



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 9

(2001, chapter 55)

An Act to amend the Act to facilitate the payment of support

Introduced 8 May 2001

Passage in principle 17 May 2001

Passage 19 December 2001

Assented to 20 December 2001

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EXPLANATORY NOTES

This bill amends the Act to facilitate the payment of support in order to solve various problems related to the application and interpretation of the Act.

First, amendments are proposed to standardize the provisions relating to the security required of debtors of support and to exempt debtors from furnishing security if they receive employment insurance benefits or an employment-assistance allowance.

In addition, existing mechanisms for the recovery of outstanding amounts are modified and new mechanisms are introduced. In that connection, the powers of the Minister of Revenue to determine an employment relationship and to obtain information are clarified. As well, a notice sent by the Minister of Revenue to a third party concerning the collection of amounts due to a person owing an amount under the Act will remain valid no longer for one year only but until the debt in respect of which the notice was sent is wholly paid or until the third party has discharged all obligations towards his or her creditor. Moreover, the person to whom a debtor of support transfers property will henceforth, on certain conditions, become solidarily liable for the amount owed by the debtor.

Lastly, the time allowed to exercise certain remedies is extended from 10 to 20 days.

Bill 9

AN ACT TO AMEND THE ACT TO FACILITATE THE PAYMENT OF SUPPORT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 4 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended by adding the following paragraph at the end :

“The security furnished by a debtor must be maintained.”

2. Section 5 of the said Act is amended by inserting “and maintain” after “furnish” in subparagraph 1 of the first paragraph.

3. Section 8 of the said Act is amended by inserting “or maintain” after “furnish” in the second paragraph.

4. Section 14 of the said Act is amended by adding the following sentence at the end : “The same applies where the Minister has reason to believe that a debtor works for a person who declares that that is not the case.”

5. Section 26 of the said Act is amended by replacing the second paragraph by the following paragraph :

“In such cases, security must be furnished to the Minister and maintained by the debtor, except where the debtor receives employment insurance benefits from the federal government or an employment-assistance allowance from Emploi-Québec.”

6. Section 30 of the said Act is amended by replacing “three months” in the first paragraph by “one month”.

7. Section 48 of the said Act is amended

(1) by replacing “is bound to make a payment, within one year after the date of the notice,” in the first and second lines of the first paragraph by “, by virtue of an existing obligation, is or will be bound to make a payment” ;

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

“The same applies in the case of a payment to be made to a creditor holding a security furnished by a person owing an amount under this Act or to the

assignee of a claim assigned by such person where the payment would, but for the security or assignment of claim, be made to that person.”

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

“**49.** Where a person owing an amount under this Act is or is to become the debtor of a financial institution and has furnished security for the debt, and the institution has not yet paid its consideration for the debt, the Minister may, by written notice, require that the institution pay to the Minister all or part of the consideration.”

9. Section 50 of the said Act is amended

(1) by striking out “, within one year after the date of the notice,” in the second line of the first paragraph ;

(2) by replacing “is to be, within one year after the date of the notice,” in the second line of the second paragraph by “is or is to be”.

10. The said Act is amended by inserting the following section after section 50:

“**50.1.** A notice of the Minister sent to a person pursuant to section 48, 49 or 50 remains valid and binding until release is given.

Release is given by the Minister upon full payment of the debt in respect of which the notice was sent or upon full discharge by the person referred to in the first paragraph of all obligations towards the person’s creditor.”

11. The said Act is amended by inserting the following sections after section 51 :

“**51.1.** Where a person owing an amount under this Act transfers property, directly or indirectly, by means of a trust or by any means whatever to a person with whom the person is not dealing at arm’s length within the meaning of the Taxation Act (chapter I-3), a person under 18 years of age, the person’s spouse or a person who, after the transfer, becomes the person’s spouse, the transferee becomes solidarily liable with the transferor to pay an amount equal to the lesser of the following amounts

(a) the amount by which the fair market value of the property at the time of the transfer exceeds the fair market value at that time of the consideration given for the property ; and

(b) the aggregate of the amounts owed by the transferor under this Act that are payable at the time of the transfer or are to become payable within one year following the transfer.

“51.2. A payment by the transferor affects the transferee’s liability only where that payment operates to reduce the aggregate of the amounts referred to in paragraph *b* of section 51.1 to an amount that is less than the amount in respect of which the transferee is solidarily liable under the provisions of section 51.1.

In that case, the transferee’s solidary liability is reduced to that lesser amount.

“51.3. For the purposes of section 51.1, where the property is transferred to a spouse pursuant to a decree, order or judgment of a competent court or pursuant to a written separation agreement, the fair market value of the property at the time of the transfer is deemed to be equal to zero if, at that time, the transferor and the transferor’s spouse are living separate and apart because of the breakdown of their marriage.

“51.4. For the purposes of sections 51.1, 51.2 and 51.3, the rules provided in section 2.2.1 of the Taxation Act (chapter I-3) apply with the necessary modifications.”

12. The said Act is amended by inserting the following section after section 57:

“57.1. To ensure the recovery of an amount owed, any person authorized by the Minister may, by a demand sent by registered or certified mail or served personally, require that a person, whether or not that person owes an amount under this Act, file any information or any document by registered or certified mail or by personal service, within such reasonable time as the authorized person may specify.

The person to whom the demand is addressed must comply within the time specified, whether or not the person has already filed such information or document or a response to a similar demand made under this Act.”

13. Section 60 of the said Act is amended by replacing “ten” in the third line of the first paragraph by “20”.

14. Section 61 of the said Act is amended by replacing “ten” in the fifth line by “20”.

15. Section 68 of the said Act is amended by replacing “section 57” by “section 57 or 57.1”.

16. Section 70 of the said Act is amended by inserting “or 68” after “section 67” in the first paragraph.

17. Section 6 applies to any security relating to a payment order that is effective at the time of coming into force of this Act.

18. The Minister shall report to the Government on the carrying out of this Act on the third anniversary of the day on which it is assented to.

The report shall be tabled by the Minister in the National Assembly in the ensuing 15 days or, if the Assembly is not in session, within 15 days of resumption.

19. This Act comes into force on 20 December 2001.