

NATIONAL ASSEMBLY
Thirty-second Legislature, fourth session

1983, chapter 12
**AN ACT TO FAVOUR EARLY RETIREMENT AND IMPROVE
THE SURVIVING SPOUSE'S PENSION**

Bill 20

Introduced by Mr Denis Lazure, Minister responsible for Relations with Citizens

First reading: 18 May 1983

Second reading: 31 May 1983

Third reading: 16 June 1983

Assented to: 20 June 1983

Coming into force: 1 January 1984, except section 27 which will come into force on 20 June 1983

Act amended:

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



CHAPTER 12

An Act to favour early retirement
and improve the surviving spouse's pension

[Assented to 20 June 1983]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. R-9, s. 12,
am. **1.** Section 12 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by adding, after the second paragraph, the following paragraph:

Studies and
recommen-
dations “The Board may, in particular, carry out or cause to be carried out research and studies and make recommendations to the Minister of Manpower and Income Security in fields contemplated in this Act.”

c. R-9, s. 45,
am. **2.** Section 45 of the said Act is amended by replacing subparagraph c of the second paragraph by the following subparagraph:

“(c) after he reaches 65 years of age if a retirement pension is payable to him under this Act or under a similar plan, or”.

c. R-9, s. 48,
am. **3.** Section 48 of the said Act is amended by adding, at the end of the first paragraph, the following: “and his earnings after a retirement pension has become payable to him under this Act or under a similar plan.”

c. R-9, s. 51.1,
added **4.** The said Act is amended by inserting, after section 51, the following section:

Over-
payment **“51.1** An employee is deemed to have made an overpayment for a year when he is under 65 years of age and a retirement pension is payable to him under this Act or under a similar plan.

Computation The overpayment is a percentage of the contribution payable by him on his pensionable salary equal to the ratio between the number of months for which the pension is payable to him and 12.”

c. R-9, s. 95, am. **5.** Section 95 of the said Act is amended by inserting, after the second paragraph, the following paragraph:

60 years of age or over “However, in the case of a person 60 years of age or over, a disability is severe if by reason thereof the person is incapable regularly of carrying on the substantially gainful occupation he holds at the time he ceases to work owing to his disability.”

c. R-9, s. 96, am. **6.** Section 96 of the said Act is amended by adding, after the second paragraph, the following paragraph:

Date of disability “Furthermore, in no case where the third paragraph of section 95 applies may the date of disability be prior to 1 January 1984, or to the person’s sixtieth birthday if that is subsequent to 1 January 1984.”

c. R-9, s. 101, am. **7.** Section 101 of the said Act is amended

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

Contributory period “However, if the contributor dies after 31 December 1983 or if a retirement pension becomes payable to him after that date, his contributory period terminates in the month preceding the month in which he reaches 70 years of age, the month in which he dies or the month preceding that in which a retirement pension is paid to him, whichever occurs first.”;

(2) by replacing the word “third” in the first line of the last paragraph by the word “fourth”.

c. R-9, s. 103, am. **8.** Section 103 of the said Act is amended by adding, after the second paragraph, the following paragraph:

Applicability “This section does not apply where the contributor dies after 31 December 1983 or where a retirement pension becomes payable to him after that date.”

c. R-9, s. 104, replaced **9.** Section 104 of the said Act is replaced by the following section:

Deduction “**104.** Where, after making the deductions provided for in section 102.12 or 103, if applicable, the total number of months in the contributory period exceeds 120, in calculating the average monthly pensionable earnings of the contributor there shall be deducted from such total number the lesser of the two following numbers:

(a) 15% of such total number, counting any fraction of a month as a whole, and

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

Deduction

In such case, there shall also be deducted, from the aggregate pensionable earnings of such contributor remaining after the deductions provided for under section 102.12 or 103, the aggregate of such earnings for a number of months equal to the number of months deducted under the first paragraph, choosing the months, other than months for which deductions have already been made under section 102.12 or 103, for which such earnings are lowest.”

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

10. Section 105 of the said Act is amended by replacing paragraph *a* by the following paragraph:

“(a) *a retirement pension* to a contributor who has reached 60 years of age;”.

c. R-9, ss.
106.1, 106.2,
added

11. The said Act is amended by inserting, after section 106, the following sections:

Disability
pension

“**106.1** From 1 January 1984, for the purposes of a disability pension and of a disabled contributor’s child’s pension payable in respect of a contributor 60 years of age or over but under 65 years of age when he becomes disabled, a contributor is qualified only if he has made contributions for at least five years and for at least one-third of the total number of years included either wholly or partly within his contributory period.

