



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-EIGHTH LEGISLATURE

Bill 68
(2008, chapter 21)

**An Act to amend the Supplemental
Pension Plans Act, the Act respecting the
Québec Pension Plan and other
legislative provisions**

**Introduced 2 April 2008
Passed in principle 14 May 2008
Passed 18 June 2008
Assented to 20 June 2008**

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EXPLANATORY NOTES

This Act amends the Supplemental Pension Plans Act, mainly so that pension plan members may be given the prospect of a phased retirement. It clarifies the meaning of that Act with respect to the conditions to which pension benefits may be subject and to the employer's obligations, particularly when a plan is terminated. It also amends that Act and the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans, in order to supplement or clarify certain measures set out in the latter Act. In addition, it repeals the Act respecting the funding of certain pension plans and prescribes transitional measures aimed at protecting the rights of the parties to the pension plans referred to in that Act.

This Act also amends various aspects of the Act respecting the Québec Pension Plan. It entitles beneficiaries of a retirement pension who contribute to the plan to an additional pension based on their post-retirement earnings. It also supplements the provisions on the coordination of disability pension benefits with the income replacement indemnities payable under the Act respecting industrial accidents and occupational diseases and the Automobile Insurance Act. It extends the retroactive payment of benefits in certain specific situations and includes various amendments related to the partition of earnings and of pension benefits, and to the revision and recovery of certain payments. Furthermore, this Act empowers the Régie des rentes du Québec to make regulations providing ways of submitting applications other than in writing.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);

- Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42).

LEGISLATION REPEALED BY THIS ACT:

- Act respecting the funding of certain pension plans (2005, chapter 25).

Bill 68

AN ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT, THE ACT RESPECTING THE QUÉBEC PENSION PLAN AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by inserting the following section after section 14:

“14.1. Unless expressly provided by this Act, no provision of a defined benefit plan or defined benefit-defined contribution pension plan may operate to make the following conditional on an extrinsic factor so that they are limited or reduced:

- (1) the crediting of service or the accumulation of benefits under the plan;
- (2) the amount or value of the benefits accumulated in respect of service prior to the date on which the value of the obligations arising from the plan are established with regard to the member or beneficiary whose rights are at stake.

The following, in particular, are considered to be extrinsic factors:

- (1) the financial position of the pension fund;
- (2) employer contributions paid in relation to the obligations arising from the pension plan with regard to the member or beneficiary;
- (3) the exercised discretionary powers attributed exclusively to a person other than a member or beneficiary;
- (4) certification or cancellation of the certification of an association of employees;
- (5) technological or economic changes in the employer's enterprise or the division, merger, alienation or closing down of the enterprise; and
- (6) the withdrawal of an employer from the pension plan or the termination of the pension plan.”

2. The Act is amended by inserting the following section after section 21.2:

“21.3. In the case of a pension plan to which the conditions set out in subparagraphs 1 and 2 of the first paragraph of section 146.1 apply, no amendment having an impact on the funding or solvency of the plan may be made unless the surplus assets are appropriated to the payment of the value of the additional obligations arising from the amendment.”

3. Section 58 of the Act is amended

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

“58. Except in the following cases, a pension paid under a pension plan must be a life pension and may not be paid in any other form during the lifetime of the member or, in the case of a spouse’s pension, during the lifetime of the spouse:

(1) the temporary pension provided for in section 91.1 and the pension derived from that pension;

(2) a pension provided for in section 67.2; and

(3) the bridging benefit representing the fraction of a pension which, under the terms of the pension plan, must be paid to the member or beneficiary until a date that is neither earlier than the date on which the member becomes eligible for an early retirement pension payable under the Act respecting the Québec Pension Plan (chapter R-9), the Canada Pension Plan (Revised Statutes of Canada, 1985, chapter C-8), the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9) or an income security program prescribed by regulation, nor later than the date on which the member becomes eligible for a retirement pension under such an Act or program.”;

(2) by replacing “A defined benefit plan or a defined contribution-defined benefit plan” in the first line of the second paragraph by “A plan to which Chapter X applies”;

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

“A member who is entitled to a retirement pension, other than the normal pension, the payment of which is suspended under the second paragraph may, after the day mentioned in subparagraph 1 of that paragraph, apply for the payment of the pension as provided in section 77, which applies with the necessary modifications.”

