



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 149
(1997, chapter 73)

**An Act to reform the Québec Pension
Plan and to amend various legislative
provisions**

**Introduced 5 June 1997
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Assented to 17 December 1997**

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EXPLANATORY NOTES

This bill amends the Act respecting the Québec Pension Plan, in particular, to establish new rates of contribution which will increase gradually until 2003, and maintain the Basic Exemption at the level established for 1997.

The bill establishes new methods of calculation of the retirement pension of the beneficiary of a disability pension and provides for the adjustment of earnings used in the calculation of benefits, taking into account the average pensionable earnings for the last five years of the contributory period.

The bill also provides that every retired person who works is required to pay contributions to the pension plan.

The bill authorizes the Régie des rentes du Québec to pay, retroactively, for a maximum period of five years, the retirement pension that a person who is 65 years of age or over was entitled to receive but for which no application was made.

In addition, the bill replaces the death benefit currently established according to the worker's earnings by a flat benefit, and specifies the terms and conditions of payment of the benefit.

It also provides that a review of the application of the Act respecting the Québec Pension Plan will be made at least every three years and that a public consultation will be held in Parliamentary Committee at least every six years on the advisability of making changes to the benefits and to the rate of contribution.

Lastly, the bill extends the right to partition of earnings and partition of pension benefits to de facto spouses and proposes various other amendments concerning the administration of the pension plan and the payment of benefits. The bill also contains consequential amendments and transitional provisions.

LEGISLATION AMENDED BY THIS BILL :

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

- Automobile Insurance Act (R.S.Q., chapter A-25);
- Health Insurance Act (R.S.Q., chapter A-29);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).

Bill 149

AN ACT TO REFORM THE QUÉBEC PENSION PLAN AND TO AMEND VARIOUS LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 1 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), amended by section 319 of chapter 14 of the statutes of 1997 and by section 44 of chapter 57 of the statutes of 1997, is again amended

(1) by replacing the words “contract of personal service” and “contract of lease and hire of personal services” in paragraphs *c* and *g* by the words “contract of employment”;

(2) by replacing paragraph *i* by the following paragraph :

“(i) “employer”: a person, including the Government, who pays an employee a remuneration for his services;”;

(3) by inserting the words “or 102.10.3” after the figure “102.1” in the third line of paragraph *l*;

(4) by adding, at the end of subparagraph 3 of paragraph *v*, the following words: “, provided, in the latter case, that no other person is considered to be an eligible individual in respect of the same child; this subparagraph applies only if no person receives, in respect of the child, any family benefits within the meaning of subparagraph 1 or 2”.

The provisions of subparagraph 4 of the first paragraph have effect from 1 September 1997.

2. Section 3 of the said Act is amended by striking out paragraph *i*.

3. Section 4 of the said Act is amended by replacing the words “contract of lease and hire of personal services” in paragraph *d* by the words “contract of employment”.

4. Section 12 of the said Act, amended by section 128 of chapter 63 of the statutes of 1997, is again amended

(1) by replacing the words “an agent of the Crown in right of Québec” in the first paragraph by the words “a mandatary of the Government”;

(2) by replacing the words “general powers of a corporation, and” in the first line of the second paragraph by the words “capacity of a legal person and shall be vested with”.

5. The French text of section 15 of the said Act is amended by replacing the words “Au cas d’absence ou d’incapacité temporaire” in the first line of the third paragraph by the words “En cas d’absence ou d’empêchement”.

6. The French text of section 23.4 of the said Act is amended by replacing the words “Au cas d’absence ou d’incapacité temporaire” in the first line by the words “En cas d’absence ou d’empêchement”.

7. Section 41 of the said Act is amended by adding, at the end, the following paragraph :

“The adjustment to the maximum pensionable earnings of a worker, in the cases referred to in subparagraphs *b* and *c* of the third paragraph, does not apply if the year, in which the event concerned occurs, is subsequent to 1997.”

8. Section 42 of the said Act is amended

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

“42. The Basic Exemption is equal

(a) for the years 1966 to 1974, to 12% of the Maximum Pensionable Earnings for the year;

(b) for the years 1975 to 1997, to 10% of the Maximum Pensionable Earnings for the year;

(c) for any year from the year 1998, to \$3,500.”;

(2) by replacing the words “the preceding paragraphs” in the first line of the third paragraph by the words “subparagraph *a* or *b* of the first paragraph”.

9. Section 43 of the said Act is amended by adding, after the second paragraph, the following paragraph :

“From the year 1998, the personal exemption of a worker for the year in which a retirement pension becomes payable to him under this Act or a similar plan or for the year in which he reaches 70 years of age, if he is not the beneficiary of such a pension, is equal to the amount of the Basic Exemption multiplied by the proportion that the number of months of the year which precede the event concerned bears to 12. If the pensionable earnings of the worker for the year exceed the amount of the year’s Maximum Pensionable Earnings adjusted according to the same proportion, his personal exemption thus calculated is increased by the lesser of the following amounts :

(a) the Basic Exemption for the year multiplied by the proportion that the number of months in the year which are subsequent to the month preceding the event concerned bears to 12;

(b) the amount by which the pensionable earnings of the worker for the year exceed the year's Maximum Pensionable Earnings multiplied by the proportion that the number of months in the year that are prior to the event concerned bears to 12."

10. Section 44 of the said Act is amended by inserting the words “, calculated without taking account of the third paragraph of section 43” after the word “year” in the third line.

11. Section 44.1 of the said Act, amended by section 1 of chapter 47 of the statutes of 1996, is again amended

(1) by replacing the words “and 6.0% for the year 1997” at the end by the words “, 6.0% for the year 1997, and 6.4% for the year 1998”;

(2) by adding the following paragraph:

“The rate of contribution is 7.0% for the year 1999, 7.8% for the year 2000, 8.6% for the year 2001, 9.4% for the year 2002 and 9.9% for the year 2003 and subsequent years”.