Disability
pension

A contributor is also qualified for such purposes if he has made contributions for at least ten years.

Disability
pension

“**106.2** No person is qualified for a disability pension when a retirement pension is payable to him under this Act or under a similar plan.”

c. R-9, ss.
108-113,
replaced

12. Sections 108 to 113 of the said Act are replaced by the following sections:

Surviving
spouses
pension

“**108.** Only one surviving spouse’s pension may be paid under this Act in respect of a deceased contributor.

Single
pension

“**108.1** Where a surviving spouse’s pension is payable to a person under this Act or under a similar plan, no other surviving spouse’s pension is payable to him under this Act.

Greater
pension

“**108.2** A person who would but for section 108.1 be entitled to more than one surviving spouse’s pension under this Act may, upon application therefor, receive the greater of such pensions.

Discontinued
payment

“**108.3** Where payment of a surviving spouse’s pension has been discontinued owing to a remarriage which occurred before 1 January 1984, the pension becomes payable again upon application therefor.

- Date of payment However, the pension is payable under this section only from 1 January 1984, or from the twelfth month preceding the month following that in which the Board has received the application, if the twelfth month is subsequent to 1 January 1984.
- Computation “**108.4** The monthly amount of the pension which becomes payable again under section 108.3 is calculated as though it had not been discontinued.”
- c. R-9, s. 115, am. **13.** Section 115 of the said Act is amended by replacing the figure “110” in the last line by the figure “108”.
- c. R-9, s. 120, replaced
Basic monthly amount **14.** Section 120 of the said Act is replaced by the following sections:
“**120.** The retirement pension of a contributor is a basic monthly amount equal to 25% of his average monthly pensionable earnings.”
- Adjustment “**120.1** A retirement pension which becomes payable to a contributor after 31 December 1983 but on a date other than that of his sixty-fifth birthday is a monthly amount equal to the basic monthly amount of the retirement pension, adjusted in prescribed manner.”
- c. R-9, s. 124, am. **15.** Section 124 of the said Act is amended
(1) by replacing what precedes paragraph *a* of the third paragraph by the following:
“For the years 1974 to 1983, the amount of the flat rate benefit included in a disability pension is obtained by multiplying,”;
(2) by replacing paragraph *c* of the third paragraph by the following paragraph:
“(c) for a disability pension becoming payable from 1976 to 1983, the amount payable for the year 1975 by the ratio that the Pension Index for the year in which the benefit becomes payable bears to the Pension Index for the year 1975.”;
(3) by adding, after the third paragraph, the following paragraph:
“For each subsequent year, the amount of the flat rate benefit included in the disability pension is that of the preceding year adjusted as provided in section 119.”
- Flat rate benefit for 1974 to 1983
- Flat rate benefit for subsequent year
- c. R-9, s. 128, am. **16.** Section 128 of the said Act is amended by replacing paragraph *a* by the following paragraph:
“(a) six times the amount of the contributor’s retirement pension, calculated as provided in section 129 or section 130, and”.

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

17. Section 129 of the said Act is amended

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

Amount of
retirement
pension to
be used

“**129.** In the case of a contributor to whom a retirement pension is payable for the month during which he died, the amount of the retirement pension to be used in calculating the death benefit is the amount of such pension for that month, calculated without regard to sections 159 to 163.”;

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

Pension
payable after
31 Decem-
ber 1983

“However, in the case of a contributor to whom a retirement pension becomes payable after 31 December 1983, the amount of the retirement pension to be used in calculating the death benefit is the amount of the pension calculated without regard to the adjustment provided for in section 120.1.”

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

18. Section 132 of the said Act is amended

(1) by replacing what precedes subparagraph *a* of the first paragraph by the following:

Surviving
spouse's
pension

“**132.** A surviving spouse's pension payable to the surviving spouse of a contributor is a basic monthly amount which, in the case of a surviving spouse under 55 years of age, is”;

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

Surviving
spouse's
pension

“A surviving spouse's pension payable to the surviving spouse of a contributor is a basic monthly amount which, in the case of a surviving spouse 55 years of age or over but under 65 years of age at the time of the contributor's death, or who reaches 55 years of age thereafter, is

(a) a flat rate benefit of \$275 a month for the year 1984 and, for each subsequent year, a flat rate benefit equal to that of the previous year, adjusted in accordance with section 119, and

(b) 37.5% of the amount of the contributor's retirement pension, calculated in accordance with section 135.”;

(3) by replacing the word “second” in the third line of the last paragraph by the word “third”.

c. R-9, s.
133,
replaced

19. Section 133 of the said Act is replaced by the following section:

Surviving
spouse 65
years of age
or over

“**133.** A surviving spouse's pension payable to the surviving spouse of a contributor is a basic monthly amount which, in the case of a surviving spouse not under 65 years of age at the time of the contributor's

death, or who reaches that age thereafter, is equal to 60% of the amount of the contributor's retirement pension, calculated in accordance with section 135."