4. Section 59 of the Act is amended

(1) by inserting “, except in the case of the pension provided for in section 67.2,” after “benefits” in the first line;

(2) by inserting the following paragraph before paragraph 1:

“(0.1) the pension is adjusted under the second paragraph of section 58 or the second or third paragraph of section 67.4;”;

(3) by inserting “by reason of a redetermination of the pension pursuant to the fifth paragraph of section 87,” after “modified” in the fifth line of paragraph 2.

5. Section 60 of the Act is amended

(1) by inserting “, established at the time of the earliest of the following events,” after “interest” in the first line of the first paragraph;

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

“(1.1) of any benefit to which the member would have become entitled, including benefits related thereto, if the member had retired on the date of application for payment of the benefit, in the case of a benefit paid under subdivision 0.1 of Division III of Chapter VI;”;

(3) by inserting “, in the second paragraph of section 67.4” after “58” in the first line of subparagraph 4 of the second paragraph;

(4) by adding the following subparagraph after subparagraph 7 of the second paragraph:

“(8) to a pension provided for in section 67.2.”

6. The Act is amended by inserting the following after the heading of Division III of Chapter VI:

“§0.1. — *Phased retirement benefits*

“67.2. A pension plan to which Chapter X applies or which is referred to in paragraph 1 of section 116 may provide that a pension be paid, on application, to a member who is employed by an employer party to the plan and who meets the following conditions:

(1) the member makes an agreement to that effect with the employer;

(2) the member is at least 60 years of age or, if under 60 years of age, the member is at least 55 years of age and, if the period of continuous employment ended on the date payment of the pension begins, would be entitled to an early retirement pension without any reduction by reason of payment having begun before the normal retirement age; and

(3) the member is under 65 years of age.

“67.3. The details of the pension paid under section 67.2 are set under the agreement referred to in that section. However, the annual amount of the pension may not exceed,

(1) in the case of a member who receives a retirement pension under the plan or is entitled to a retirement pension that is suspended at the time the member applies for payment of the pension, 60% of the annual amount of the pension to which the member is entitled at that time, not considering any benefits referred to in section 83 or 104; or,

(2) in the case of a member not referred to in subparagraph 1 who is not receiving a retirement pension under the plan on the date the member applies for payment of the pension, 60% of the annual amount of any pension to which the member would have been entitled if the member had retired on that date, not considering any benefits referred to in section 83 or 104, the spouse’s right to a pension referred to in section 87, or the options provided for in the plan.

In case of conflict, the details set out in the agreement prevail over those set out in the plan.

Neither the agreement nor, despite the second paragraph of section 5, the plan may contain provisions that allow the payment of the pension payable under section 67.2 if the member is 65 years of age or over. In addition, the member may not receive, for the same period, that pension and another benefit payable under the plan, except benefits referred to in section 67.5, 83 or 104.

The payment of any benefit, other than benefits referred to in section 67.5, 83 or 104, that the member receives at the time the member applies for payment of a pension provided for in section 67.2, is suspended for the period during which the member receives that pension. The plan may provide that the payment of benefits provided for in section 67.5, 83 or 104 is suspended at the request of the member who receives a pension provided for in section 67.2.

“67.4. The remuneration paid during the period beginning with the payment of a benefit referred to in this subdivision and ending on the date on which the payment of the retirement pension begins or begins again, or the date the member reaches 65 years of age, whichever occurs first, may not be taken into consideration for the calculation of the benefits relating to credited service that does not relate to that period, unless it is to the advantage of the member.

Also, the following adjustments apply:

(1) in the case referred to in subparagraph 1 of the first paragraph of section 67.3, if contributions are paid during that period, the member is entitled to an additional pension determined in accordance with the rules set forth in section 78 for the calculation of the minimum value of the pension

resulting from the contributions paid during a postponement period. In addition, if the retirement pension of the member was reduced by reason of payment having begun before the normal retirement age, the reduction must be recalculated at the end of the suspension of payment provided for in section 67.3; and

(2) in the case referred to in subparagraph 2 of the first paragraph of section 67.3, if contributions were paid during that same period, the member is entitled to a pension that cannot be less than the pension resulting from the application of the rules set forth in section 78.

The adjustments provided for in the second paragraph also apply to the benefits referred to in section 83 or 104, the payment of which was suspended under the fourth paragraph of section 67.3.