12. Section 45 of the said Act, amended by section 2 of chapter 19 of the statutes of 1997, is again amended by adding, after the second paragraph, the following paragraph:

“The exclusion of income or amounts referred to in subparagraphs *c* and *d* of the second paragraph does not apply for years subsequent to 1997.”

13. Section 48 of the said Act is amended by adding, after the third paragraph, the following paragraph:

“The adjustment to the pensionable self-employed earnings of a worker, in the cases referred to in subparagraphs *b* and *c* of the third paragraph, does not apply if the year in which the event concerned occurs is subsequent to 1997.”

14. The French text of section 55 of the said Act is amended by replacing the words “considéré comme” in the second paragraph by the words “réputé être”.

15. Section 64 of the said Act is amended

(1) by replacing the words “sections 65, 69, 70 or 182” in the fourth line of the first paragraph by the words “any of those sections or under the provisions of the Taxation Act (chapter I-3) referred to in section 184”;

(2) by replacing the words “shall be deemed” in the first and second lines of the second paragraph by the words “is deemed”.

16. Section 71 of the said Act is amended

(1) by replacing the words “shall, on 30 April in the following year, be deemed” in the third and fourth lines of the first paragraph by the words “is, on 30 April of the following year, deemed”;

(2) by replacing, in the French text, the words “la présente loi est censée n’exiger ni déduction ni versement” in the second and third lines of the second paragraph by the words “aucune déduction ni versement ne sont exigés en vertu de la présente loi”.

17. Section 73 of the said Act is amended by striking out the words “deemed to be” in the first line.

18. The French text of section 78.1 of the said Act is amended by replacing the word “contribution” in the second line by the word “cotisation”.

19. Section 91.1 of the said Act is amended by adding, at the end, the following paragraph:

“In addition, 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 having taken effect between 30 June 1989 and 1 January 1994 may be considered to be the contributor’s surviving spouse where

(a) no partition of earnings was effected following the judgment;

(b) no new judgment of separation from bed and board took effect in their respect after 31 December 1993;

(c) no person meets the conditions set out in subparagraph *b* of the first paragraph of section 91.”

20. Section 94 of the said Act is repealed.

21. The said Act is amended by inserting, after section 95.3, the following section:

“95.4. The Board is not required to assess the disability of a person to whom an indemnity referred to in section 96.1 is payable or of a person who does not meet the conditions provided for in sections 106 and 106.1 as regards contributions to qualify for a disability pension.”

22. Section 96 of the said Act is amended

(1) by inserting the words “or 102.10.7” after the figure “102.5” in the first line of subparagraph *e* of the second paragraph;

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

“The beneficiary of a disability pension is deemed to be capable regularly of carrying on substantially gainful occupation and, consequently, to have ceased to be disabled upon having carried on such an occupation for three months.”

23. Section 96.3 of the said Act is amended

(1) by replacing the words “is considered” in the second and third lines of the second paragraph by the words “is deemed”;

(2) by replacing the figure “103” in the first line of the third paragraph by the figure “116.3”.

24. Section 97 of the said Act is repealed.

25. Section 98 of the said Act is amended

(1) by replacing subparagraph 3 of subparagraph *b* of the first paragraph by the following subparagraph:

“(3) the contributor’s personal exemption for the year, which is equal, for a year subsequent to the year 1997 in which the contributory period of the contributor ends within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, to the basic exemption reduced proportionately to the number of months in the year preceding, as the case may be, the month in which a retirement pension becomes payable to the contributor or preceding the month of the contributor’s seventieth birthday;”;

(2) by adding, at the end of subparagraph *c* of the first paragraph, the following words: “, which are equal, for a year subsequent to the year 1997 in which the contributory period of the contributor ends within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, to the maximum pensionable earnings of the year reduced proportionately to the number of months in the year preceding, as the case may be, the month in which a retirement pension becomes payable to the contributor or preceding the month of the contributor’s seventieth birthday”;

(3) by replacing the words “shall be deemed to be equal to zero” in the second and third lines of the second paragraph by the words “is deemed to be nil”;

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

“Where, for a year subsequent to the year 1997 in which the contributory period of the contributor ends within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, the amounts calculated under subparagraphs *a* and *b* of the first paragraph exceed the amount established under subparagraph *c* of that paragraph, the least of the following amounts shall be added to the total unadjusted pensionable earnings of the contributor for the year :

(*a*) the difference between the amounts calculated in subparagraphs *a* and *c* of the first paragraph ;

(*b*) the total of the following amounts :

(1) the difference between the amounts calculated under subparagraphs *b* and *c* of the first paragraph ;

(2) the basic exemption reduced by the amount established under subparagraph 3 of subparagraph *b* of the first paragraph ;

(*c*) the maximum pensionable earnings for the year reduced by the amount established under subparagraph *c* of the first paragraph.

However, where, for a year, the amount calculated in accordance with the third paragraph does not exceed the amount established under subparagraph 2 of subparagraph *b* of that paragraph, the amount added to the total unadjusted pensionable earnings of the contributor for the year is deemed to be nil.”

