judge of the Court of the Sessions of the Peace,
of the Youth Court or of the Provincial Court.

Minimum
pension **11.** From the coming into force of this Act and in respect of any
judge in office on that date, the amount of the minimum pension

contemplated in section 38 of the Act of 1978 shall cease to be determined pursuant to the said section and shall be established at 56% of the average salary of his five best remunerated years in office. However, in the case of a chief judge, an associate chief judge or a judge who has had that status and is contemplated in the first paragraph of the said section, the amount of the minimum pension shall be established at 63% of the average salary of his five best remunerated years in office.

Reimburse-
ment

12. The Government, through the agency of the Commission administrative des régimes de retraite et d'assurances, shall reimburse, out of the consolidated revenue fund, to every judge who, in accordance with section 39 of the Act of 1978, redeemed the value of years in office with a view to increasing the value of his pension, the sums paid for the redemption by the judge which have not or will not result in increasing the value of his pension or advancing his date of retirement.

Reimburse-
ment

The judge is entitled to the reimbursement of the sums, with accrued interest, whether or not he has ceased to hold office. If he has died, the reimbursement shall be made to his heirs.

Computation
of pension

13. Every judge contemplated in section 42 of the Act of 1978 who avails himself of the first paragraph of the said section shall receive, for each year in office, a pension equal to 2.8% of the average salary of his five best remunerated years in office. However, in the case of a chief judge, an associate chief judge or a judge who has had that status and is contemplated in the second paragraph of the said section, he shall receive either, for each year in office, a pension equal to 2.8% of the average salary of his five best remunerated years in office or a pension equal to 63% of the average salary of his five best remunerated years in office, whichever is greater.

Years in of-
fice

For the purposes of computing the pension, the following are considered to be years in office:

(1) the years in respect of which the judge paid a contribution under section 238 of the Courts of Justice Act;

(2) the years transferred under section 38 of the Act of 1978;

(3) the years redeemed under section 39 of the Act of 1978 but in respect of which no reimbursement under section 10 of the Act of 1979 was made.

Effect

This section has effect from 19 July 1978.

Reimburse-
ment

14. The Government, through the agency of the Commission administrative des régimes de retraite et d'assurances, shall reimburse, out of the consolidated revenue fund, to every judge who, before the coming into force of this Act, ceased to hold office in accordance with section 42 of the Act of 1978, the difference between the amount paid under section 42 of the Act of 1978 and the amount payable under section 13.

Reimburse-
ment

The judge is entitled to the reimbursement of the sum, with accrued interest. If he has died, the reimbursement shall be made to his heirs.

Notice

15. Within six months after the coming into force of this Act, the Commission administrative des régimes de retraite et d'assurances shall transmit to every judge having availed himself of section 39 of the Act of 1978, whether or not he has ceased to hold office, and to every judge having availed himself of section 42 of the Act of 1978 before the coming into force of this Act, or where such is the case, to their heirs, a notice setting out the provisions of sections 12 and 14 and indicating

(1) the sums paid by the judge for the redemption;

(2) whether the judge or his heirs is or are entitled to reimbursement of the sums contemplated in sections 12 and 14 or part thereof and if so, indicating the amount of the sums, with accrued interest;

(3) the grounds for the decision of the Commission;

(4) any other information prescribed by the Commission.

Rate of in-
terest

16. The rate of the interest referred to in sections 12 and 14 is the rate fixed pursuant to subparagraph *b* of the first paragraph of section 246 of the Courts of Justice Act.

Reimburse-
ment

17. The reimbursement provided for in sections 12 and 14 shall be made within three months after the mailing of the notice provided for in section 15.

Number of
judges

18. Notwithstanding paragraph 1 of section 3, the number of judges of the Superior Court provided in paragraph 1 of section 32 of the Courts of Justice Act is 86 until paragraph 2 of section 3 of this Act comes into force.

Coming into
force

19. This Act comes into force on 23 June 1987, except paragraphs 2 and 4 of section 3, which will come into force on the date or dates fixed by the Government.