“67.5. A pension plan which, without being a defined contribution plan, includes provisions identical to those of that type of plan, and a plan referred to in paragraph 2 or 3 of section 116 may provide that a benefit other than a pension be paid, on application, to a member at least 55 years of age but under 65 years of age who is employed by an employer party to the plan with whom the active member makes an agreement to that effect.

The details of the benefit are set under the agreement, with the proviso that the annual amount of the benefit may not exceed 60% of the ceiling on the life income the member could receive under a replacement pension purchased under section 92. That amount is established at the beginning of the year during which payment of the benefit begins, based on the amounts credited to the member at that date and the age of the member at the end of the preceding year. The amount must be redetermined at the beginning of each year. Neither the agreement nor, despite the second paragraph of section 5, the plan may contain provisions that are more advantageous than those contained in this section.

In case of conflict, the details set out in the agreement prevail over those set out in the plan.

The value of the benefits to which the member is entitled, established on the date the benefit is paid, is reduced by the amount of that benefit.”

7. Section 69.1 of the Act is amended by inserting “that provided for in section 67.5 or” after “and” in the fourth line of the second paragraph and striking out “a pension” at the end of the fourth line and the beginning of the fifth line of that paragraph.

8. Section 74 of the Act is amended by inserting “, except an active member who has received a retirement pension under the pension plan,” after “member” in the second line.

9. Section 83 of the Act is amended by inserting “other than a pension provided for in section 67.2” after “on which a pension” in the fourth line of the first paragraph.

10. Section 85 of the Act is amended

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

“Spousal status is established as at either the day a member begins receiving payment of a retirement or disability pension, a pension that replaces it or a bridging benefit, or the day preceding the death of the member, whichever date is adopted by the pension plan, or, if neither is adopted, whichever date occurs first. However, if the member dies without having received payment of such a pension or benefit, spousal status is established as at the day preceding the death.”;

(2) by replacing “during a marriage or civil union or a period of conjugal relationship prior to” in the second and third lines of the third paragraph by “prior to”.

11. Section 86 of the Act is amended

(1) by replacing “any refund or pension benefit under the pension plan other than the benefit provided for in section 69.1” in the first, second and third lines of the first paragraph by “payment of a retirement or disability pension, a pension that replaces it or a bridging benefit”;

(2) by inserting “retirement or disability” after “any” in the first line of subparagraph 1 of the first paragraph;

(3) by inserting “retirement or disability” after “not entitled to a” in the first line of subparagraph 2 of the first paragraph;

(4) by adding “without reference to the death of the member” after “those amounts” at the end of subparagraph 1 of the second paragraph.

12. Section 87 of the Act is amended

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

“(1) a retirement or disability pension or a pension that replaces it;”;

(2) by striking out subparagraph 3 of the first paragraph;

(3) by replacing the second paragraph by the following paragraphs:

“The spouse is also entitled to a pension as of the death of the member if, before the death, the member was entitled to a pension referred to in the first paragraph, the payment of which was suspended under the second paragraph of section 58 or under section 67.3.

The amount of the spouse’s pension must be equal to or greater than 60% of the amount of the member’s pension, including,

(1) when the member dies during the period during which payment of the pension was suspended under section 58 or 67.3, the proceeds of the adjustment of the pension required by section 58 or 67.4 at the end of the period of suspension; and

(2) during the period of replacement, the amount of any temporary pension and, until the date on which the member, had the member survived, would have ceased receiving it, the amount of any bridging benefit.

The amount calculated in accordance with the third paragraph is increased by an amount equal to or greater than 60% of the amount of the pension provided for in section 83 or 104 that the member was receiving before the member’s death or the payment of which was suspended under section 58 or 67.3, adjusted, if the member died while the pension was suspended, as provided for in section 58 or 67.4, with the necessary modifications.”;

(4) by adding the following sentence at the end of the third paragraph: “In addition, if payment of a pension provided for in section 83 or 104 began before the date a person acquired the status of spouse of the member, the pension must be redetermined at that date to take into account the spouse’s entitlement to the pension provided for in this section.”

13. The Act is amended by inserting the following section after section 93:

“93.1. Despite sections 91.1 to 93, a member who has become entitled to a pension provided for in section 67.2 may not replace it.”