26. Section 99 of the said Act is amended

(1) by replacing, in the French text, the words “censée” or “censé” in the first, second, fourth, sixth and seventh paragraphs by the words “réputée” or “réputé” ;

(2) by inserting, after the fourth paragraph, the following paragraph :

“For a year subsequent to 1997, the allocation of the contribution, in the cases referred to in subparagraphs *b* and *c* of the third paragraph, applies only where the event concerned marks the end of the contributor’s contributory period within the meaning of section 101. In that case, the contribution is deemed to be paid for the contributor’s unadjusted pensionable earnings relating to months prior to the event concerned up to the amount of the Maximum Pensionable Earnings for the year, adjusted in proportion to the number of months in the year that are prior to the event concerned. The contributor’s unadjusted pensionable earnings which exceed that maximum amount are, in such a case, deemed to relate to the other months of the year.” ;

(3) by replacing the words “shall be deemed to have been made for each month in that year shall be deemed to be zero” in the second and third lines of the fifth paragraph by the words “is deemed to have been made for each month in that year is deemed to be nil”.

27. Section 100 of the said Act is repealed.

28. Section 102 of the said Act is repealed.

29. The said Act is amended by replacing the heading before section 102.1 by the following :

“DIVISION I.1

“PARTITION OF UNADJUSTED PENSIONABLE EARNINGS

“§1. — *Partition of earnings for the period of marriage*”.

30. Section 102.1 of the said Act, amended by section 1 of chapter 15 of the statutes of 1996, is again amended by replacing the words “in sections 102.2 to 102.10.2” in the third and fourth lines of the first paragraph by the words “by this subdivision”.

31. Section 102.5 of the said Act is amended

(1) by replacing the word “considered” in the first and second paragraphs by the word “presumed”;

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

32. Section 102.6 of the said Act is amended by replacing the word “assign” by the word “heir”.

33. Section 102.7 of the said Act is amended by replacing the word “assign” by the word “heir”.

34. The French text of section 102.10 of the said Act is amended by replacing the word “présumé” in the second line by the word “réputé”.

35. The said Act is amended by inserting, after section 102.10.2, enacted by section 4 of chapter 15 of the statutes of 1996, the following subdivision :

“§2. — *Partition of earnings for the periods of de facto union*

“102.10.3. Entitlement to the partition of the unadjusted pensionable earnings registered during a period of *de facto* union, rectified, if necessary, in the proportion indicated in section 180, applies, to the extent and in the manner provided for in this subdivision, in respect of the following persons :

(a) former *de facto* spouses who have ceased to live in a *de facto* union for at least 12 months or such spouses one of whom died in the 12-month period after they ceased to live in a *de facto* union if, at the time they ceased to live in

a *de facto* union, they had been living in a *de facto* union for at least three years or, in the cases mentioned in subparagraph *b* of the first paragraph of section 91, for at least one year and neither of them was married to another person; or

(*b*) former spouses or spouses legally separated from bed and board who lived in a *de facto* union before their marriage; the latter spouses are, with respect to the period of *de facto* union, considered to be former *de facto* spouses from the date of effect of the judgment of divorce, annulment of marriage or separation from bed and board.

“102.10.4. The application for partition must be made within three years after the expiry of the 12-month period provided for in section 102.10.3 or, as the case may be, within three years after the date of effect of the judgment of divorce, annulment of marriage or separation from bed and board. Where one of the former *de facto* spouses dies within the aforementioned 12-month period, the three-year time limit runs from the date of the death.

The application must be made jointly or, where an agreement in writing relating to the partition of earnings has been reached between them, by only one of the *de facto* spouses.

“102.10.5. The partition consists in the division in equal portions between the former *de facto* spouses of the sum of their unadjusted pensionable earnings for each month included in the period between the beginning of the year in which they began to live in a *de facto* union until the end of the year preceding, as the case may be, the date on which they ceased to live in a *de facto* union or the date of their marriage.

There shall be no partition for the following months:

- (*a*) the months referred to in section 102.4;
- (*b*) the months included in a period during which either of the former *de facto* spouses was married to another person;
- (*c*) the months during which the former *de facto* spouses are deemed, pursuant to the regulations, not to have lived in a *de facto* union.

“102.10.6. A former *de facto* spouse may, upon filing an agreement on the partition of earnings, obtain a statement of the unadjusted pensionable earnings entered to the account of the other former spouse in the Record of Contributors for the period of their *de facto* union.

“102.10.7. An application for partition is presumed to have been made on the date it is received by the Board with the prescribed documents and information and, where applicable, with the agreement on the partition of earnings. An application may, in no case, be presumed to have been made before the date on which the three-year time limit provided for in section 102.10.4 in respect of an application for partition begins to run.

“102.10.8. The application for partition may be withdrawn on joint application made within 90 days after the date on which the Board, in accordance with section 102.7.1, gives notice of the partition.

“102.10.9. Sections 102.4.1, 102.7.1, 102.8.1, 102.9 and 102.10, adapted as required, apply to a partition referred to in this subdivision.

“102.10.10. The provisions of this subdivision do not apply if the cessation of the *de facto* union is prior to 1 July 1999 or, in the case of partition for a period of *de facto* union prior to the marriage, if the judgment of separation from bed and board, divorce or annulment of marriage became effective before that date.”

36. Sections 103 and 104 of the said Act are repealed.

37. Section 105.2 of the said Act is amended

(1) by replacing the words “no disability pension is payable to a contributor” in the first and second lines by the words “no contributor qualifies for a disability pension”;

(2) by adding, at the end, the following sentence: “Exclusion from entitlement to a disability pension does not apply, however, if the indemnity is payable to a contributor for less than 16 days in the month, unless that month is the month preceding the month of the contributor’s sixty-fifth birthday or the month of the contributor’s death.”

38. Section 106 of the said Act is amended by inserting the words “wholly or partly included” before the words “in his contributory period” wherever they appear in subparagraphs *a*, *b* and *c* of the first paragraph.