Declaratory section This section is declaratory.

c. R 9, ss. 134.1-134.4, added **20.** The said Act is amended by inserting, after section 134, the following sections:

Surviving spouse under 65 years of age **"134.1** From 1 January 1984 and notwithstanding section 134, where the surviving spouse, under 65 years of age, of a contributor first becomes entitled to a surviving spouse's pension provided for in this Act or to a retirement pension under this Act or under a similar plan, having become entitled to the other such pension, the surviving spouse's pension payable to the surviving spouse thereafter is a basic monthly amount equal to the sum of the two following amounts:

(a) a flat rate benefit calculated and, where required, adjusted in accordance with section 132, and

(b) an amount equal to the lesser of the two following amounts:

i. 37.5% of the amount of the contributor's retirement pension, calculated as provided in section 135 and adjusted, where required, in accordance with the third or fourth paragraph of section 132, and

ii. the difference between $1/12$ of 25% of the average of the Maximum Pensionable Earnings for the year in which the surviving spouse first became entitled to a retirement pension or to a surviving spouse's retirement pension, having become entitled to the other such pension, and for each of the two preceding years, and the amount of the surviving spouse's pension.

Surviving spouse 65 years of age or over **"134.2** From 1 January 1984 and notwithstanding sections 134 and 134.1, where the surviving spouse of a contributor who is receiving both the surviving spouse's pension provided for in this Act and a retirement pension payable under this Act or under a similar plan reaches 65 years of age, the surviving spouse's pension which is payable to the surviving spouse thereafter is a basic monthly amount equal to the lesser of the two following amounts:

(a) the greater of

i. the difference between 60% of the amount of the contributor's retirement pension, calculated in accordance with section 135, and 40% of the amount of the surviving spouse's retirement pension, and

ii. 37.5% of the amount of the contributor's retirement pension calculated in accordance with section 135;

(b) the difference between

- i. $\frac{1}{12}$ of 25% of the amount of the average of the Maximum Pensionable Earnings for the year in which the surviving spouse reaches 65 years of age and for each of the two preceding years, and
- ii. the amount of the retirement pension of the surviving spouse.

Surviving spouse 65 years of age or over

“**134.3** From 1 January 1984 and notwithstanding sections 134 and 134.1, where the surviving spouse, 65 years of age or over, of a contributor first becomes entitled to a surviving spouse’s pension provided for in this Act or to a retirement pension payable under this Act or under a similar plan, having become entitled to the other such pension, the surviving spouse’s pension payable to the surviving spouse thereafter is a basic monthly amount equal to the lesser of the two following amounts:

(a) the greater of the amounts calculated in accordance with paragraph *a* of section 134.2, and

(b) the difference between

- i. $\frac{1}{12}$ of 25% of the average of the Maximum Pensionable Earnings for the year in which the surviving spouse first became entitled to the surviving spouse’s pension provided for in this Act or to a retirement plan payable under this Act or under a similar plan, having become entitled to the other such pension, and for each of the two preceding years, and
- ii. the amount of the retirement pension of the surviving spouse.

Pension payable after 31 December 1983

“**134.4** Where the surviving spouse’s pension becomes payable after 31 December 1983, the amount of the surviving spouse’s pension to be used for the purposes of sections 134.1 to 134.3 is the amount of the pension calculated without regard to the adjustment provided for in section 120.1.”

c. R-9, s. 135, am.

21. Section 135 of the said Act is amended by replacing subparagraphs *a* and *b* of the second paragraph by the following subparagraphs:

“(a) reached 55 years of age or, as the case may be, 65 years of age, not having reached that age at the time of the death of the contributor,

“(b) first became entitled to a surviving spouse’s pension under this Act or to a retirement or disability pension under this Act or under a similar plan, having become entitled to the other such pension, or”.

c. R-9, s. 137.1, added

22. The said Act is amended by inserting, after section 137, the following section:

Computation
after 1
January
1984

“**137.1** From 1 January 1984 and notwithstanding section 137, where the surviving spouse of a contributor first becomes entitled to a surviving spouse’s pension provided for in this Act or to a disability pension under this Act or under a similar plan, having become entitled to the other such pension, the surviving spouse’s pension payable to the surviving spouse thereafter is a basic monthly amount which shall not exceed an amount that, when added to the amount of that spouse’s disability pension, is equal to the sum of the two following amounts:

(a) a flat rate benefit calculated in accordance with section 124; and

(b) an amount equal to the lesser of the two following amounts:

(i) the sum of the amount of the disability pension reduced by the flat rate benefit calculated in accordance with section 124, and 37.5% of the amount of the contributor’s retirement pension, calculated in accordance with section 135 and adjusted, where required, in accordance with the third or fourth paragraph of section 132, and

(ii) $\frac{1}{12}$ of 25% of the average of the Maximum Pensionable Earnings for the year in which the surviving spouse first became entitled to a disability pension or a surviving spouse’s pension, having become entitled to the other such pension, and for each of the two preceding years.

Minimum
amount

However, in no case may the aggregate of the two pensions contemplated in this section payable to the surviving spouse be less than the amount of the surviving spouse’s pension that would be payable to the surviving spouse if no disability pension were payable to that spouse under this Act or under a similar plan.”

c. R-9, s.
157.1, added

23. The said Act is amended by inserting, after section 157, the following section:

Commence-
ment

“**157.1** Notwithstanding the first and second paragraphs of section 157, a retirement pension is payable commencing with the latest of the following months if it is later than 31 December 1983:

(a) the month in which the contributor reached 60 years of age;

(b) the month following that in which the contributor applied, if he is under 70 years of age;

(c) the month following that in which the contributor ceased working, if he is then under 65 years of age;

(d) the month in which the contributor reached 65 years of age, if he has not ceased working;

(e) the twelfth month preceding the month following that in which the contributor applied, if he is over 70 years of age;

(*f*) the month in which the contributor reached 70 years of age, if he applied after reaching that age;

(*g*) the month of January 1984, if the contributor has reached 60 years of age but not 65 years of age before that month;

(*h*) the month chosen by the applicant in his application;

(*i*) the month following the latest month for which unadjusted pensionable earnings were allotted to the beneficiary following a partition provided for in section 102.1.”

c. R-9, s. 158.1, added **24.** The said Act is amended by inserting, after section 158, the following section:

Proof of termination of employment **“158.1** A contributor under 65 years of age who applies for a retirement pension shall, in prescribed manner, provide the Board with proof that he has ceased working.”

c. R-9, s. 164.1, added **25.** The said Act is amended by inserting, after section 164, the following section:

Working beneficiary **“164.1** The retirement pension payable to a beneficiary who is working is adjusted as prescribed.”

c. R-9, s. 166, am. **26.** Section 166 of the said Act is amended by adding the following paragraph:

Cessation **“It also ceases at the end of the month preceding that in which a retirement pension becomes payable to the beneficiary under this Act or under a similar plan.”**

c. R-9, s. 219, am. **27.** Section 219 of the said Act is amended

(1) by inserting, after paragraph *f*, the following paragraph:

“(f.1) determining, for the purposes of section 164.1, the circumstances, conditions and manner of adjustment of a retirement pension as well as the standards, factors and methods of calculation to be applied in making the adjustment,”;

(2) by inserting, after paragraph *i*, the following paragraph:

“(i.1) determining, for the purposes of the third paragraph of section 95, the circumstances and conditions under which a person may be considered to have ceased working by reason of his disability,”;

(3) by inserting, after paragraph *k*, the following paragraph:

“(k.1) determining, for the purposes of section 120.1, the manner of adjustment of a retirement pension and the standards, factors and methods of calculation to be applied in making the adjustment,”.

Surviving
spouse's
pension

28. Notwithstanding section 132 of the Act respecting the Québec Pension Plan, the surviving spouse's pension payable, after 31 December 1983, to the surviving spouse of a contributor, in the case of a surviving spouse 55 years of age or over but under 65 years of age on 1 January 1984 who became entitled to a pension before that date, is a basic monthly amount equal to the sum of the two following amounts:

(a) a flat rate benefit calculated in accordance with subparagraph *a* of the second paragraph of the said section 132, and

(b) 37.5% of the amount of the retirement pension of the contributor calculated in accordance with section 135 of the Act respecting the Québec Pension Plan as if the surviving spouse had reached 55 years of age on 1 January 1984.

Adjustment

The amount so obtained is adjusted, where required, in accordance with the third or fourth paragraph of the said section 132.

Exception

29. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

Coming into
force

30. This Act will come into force on 1 January 1984 except section 27, which will come into force on the date of sanction of this Act.