14. Section 104 of the Act is amended by replacing “A member is entitled, from the date payment of a pension begins,” in the first line by “From the date payment of a pension other than a pension provided for in section 67.2 begins, a member is entitled”.

15. Section 112 of the Act is amended

(1) by striking out the second paragraph;

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

16. The Act is amended by inserting the following sections after section 113:

“113.1. When it has been notified that an association has been formed to represent, for the purposes of the pension plan, active members not represented by a certified association, non-active members or beneficiaries of the plan, the pension committee must enclose a notice giving such information as it possesses with respect to the name and address of the association, its purpose and admission procedures with the following documents sent to the persons the association is mandated to represent:

- (1) the annual statement sent out under section 112; and
- (2) the notice sent to the members and beneficiaries under the second paragraph of section 146.3.1, section 146.6, the second paragraph of section 196 or the first paragraph of section 230.4.

The exemption provided by the second paragraph of section 112 does not dispense the pension committee from sending members the notice provided for in the first paragraph.

“113.2. If an association referred to in section 113.1 requests the name and address of the persons it is meant to represent, the pension committee must inform each person concerned of the request in a notice enclosed with the first of the following documents to be sent to the person after the committee receives the request:

- (1) the annual statement sent under section 112; or
- (2) the statement provided under the first paragraph of section 113.

The notice must include a note explaining that the person concerned may, within 30 days of receiving the notice, consent to the committee’s sending the information in question to the association concerned.

The committee must provide the association with the name and address of the persons who gave their consent

- (1) within 30 days following the expiry of the deadline given in the second paragraph, as regards persons who gave their consent after receiving a notice enclosed with the annual statement sent out under section 112; or
- (2) at the latest 30 days after the end of the fiscal year of the plan during which consent was given, as regards persons who gave their consent after receiving a notice enclosed with the statement provided for under the first paragraph of section 113.

The committee is not required to comply more than once with a request made under the first paragraph by the same association. If it does, it may charge a fee.”

17. Section 142 of the Act is amended by inserting “in section 67.5, the one provided for” after “provided for” in the first line of the second paragraph.

18. Section 161 of the Act is amended by replacing “and accompanied by the attestations and documents prescribed by regulation” in the fourth and fifth lines of the first paragraph by “, along with the attestations and documents mentioned in the form”.

19. Section 210 of the Act is amended by replacing “an early retirement benefit provided for in section 69.1, in whole or in part and subject to the conditions it fixes, as well as a pension in payment” in the second, third and fourth lines of the fourth paragraph by “, in whole or in part and subject to the conditions it fixes, a pension, other than a pension provided for in section 67.2, that is in payment or suspended”.

20. The Act is amended by inserting the following section after section 228:

“228.1. No provision of a defined benefit plan or defined benefit-defined contribution pension plan may operate to limit or reduce the obligations of an employer towards the plan because of the withdrawal of the employer from the pension plan or the termination of the pension plan.”

21. Section 237 of the Act is amended

(1) by replacing “The vested” at the beginning of the first line of the first paragraph by “With the exception of a pension provided for in section 67.2, the vested”;

(2) by inserting “or suspended” after “in payment” in the second line of the first paragraph.

22. Section 244 of the Act is amended by striking out subparagraph 8.3 of the first paragraph.

23. The Act is amended by inserting the following section after section 288.1:

“288.1.1. An employer may, upon providing the pension committee with a letter of credit, be relieved of paying a portion of the contribution required under sections 39 and 140. The employer contribution that the employer must pay into the pension fund is reduced accordingly.

The portion of the employer contribution of which an employer may be relieved may not exceed an amount corresponding to the amount obtained by multiplying by 20% the difference, established at the date of the last complete actuarial valuation, between the assets and liabilities of the fund, determined on a solvency basis.

The form, terms and conditions of the letter of credit referred to in the first paragraph must comply with the rules prescribed for the purposes of the Act respecting the funding of certain pension plans (2005, chapter 25), which apply with the necessary modifications.

A letter of credit provided by the employer under the first paragraph forms part of the assets of the plan for the purpose of determining its solvency. However, the amount of the letter, or the total amount of such letters, is taken into account for that purpose only up to 15% of the value of the liabilities of the plan.

This section ceases to have effect on 31 December 2009.”