39. Section 106.1 of the said Act is amended

(1) by inserting the words “or became, before that date, incapable regularly of carrying on any substantially gainful occupation” after the word “held” in the third line;

(2) by inserting the words “wholly or partly included” before the words “in his contributory period” in the fourth and fifth lines.

40. Section 106.3 of the said Act is amended

(1) by replacing the words “or, if he has ceased working within the meaning of section 158.2, from the age of 60” in the second and third lines by the words “, or from the age of 60 in the following cases:

(a) the contributor has ceased working within the meaning of section 158.2;

(b) the contributor's remuneration is reduced by at least 20% by reason of progressive retirement pursuant to an agreement entered into with the contributor's employer.”;

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

“However, no contributor qualifies for a retirement pension before the age of 65 if an indemnity referred to in section 105.1 or 105.2 is payable to the contributor, unless the retirement pension has become payable to the contributor before that indemnity. Exclusion from entitlement to a retirement pension for the beneficiary of an indemnity referred to in section 105.1 applies only if the contributor otherwise qualifies for a disability pension.”

41. The said Act is amended by inserting, after section 107, the following section:

“107.1. Where a contributor who has received family benefits has not paid contributions for the number of years required to qualify for a disability pension under section 106 or 106.1 or for the survivors' benefits under section 107, the contributor may be considered to have paid contributions for the number of years required by those provisions if

(1) at least one year remains partially included in the contributor's contributory period after excluding, within the meaning of subparagraph c of the second paragraph of section 101, the months for which the contributor received family benefits;

(2) contributions have been paid for the following number of months:

(a) one-half of the total number of months included in the contributor's contributory period, but not less than 24 months, with respect to the pension referred to in section 106;

(b) one-third of the total number of months included in the contributor's contributory period, but not less than 60 months, with respect to the pension referred to in section 106.1;

(c) one-third of the total number of months included in the contributor's contributory period, but not less than 36 months, with respect to the benefits referred to in section 107.”

42. The said Act is amended by inserting, after section 116, the following:

“Pensionable Earnings for One Month

“116.1. For the calculation of a benefit, the pensionable earnings of a contributor for each month are his unadjusted pensionable earnings for that month multiplied by the ratio between the average Maximum Pensionable Earnings relating to the year for which the average monthly pensionable

earnings of the contributor are established and the Maximum Pensionable Earnings for the year that includes that month.

The average Maximum Pensionable Earnings relating to a year is equal

(a) if the year concerned is prior to 1998, to the average Maximum Pensionable Earnings for that year and the two preceding years, except that, for the year 1967, only one preceding year is considered,

(b) if the year concerned is the year 1998, to the average Maximum Pensionable Earnings for that year and the three preceding years, except in the case of the calculation of a retirement pension or a disability pension payable from a date prior to 1 July 1998 or a surviving spouse's pension payable in respect of a death occurring before 1 July 1998, in which cases only two preceding years shall be considered;

(c) if the year concerned is subsequent to 1998, to the average Maximum Pensionable Earnings for that year and the four preceding years.

However, if the contributor is 65 years of age or over on 1 January 1998, the average Maximum Pensionable Earnings shall be calculated in accordance with subparagraph *a* of the second paragraph, regardless of the year considered. The same applies to the calculation of the maximum monthly retirement pension used to establish the amount of the surviving spouse's pension where the pension is combined with a retirement pension payable under this Act or a similar plan to a contributor 65 years of age or over on 1 January 1998 or with a disability pension or retirement pension that becomes payable to the contributor under this Act or a similar plan before 1 July 1998.

“Average Monthly Pensionable Earnings

“116.2. A contributor's average monthly pensionable earnings are equal to G/N

where

G is the total pensionable earnings of the contributor for each month included in his contributory period,

N is the total number of months included in the contributor's contributory period or the following basic number, whichever is higher, depending on the benefit calculated:

(a) for the retirement pension, the basic number of contributory months of the contributor, which is 120 less the number of months excluded from his contributory period under subparagraph *a* or *b* of the second paragraph of section 101;

(b) for the disability pension, 24 months or, if the contributor's disability date to qualify for the pension is prior to 1 July 1993, 60 months;

(c) for the surviving spouse's pension or the death benefit, in respect of a contributor who died after 31 December 1993 and who was not, at the time of his death, the beneficiary of a retirement pension payable under this Act or a similar plan, 36 months.

“116.3. In calculating the average monthly pensionable earnings of a contributor, the following months may be excluded from the total number of months in the contributory period:

- (a) the months for which the contributor has received a family benefit, and
- (b) the months included in a period of indemnity of the contributor,

in the case of months for which the contributor's pensionable earnings are less than his average monthly pensionable earnings calculated before any exclusion under this section or under section 116.4 and provided that such an exclusion is to the advantage of the beneficiary of the benefit.

However, the exclusion may not have the effect of reducing the contributory period to a number of months which is less than the basic number applicable, in accordance with section 116.2, to the benefit calculated.

The exclusion is effected beginning with the months for which the pensionable earnings are the lowest; as a consequence of the exclusion, the sum of the pensionable earnings corresponding to the months so excluded is subtracted from the total of the pensionable earnings of the contributor.

“116.4. Where the total number of months in the contributory period of the contributor, after any exclusion under section 116.3, exceeds 120, a number of months equal to the lesser of the following is excluded from the contributory period:

- (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.

The exclusion is effected by selecting the months for which the pensionable earnings are the lowest; as a consequence of the exclusion, the sum of the pensionable earnings corresponding to the months so excluded is subtracted from the total of the pensionable earnings of the contributor.

“116.5. The contributor's pensionable earnings which relate to months subsequent to the end of the contributory period, within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, may be substituted, after months are excluded under section 116.3, for the pensionable earnings relating to months of the contributory period in which contributory earnings are lower. The substitution shall first be effected in respect of the months for which contributory earnings are the lowest.

