



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 86
(2002, chapter 32)

**An Act to amend the Courts of Justice
Act, the Act respecting municipal courts
and other legislative provisions**

**Introduced 30 April 2002
Passage in principle 8 May 2002
Passage 14 June 2002
Assented to 14 June 2002**

**Québec Official Publisher
2002**

EXPLANATORY NOTES

This bill amends the Courts of Justice Act, the Act respecting municipal courts and various other legislation relating to the administration of justice.

The bill proposes the necessary amendments to give legislative effect to the resolution passed by the National Assembly on 18 December 2001 as regards the determination of the remuneration of the judges of the Court of Québec and the municipal courts. The amendments concern the pension plan of the judges of the Court of Québec, the remuneration of the assistant judges of that court as well as the payment by the Government of the expenses incidental to the functions of the judge responsible for professional development activities intended for judges of the municipal courts.

The bill proposes amendments to ensure maintenance of the jurisdiction of persons exercising adjudicative functions who are appointed to a court or body in which no concurrent functions may be exercised, so that those persons may dispose of the cases they were hearing at the time of their appointment.

The bill proposes various amendments that concern the Labour Court so that the chief judge of the Court of Québec, who exercises the powers and functions of the chief judge of the Labour Court, may as the need arises assign judges of the Labour Court to the Court of Québec or temporarily assign judges of the Court of Québec to the Labour Court.

Lastly, the bill makes amendments of a technical nature to the legislative provisions that apply to justices of the peace.

LEGISLATION AMENDED BY THIS BILL :

- Professional Code (R.S.Q., chapter C-26);
- Act respecting municipal courts (R.S.Q., chapter C-72.01);
- Interpretation Act (R.S.Q., chapter I-16);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);

- Courts of Justice Act (R.S.Q., chapter T-16);
- Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26).

Bill 86

AN ACT TO AMEND THE COURTS OF JUSTICE ACT, THE ACT RESPECTING MUNICIPAL COURTS AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 119 of the Professional Code (R.S.Q., chapter C-26) is amended by adding the following paragraphs at the end :

“A chairman or substitute chairman of a committee who is appointed to a court or body in which no concurrent functions may be exercised, shall retain jurisdiction and may continue, without remuneration therefor, to perform his duties within the committee to conclude the cases of which he was seized at the time of the appointment.

However, if the appointment is made after the committee has made a finding of guilt and the person appointed does not avail himself of the provisions of the third paragraph, another committee shall be formed to hear the parties in relation to the penalty and to impose it. The committee shall impose the penalty within 90 days after being formed.”

2. The Act respecting municipal courts (R.S.Q., chapter C-72.01) is amended by inserting the following section after section 86 :

“**86.0.1.** Notwithstanding sections 85 and 86, the costs of reimbursing the judge responsible for professional development activities intended for municipal court judges for expenses incidental to the judge’s functions shall be assumed by the Government.”

3. The Interpretation Act (R.S.Q., chapter I-16) is amended by inserting the following section after section 55 :

“**55.1.** The fact that a person exercising adjudicative functions is appointed to a court or body in which no concurrent functions may be exercised shall not operate to cause that person, by that sole fact, to lose jurisdiction over the cases of which the person was seized at the time of the appointment. The person may then conclude those cases without remuneration therefor and without it being necessary to obtain authorization.”

4. The Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting the following section after section 158.0.1 :

“158.0.2. Where, pursuant to section 246.23.1 of the Courts of Justice Act (chapter T-16), a judge requests the transfer, to the judge’s pension plan referred to in that section, of the value of the benefits accrued to the judge before the judge’s appointment under a pension plan administered by the Commission, the Commission shall, notwithstanding any provision to the contrary, transfer the amount that is the greater of

(1) the sum of the contributions with interest at the rate fixed in Schedule VI, if any, accrued to the date of the transfer; and

(2) the actuarial value of the judge’s pension established on that same date in accordance with the actuarial assumptions and methods determined by the regulation made pursuant to subparagraph 2 of the first paragraph of section 215.13 of this Act.”

5. Section 118 of the Courts of Justice Act (R.S.Q., chapter T-16) is replaced by the following section :

“118. A retired judge authorized by the Government to exercise judicial functions assigned by the chief judge is entitled to receive for each working day the annual salary of a judge of the court, established pursuant to section 115, divided by the number of working days in the year.”

6. Section 158 of the said Act is amended by replacing “districts as he indicates” in the third line of the first paragraph by “districts or territories as the Minister indicates”.

7. Section 162 of the said Act, replaced by section 393 of chapter 31 of the statutes of 2001, is again replaced by the following sections :

“162. Section 95 applies to a justice of the peace appointed under section 158, provided that the deed of appointment indicates clearly that this section is applicable to the justice of the peace.

“162.1. The deed of appointment of a justice of the peace to whom section 95 applies may provide for participation in the Government and Public Employees Retirement Plan or the Pension Plan of Management Personnel. In such case, section 4 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) or section 3 of the Act respecting the Pension Plan of Management Personnel (2001, chapter 31), as the case may be, shall cease to apply to the justice of the peace.”

8. Section 224.2 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended by inserting the following sentence after the first sentence of the first paragraph : “The contributions shall be reduced to 1% of the judge’s annual salary when the judge has accumulated 21.7 years of service and continues to hold office.”

9. Section 224.11 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended by striking out “and any salary paid to the judge shall be reduced in accordance with section 118 from the time the payment of the pension begins” in the fourth and fifth lines of the second paragraph.