The pension increase that may result from the substitution of earnings shall have effect from the month of January of the year following the year to which they relate or, if later, from the month in which the pension becomes payable.

“Maximum Monthly Retirement Pension

“116.6. The maximum monthly retirement pension for a year is the amount that is 25% of 1/12 of the average Maximum Pensionable Earnings for the year, established in accordance with section 116.1.”

43. Section 117 of the said Act is amended by replacing the fifth paragraph by the following paragraph:

“However, the Pension Index for a year is, in the following circumstances, equal to the Pension Index for the preceding year

(a) for any year prior to 1998, if the result of the calculation provided for in this section is less than 1.01 times the Pension Index for the preceding year;

(b) from the year 1998, if the result of the calculation provided for in this section is less than the Pension Index for the preceding year.”

44. Section 120 of the said Act is amended by inserting, after the word “earnings” in the second line, the following words: “, calculated as provided in sections 116.1 to 116.5, for the year in which the retirement pension becomes payable. The amount is adjusted in accordance with sections 120.1 and 120.2”.

45. The said Act is amended by inserting, after section 120.1, the following section:

“120.2. The basic monthly amount of retirement pension of a contributor is reduced by 0.5% for each month for which he received, between the age of 60 and 65, a disability pension under this Act or a similar plan.

The reduction, however, does not apply to a contributor who has become disabled, within the meaning of section 96, before 1 January 1999.”

46. Section 121 of the said Act is repealed.

47. Section 123 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) 75% of the amount that is 25% of the average monthly pensionable earnings of the contributor, calculated as provided in sections 116.1 to 116.4, for the year in which the disability pension becomes payable.”

48. Sections 125 and 126 of the said Act are repealed.

49. Section 128 of the said Act is replaced by the following section :

“128. The amount of the death benefit payable for a death occurring before 1 January 1998 shall be equal to the lesser of the following amounts :

(a) six times the amount calculated in accordance with the first paragraph of section 137 depending on the contributor’s situation at the time of the contributor’s death ;

(b) 10% of the maximum pensionable earnings for the year in which the contributor dies.

For any death occurring from 1 January 1998, the death benefit shall be equal to \$2,500.”

50. Sections 129 to 131 of the said Act are repealed.

51. Section 133 of the said Act is amended by replacing the words “retirement pension of the contributor” in the fourth line of the first paragraph by the words “amount established in accordance with section 137”.

52. Section 134 of the said Act is amended by replacing the words “retirement pension of the contributor” in the fourth line by the words “amount established in accordance with section 137”.

53. Section 135 of the said Act is amended by replacing the definitions of “a” and “b” in the first paragraph by the following :

“where

“a” is the amount established in accordance with section 137 ;

“b” is the maximum monthly retirement pension, calculated in accordance with section 116.6, for the year that includes the month for which the basic monthly amount is established ;”.

54. Section 136 of the said Act is amended by replacing the definitions of “a” and “c” by the following :

“where

“a” is the amount established in accordance with section 137 ;

“c” is the maximum monthly retirement pension for the year that includes the month for which the basic monthly amount is established, calculated in accordance with section 116.6 and adjusted according to section 120.1 by taking into account the age of the surviving spouse at the time of retirement, and according to section 120.2 ;”.

55. Section 137 of the said Act is replaced by the following section:

“137. For the calculation of the basic monthly amount of the surviving spouse’s pension, the amount to be used is, depending on the contributor’s situation for the month of his death,

(1) in the case of a contributor to whom a retirement pension was payable, the amount of that pension for the month of his death, established before any partition under sections 158.3 to 158.8 or a similar plan or adjustments provided for in sections 120.1 and 120.2. If the basic number of months established in accordance with section 116.2 for the calculation of the retirement pension of the contributor is higher than the total number of months included in his contributory period, the amount of the retirement pension must be multiplied by the proportion that the basic number bears to 36 or the total number of months included in his contributory period, whichever is higher;

(2) in other cases, an amount equal to 25% of the average monthly pensionable earnings of the contributor, calculated as provided in sections 116.1 to 116.5, for the year of his death.

The amount obtained is adjusted by multiplying it by the ratio between the Pension Index for the year including the month for which the monthly basic amount is established and the Pension Index for the year of the contributor’s death. The Pension Index limits provided for in subparagraphs *a* and *b* of the second paragraph of section 117 do not apply to the adjustment.”

56. Section 139.1 of the said Act is amended by inserting the words “or is declared disabled, for the purposes of qualification for a disability pension payable under this Act or a similar plan, on a date prior to the expiry of that period” after the word “pension” in the third line of the second paragraph.

57. Section 139.2 of the said Act is amended

(1) by striking out the words “by mail” in the second line of the first paragraph;

(2) by inserting the words “and the contributor’s entitlement to a replacement indemnity giving rise to exclusion from entitlement to a disability pension under section 105.2 has not been recognized” after the word “Commission” in the fifth line of the third paragraph;

(3) by adding, after the third paragraph, the following paragraph:

“Where an application for retirement pension is made by a contributor who, while he was 59 years of age or over, was informed that his application for a disability pension was refused or that his disability pension ceased to be payable for a reason other than his having reached 65 years of age or his becoming qualified for an indemnity referred to in section 96.1, the Board may consider that the application is made during the latest of the following months:

(a) the month in which the application for a disability pension was filed by the contributor;

(b) the last month for which the disability pension was payable to him;

(c) the month preceding the month in which he reaches 60 years of age;

(d) the month preceding the month from which payment of the retirement pension is to be made according to the contributor's application."

58. Section 143.0.1 of the said Act is amended by replacing the first two sentences of the first paragraph by the following sentence: "Any unpaid amount of benefit bears interest from the month following the month for which the amount is payable, except that no interest runs before the fifth month following the month in which the application for benefit is received."

59. The said Act is amended by inserting, after section 143.0.1, the following section:

"143.0.2. Every beneficiary of benefits must inform the Board of any change in his situation which may affect his entitlement to, or the amount of, the benefits."

60. Section 145 of the said Act, amended by section 128 of chapter 63 of the statutes of 1997, is again amended by adding, after the second paragraph, the following paragraph:

"In addition, the Board may, when authorized in writing by a contributor who is the beneficiary of a disability insurance plan whose benefits and those of a disability pension are integrated, deduct from the retroactive disability pension payable to the contributor any amount which would not have been paid to him under the insurance plan had he received the disability pension. The amount deducted shall not exceed the amount of the payment made under the insurance plan. The terms and conditions of deduction and remittance of the amount to the administrator of the plan shall be fixed by regulation."

61. Section 148 of the said Act, amended by section 2 of chapter 55 of the statutes of 1995, is again amended by inserting the words "or a retirement pension" after the word "pension" in the third line.

62. Section 157.1 of the said Act is replaced by the following section:

"157.1. A retirement pension is payable from the latest of the following months:

(a) the month in which the contributor reached 65 years of age;

(b) the month following the month in which the contributor ceased working, the month in which the contributor reached 70 years of age or the month

following the month in which the contributor's application was made, whichever is earliest;

(c) the fifty-ninth month preceding the contributor's application;

(d) the month designated in the contributor's application for the first payment of the retirement pension;

(e) the month of July 1998, unless the contributor already reached 70 years of age by 1 July 1998 and the contributor's application is made before 1 July 1999, in which case the month to be considered shall be the month in which the contributor reached 70 years of age or the eleventh month preceding the month in which the application is made, whichever is later.

However, with respect to a contributor under 65 years of age who has ceased working or whose remuneration is reduced by reason of progressive retirement pursuant to an agreement entered into with the contributor's employer, the retirement pension may, where the contributor applies therefor before that age, be payable from the month that is the latest of the following months:

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

(b) the month following the month of the contributor's application;

(c) the month following the month in which, as the case may be, the contributor ceased working or the reduction in the contributor's remuneration by reason of progressive retirement reached at least 20%;

(d) the month designated in the contributor's application for the first payment of the retirement pension.

Notwithstanding the first and second paragraphs, the retirement pension that is payable only by reason of the allotment of unadjusted pensionable earnings following a partition under section 102.1 or 102.10.3 shall not be payable before the month following the month in which the application for partition was made."

63. Section 158.1 of the said Act is amended by adding, at the end, the following words: "or that his remuneration has been reduced by reason of progressive retirement".

64. Section 158.2 of the said Act is amended by replacing the words "25% of the average of the Maximum Pensionable Earnings for the year during which the retirement pension would become payable to him and for each of the two preceding years" in the fifth, sixth and seventh lines of the first paragraph by the words "25% of the Maximum Pensionable Earnings, for the year in which the retirement pension would become payable".

65. Section 158.3 of the said Act is amended

(1) by replacing the first four lines of the first paragraph by the following :

“158.3. A retirement pension may be partitioned between the beneficiary and the beneficiary’s spouse

(1) if they are married and not legally separated from bed and board, upon written application by either of them;

(2) if neither of them is married to another person and they have been living in a *de facto* union for at least three years or, in the cases mentioned in subparagraph *b* of the first paragraph of section 91, for at least one year, upon written application made jointly, or

(3) if the beneficiary’s spouse satisfies one of the following conditions:”;

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

“Any partition made in favour of a spouse to whom subparagraph *a* or *b* of subparagraph 3 of the first paragraph applies entails the partition of the spouse’s own pension; in the case of subparagraph *b*, partition is effected in accordance with the agreement referred to therein.”

66. Section 158.5 of the said Act is amended

(1) by replacing the definition of “*r*” by the following :

““*r*” is the amount of the retirement pension which, if there were no partition, would be payable for the month in which the partition becomes effective;”;

(2) by replacing the words “of marriage of the spouses” in the definition of “*m*” by the words “in which the spouses lived together”.

67. Section 158.6 of the said Act is amended

(1) by replacing the fifth, sixth and seventh lines of paragraph *b* of paragraph 1 by the following: “— the month preceding the date of effect of the partition and the month preceding the seventieth birthday of the spouse who is not a contributor, whichever is earlier;”;

(2) by replacing the words “subparagraphs *a* and *b*” in the thirteenth line of paragraph 1 by the words “subparagraphs *a* and *b* of subparagraph 1”;

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

“(2) the period in which the spouses lived together means

(*a*) in the case of married spouses, the period which begins on the first day of the month of their marriage and ends on the last day of their combined contributory period; if a joint application is made, every period of *de facto*

union prior to the marriage as defined by regulation shall also be included in the period in which the spouses lived together;

(b) in the case of *de facto* spouses, the period of *de facto* union, which begins on the first day of the month in which they began to live in a *de facto* union and ends on the last day of their combined contributory period.

The months that do not form part of the combined contributory period of the spouses are excluded from the period in which the spouses lived together as well as the months during which the *de facto* spouses are, pursuant to the regulations, deemed not to have lived in a *de facto* union.”

68. Section 158.7 of the said Act is amended

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

“158.7. Partition of the retirement pension has effect from the later of the following months:

(a) the month following the month in which the Board approves the application;

(b) the month indicated in the application for partition, which shall not be later than the twelfth month following the month of the application.”;

(2) by inserting the words “indicate the date on which the partition takes effect and” after the word “shall” in the second line of the second paragraph.