10. Section 224.25 of the said Act, enacted by section 9 of chapter 8 of the statutes of 2001, is amended

(1) by striking out “, and the judge’s salary shall be reduced in accordance with section 118” in the second and third lines of the first paragraph;

(2) by replacing “, and the judge’s salary shall be reduced in accordance with section 118” in the third and fourth lines of the second paragraph by “However, a sum equal to the amounts the judge receives as pension and, if applicable, as supplementary benefits granted under the plan established pursuant to the second paragraph of section 122, shall be deducted from the judge’s salary.”

11. Section 227 of the said Act, amended by section 12 of chapter 8 of the statutes of 2001, is again amended by striking out the last sentence of the second paragraph.

12. Section 244.3 of the said Act is amended

(1) by replacing “to receive his pension, and his salary shall be reduced in accordance with section 118” in the second and third lines of the first paragraph by “to receive a pension”;

(2) by replacing “to receive his pension, and his salary shall be reduced in accordance with section 118” in the third and fourth lines of the second paragraph by “to receive a pension. However, a sum equal to the amounts the judge receives as pension and, if applicable, as supplementary benefits granted under the plan established pursuant to the second paragraph of section 122, shall be deducted from the judge’s salary.”

13. Section 244.11 of the said Act is amended

(1) by replacing subparagraph 2 of the first paragraph by the following subparagraph :

“(2) for that part attributable to service subsequent to 30 June 1990 but prior to 1 January 2000, by the excess of the rate over 3% ;”;

(2) by adding the following subparagraph after subparagraph 2 of the first paragraph :

“(3) for that part attributable to service subsequent to 31 December 1999, in accordance with the formula set out in subparagraph 2, or by one-half of the rate of increase in the Pension Index, whichever formula is more advantageous to the judge.”;

(3) by inserting the following paragraph after the first paragraph :

“Where the number of years of service credited exceeds 35 years, subparagraphs 1 to 3 of the first paragraph are applied in the order which is the most advantageous to the judge.”

14. Section 246.22 of the said Act, amended by section 16 of chapter 8 of the statutes of 2001, is again amended by adding the following paragraph at the end :

“A regulation made under this section may take effect on a date fixed in the regulation that is prior to the date of publication of the regulation in the *Gazette officielle du Québec*.”

15. The said Act is amended by inserting the following sections after section 246.23 :

“246.23.1. A judge may have an amount corresponding to the value of the benefits accrued to the judge under another pension plan before the judge’s appointment transferred to the judge’s pension plan provided for in Part V.1 or VI, provided the benefits are transferable. The transfer gives entitlement to a deferred life annuity payable at 65 years of age which shall be added to the pension accrued under the provisions of the pension plan of which the judge is a member.

The administrator of the pension plan from which the accrued benefits are to be transferred shall assess the value of the benefits to be transferred. The Commission shall determine the amount of the deferred pension to the date of the transfer, on the basis of the value transferred and according to the actuarial methods and assumptions used in the most recent actuarial valuation prepared under section 246.26 in relation to the pension plan of which the judge is a member.

The transfer application must be made within 180 days following the date of the judge’s appointment.

For the purposes of this section, any registered pension plan within the meaning of the Taxation Act (chapter I-3) is a pension plan.

The provisions of this section do not apply to the plans in respect of which a transfer agreement is made under section 246.24.

“246.23.2. The deferred pension is indexed annually in accordance with the first paragraph of section 224.23, beginning on 1 January following the date on which it becomes payable.

“246.23.3. A judge to whom section 246.23.1 applies may elect to receive early payment or to postpone the payment of the deferred pension to a date other than the judge’s sixty-fifth birthday. However, the deferred pension

is not payable before the date on which the judge retires and has reached 55 years of age, or after 31 December of the year in which the judge reaches 69 years of age. Where the judge elects to receive early payment, the deferred pension is reduced, for its duration, by 0.5% per month for each month between the date on which it becomes payable and the judge's sixty-fifth birthday. Where the judge postpones payment, the deferred pension is increased by the same percentage for each month between the latter date and the date on which it becomes payable.

If the judge dies while retired and the total amount of deferred pension paid to the judge under section 246.23.1 is less than the amount transferred pursuant to the first paragraph of that provision, with interest accrued to the date of retirement, the difference shall be refunded to the judge's heirs. If the judge dies or otherwise ceases to hold office before payment of the pension begins, the amount transferred with accrued interest shall be refunded to the judge's heirs or the judge, as the case may be.

“246.23.4. The arbitration provided for in section 245 applies to disputes arising in the application of sections 246.23.1 to 246.23.3 between the judge and the Commission.”

16. The Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26), as amended by chapter 49 of the statutes of 2001, is again amended

(1) by inserting the following section after section 210.1 :

“210.1.1. The chief judge of the Court of Québec may, to ensure the proper dispatch of the business of the Labour Court, assign judges of the Court of Québec to the Labour Court for such period as the chief judge determines. Judges so assigned shall exercise the same powers and functions as the judges of the Labour Court.”;

(2) by inserting the following section after section 210.2 :

“210.2.1. The leave without pay from the Court of Québec available to the judges of the Labour Court under any provision giving entitlement thereto pursuant to section 161 of the Act to amend the Courts of Justice Act and other legislation to establish the Court of Québec (1988, chapter 21) ceases to have effect as of 14 June 2002.”

17. Section 13 also applies to pensions being paid on 14 June 2002.

18. The judges in office on 14 June 2002 may, within 180 days following that date, avail themselves of the right conferred by section 246.23.1 of the Courts of Justice Act entitling judges to transfer to their pension plan the value of benefits accrued under another plan prior to their appointment as judges.

19. This Act comes into force on 14 June 2002.