69. Section 158.8 of the said Act is amended

(1) by replacing the words “subparagraph *c*” in the first line of paragraph *b* by the words “subparagraph *c* of subparagraph 3”;

(2) by replacing the word “spouses” in the last line of paragraph *c* by the words “married spouses or by either of the *de facto* spouses”;

(3) by adding, after paragraph *c*, the following paragraph:

“(d) the Board is informed that the *de facto* spouses have ceased to live in a *de facto* union for at least 12 months.”

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

“168. The death benefit shall be paid to the person or charity, whether or not it is endowed with juridical personality, that has paid the funeral expenses, provided that an application therefor is made within 60 days after the contributor’s death and that vouchers are produced within that time.

If the application is not made within the allotted time, the death benefit shall be paid to the first of the following applicants :

(a) the person or body referred to in the first paragraph, on production of vouchers;

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

The benefit shall be paid to the person or body that has paid for the funeral expenses but only up to an amount equal to the amount of those expenses. If the amount of funeral expenses that has been paid is less than the amount of the death benefit, any remaining balance shall be paid in accordance with subparagraph *b* of the second paragraph.”

71. Section 169 of the said Act is amended by replacing the words “testamentary executor” in the second line by the words “liquidator of the succession”.

72. Section 175 of the said Act is amended by striking out the words “, in the absence of any evidence to the contrary,” in the second and third lines of the second paragraph.

73. Section 176 of the said Act is amended by inserting the words “, in particular, the person” after the word “person” in the second line.

74. Section 177.1 of the said Act is amended by inserting the figure “, 102.10.3” after the figure “102.1” in the third line.

75. Section 180.1 of the said Act is amended by replacing the words “section 102.1” wherever they appear by the words “section 102.1 or 102.10.3”.

76. Section 180.2 of the said Act is amended

(1) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) the identification, for the purposes of sections 95.4, 96.1 to 96.3, 101, 105.2, 106.3, 116.3, 139, 148 and 166, of contributors who are beneficiaries of a replacement indemnity and the months or parts of months for which that indemnity is payable to them;”;

(2) by inserting the words “or retirement pension” after the word “pension” in the first line of subparagraph *c* of the second paragraph.

77. Section 185 of the said Act is amended by striking out the words “deemed to be” in the first line.

78. Section 192 of the said Act is amended

(1) by adding, at the end of the first paragraph, the following sentence: “In addition, an application for a statement of earnings may be made by an employer, on behalf of employees if he provides the Board with information allowing the employees to be identified; the statement of earnings shall, in such a case, be transmitted to the personal address of each contributor mentioned in the application or, in a sealed envelope, through his employer.”;

(2) by adding, at the end of the third paragraph, the following words: “and notwithstanding section 13 of the Act respecting the protection of personal information in the private sector (chapter P-39.1)”.

79. Section 194 of the said Act, amended by section 37 of chapter 31 of the statutes of 1996, is again amended by replacing the second paragraph by the following paragraph:

“An entry in the Record of Contributors relating to pensionable earnings within the meaning of Title III or to a contribution under this Act may not be rectified if four years have elapsed from the end of the year in which the entry was made. The Board may, however, make a correction in the Record of Contributors after the expiry of the four years where the change consists in increasing an amount entered to the account of a contributor if, according to the information provided to the Board, the amount is less than the amount that should be entered or, subject to section 194.1, where the change consists in striking off an erroneous entry in the account of a person if

(1) an amount erroneously entered to the account of the person is transferred to the account of another contributor;

(2) an amount entered under a similar plan which has erroneously been entered as a contribution under this Act;

(3) a person to whose account earnings and contributions are entered for a year declares not to have contributed or to have contributed for an amount that is less than the amount entered for the year concerned and it is established, to the satisfaction of the Board, that no contribution has actually been paid in relation to the amounts concerned for that year in respect of that person.”

80. The said Act is amended by inserting, after section 194, the following section:

“194.1. No correction that would reduce a pension that is in payment may be made by the Board under subparagraph 1 or 3 of the second paragraph of section 194 after the expiry of the four-year time limit provided for therein, except at the request or with the consent of the contributor or the beneficiary of the pension.”

81. Section 207 of the said Act is amended by replacing the words “Her Majesty” in the second line by the words “the Government”.

82. Section 216 of the said Act is amended

(1) by replacing the word “five” in the first line of the first paragraph by the word “three”;

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

“An actuarial valuation prepared under the first paragraph shall describe the situation of the plan as of 31 December of a year ; the valuation report must be available before the end of the following year.»;

(3) by striking out the second sentence of the third paragraph.

83. The said Act is amended by inserting, after section 218, the following section :

“218.1. At least every six years, the competent committee of the National Assembly shall hold a public consultation on the examination of the operation of this Act, the state of the Board’s account and the accumulation of the reserve, and the advisability of proposing changes to the benefits provided for in this Act and to the rate of contribution.”

84. Section 219 of the said Act, amended by section 5 of chapter 15 of the statutes of 1996 and by section 4 of chapter 19 of the statutes of 1997, is again amended

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

“(g.1) for the partition of unadjusted pensionable earnings between former *de facto* spouses, under sections 102.10.3 to 102.10.9 :

(1) defining the periods in which former *de facto* spouses are deemed not to have lived in a *de facto* union ;

(2) determining the content of an agreement relating to such a partition ;

“(g.2) defining, for the partition of a retirement pension under sections 158.3 to 158.8, the periods in which *de facto* spouses are deemed not to have lived in a *de facto* union and adapting those provisions to the situation of married spouses who lived in a *de facto* union before their marriage ;”;

(2) by inserting the words “and the third paragraph of section 96” after the figure “95” in the first line of paragraph *h.1* ;

(3) by adding, after paragraph *w*, the following paragraph :

“(x) fixing, for the purposes of the third paragraph of section 145, the conditions, manner and form of an application for the transfer of retroactive disability pension and of an application relating to the deduction and remittance of the amounts thus transferred to the administrator of a disability insurance plan.”

85. Section 224 of the said Act is amended

(1) by replacing the word “corporation” in the first line by the words “legal person”;

(2) by inserting the words “chief executive officer and every” after the words “director or” in the second line;

(3) by replacing the word “corporation” in the second and fifth lines by the words “legal person”.

86. The said Act is amended by replacing the words “censé” or “censée” by the words “réputé” or “réputée” wherever they appear in the French texts of sections 7, 9, 51, 57, 61, 67 and 206.

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

87. Section 42.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended

(1) by replacing subparagraph *b* of the second paragraph by the following subparagraph:

“(b) the identification, for the purposes of sections 95.4, 96.1 to 96.3, 101, 105.2, 106.3, 116.3, 139, 148 and 166 of that Act, of contributors who are beneficiaries of an income replacement indemnity and the months or parts of months for which that indemnity is payable to them;”;

(2) by inserting the words “or retirement pension” after the word “pension” in the first line of subparagraph *c* of the second paragraph.

88. Section 144 of the said Act, amended by section 128 of chapter 63 of the statutes of 1997, is again amended by inserting the words “or retirement pension” after the word “pension” in the third line of the third paragraph.

AUTOMOBILE INSURANCE ACT

89. Section 83.28 of the Automobile Insurance Act (R.S.Q., chapter A-25), amended by section 128 of chapter 63 of the statutes of 1997, is again amended

(1) by inserting the words “or retirement pension” after the word “pension” in the third line of the fifth paragraph;

(2) by inserting the words “or 106.3” after the figure “105.1” in the fifth line of the fifth paragraph.

HEALTH INSURANCE ACT

90. Section 65 of the Health Insurance Act (R.S.Q., chapter A-29), amended by section 128 of chapter 63 of the statutes of 1997, is again amended by inserting the words “language code,” after the word “address,” in the fifth line of the fourth paragraph.

TRANSITIONAL AND FINAL PROVISIONS

91. The repeal of paragraph *i* of section 3 of the Act respecting the Québec Pension Plan does not affect the rights of persons who held excepted employment on 31 December 1997.

92. The provisions of the second paragraph of section 91.1 of the Act respecting the Québec Pension Plan, enacted by section 19, apply to deaths occurring after 31 December 1993. An application for a surviving spouse’s pension based on those provisions for a death that occurred between that date and 1 January 1998 may not give rise to the payment of that pension for a period prior to that last date unless it is made before 1 January 1999; in that case, the pension shall be payable from the month following the month of the death of the contributor.

93. The provisions of the second paragraph of section 106.3 of the Act respecting the Québec Pension Plan, enacted by paragraph 2 of section 40, apply only to retirement pensions which become payable after 30 June 1998.

94. The provisions of section 107.1 of the Act respecting the Québec Pension Plan, enacted by section 41, apply to all applications for benefits, even those prior to 1 January 1998.

However, with respect to disability the date of which is prior to 1 July 1993, the provisions of subparagraph *a* of paragraph 2 of that section shall be read as requiring that contributions be paid for one-third of the total number of months included in the contributor’s contributory period, but for at least 60 months and, where the total number of years wholly or partly included in the contributory period exceeds 10, for at least five of the last ten years.

95. Section 139.1 of the Act respecting the Québec Pension Plan, amended by section 56, applies to applications for a disability pension made from 1 January 1998.

The beneficiary of a retirement pension whose application for a disability pension made before that date has been refused on the ground that it was made more than six months after the first payment of a retirement pension is deemed to have made the application again on 1 January 1998. Similarly, an application for a disability pension made before 1 January 1999 by any other beneficiary

of a retirement pension the first payment of which is prior to 1 January 1998 is deemed to have been made on that last date.

The provisions of the second paragraph apply only where, pursuant to the provisions of section 139.1 of the Act respecting the Québec Pension Plan as amended, the time limit for cancellation by the beneficiary of an application for a retirement pension has not expired on 1 January 1998, having regard to the provisions of section 96 of that Act.

96. The second paragraph of section 194 of the Act respecting the Québec Pension Plan, enacted by section 79, applies to any entry in the Record of Contributors, including an entry made more than four years before the date of coming into force of that section.

97. The first actuarial valuation to be prepared under section 216 of the Act respecting the Québec Pension Plan, as amended by section 82, shall describe the situation of the Québec Pension Plan as of 31 December 1997.

98. This Act comes into force on 1 January 1998, except

(1) the following provisions, which will come into force on 1 July 1998: the provisions of paragraph 2 of section 40, of paragraph 2 of section 57 and of sections 61, 62, 70, 88 and 89, subject, however, with respect to section 62, to the provisions of paragraph 2 and the following paragraph;

(2) the following provisions, which will come into force on 1 July 1999: the provisions of paragraph 3 of section 1, of paragraph 1 of section 22 and of sections 29, 30 and 35, those of section 62 to the extent that they concern the reference to section 102.10.3 in the third paragraph of section 157.1 of the Act respecting the Québec Pension Plan, those of section 65, of paragraph 2 of section 66, of paragraphs 2 and 3 of section 67 and of sections 69, 74 and 75 and those of paragraph 1 of section 84.

The provisions of the second paragraph of section 157.1 of the Act respecting the Québec Pension Plan enacted by section 62, to the extent that they concern the retirement pension of a contributor under 65 years of age whose remuneration is reduced by reason of progressive retirement, apply from 1 January 1998.