24. The Act is amended by inserting the following section before section 289:

“288.3. A letter of credit provided under section 288.1.1 or under paragraph 2 of section 5 of the Act respecting the funding of certain pension plans (2005, chapter 25) and in force on 1 January 2010 is deemed to have been provided under section 42.1. The second paragraph of section 42.1 does not invalidate such a letter of credit.”

25. The Act is amended by inserting the following section after section 292:

“292.1. With respect to a pension plan to which a municipality is a party, subdivision 0.1 of Division III of Chapter VI does not apply to members in the employ of the municipality unless the council of the municipality adopts a resolution explicitly providing that it applies to them.”

26. The Act is amended by inserting the following sections after section 305:

“305.1. For the purposes of its application before 1 January 2010, section 113.1 reads as if “the second paragraph of section 146.3.1,” were struck from subparagraph 2 of the first paragraph.

“305.2. The date of the actuarial valuation referred to in section 121 must be later than 14 December 2009.”

27. The Act is amended by inserting the following section after section 306.7:

“306.7.1. In the case of members or beneficiaries of a pension plan who have given the required consent to the application of the procedures set out in section 8 of the Act respecting the funding of certain pension plans, as long as amortization amounts remain to be paid with respect to the amount or balance for which the amortization procedures are set out in that section, no amendment concerning the benefits of the members or beneficiaries whose consent was required may be made to the plan unless a special amortization

payment equal to the value of the additional obligations arising from the amendment and determined on a solvency basis, is paid into the pension fund.

The special amortization payment must be paid as soon as the report on the first actuarial valuation to take the amendment into consideration is sent to the Régie. Any interest accrued since the valuation date is added, calculated at the rate referred to in section 48 of this Act.

The amortization amounts referred to in the first paragraph include those considered to be amortization payments under section 49 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42).”

28. The Act is amended by inserting the following section after section 319:

“**319.1.** Sections 14.1 and 228.1 are declaratory.”

ACT RESPECTING THE FUNDING OF CERTAIN PENSION PLANS

29. The Act respecting the funding of certain pension plans (2005, chapter 25) is repealed.

ACT TO AMEND THE SUPPLEMENTAL PENSION PLANS ACT, PARTICULARLY WITH RESPECT TO THE FUNDING AND ADMINISTRATION OF PENSION PLANS

30. Section 5 of the Act to amend the Supplemental Pension Plans Act, particularly with respect to the funding and administration of pension plans (2006, chapter 42) is amended by replacing subparagraph *b* of paragraph 2 of the first paragraph of the section 39 it amends by the following subparagraph:

“(b) the higher of the following amounts: the amortization payment determined in respect of the funding deficiency or the sum of the amortization payments determined in respect of the solvency deficiencies and the special amortization payments payable during the fiscal year.”

31. Section 7 of the Act is amended by replacing paragraph 1 by the following paragraph:

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

“**41.** The employer contribution, less the portion the employer is relieved of paying under section 42.1 or that relates to a special amortization payment, must be paid in as many instalments as there are months in the fiscal year of the plan, each being paid not later than the last day of the month following the month for which it is made.”;

32. Section 9 of the Act is amended by replacing the first paragraph of the section 42.1 it enacts by the following paragraph:

“42.1. Under the conditions prescribed by regulation, an employer may, upon providing the pension committee with a letter of credit established in accordance with the regulations, be relieved of paying the portion of the employer contribution that relates to an amortization payment in relation to a solvency deficiency or a special amortization payment, up to the total of the amortization payments determined for the current fiscal year of the pension plan in respect of the solvency deficiencies and the special amortization payments payable during the year.”

33. Section 11 of the Act is amended

(1) by replacing the second sentence of the third paragraph of the section 123 it enacts by the following sentence: “However, the amount of the letter, or the total amount of such letters, is taken into account for that purpose only up to 15% of the value of the liabilities of the plan.”;

(2) by inserting “in section 67.5, the one provided for” after “provided for” in the first line of the second paragraph of the section 143 it enacts.

34. Section 13 of the Act is amended

(1) by replacing “30 days” in the eighth line of the second paragraph and in the eighth line of the third paragraph of the section 146.3.1 it enacts by “60 days”;

(2) by replacing the section 146.3.3 it enacts by the following section:

“146.3.3. The conditions set out in subparagraphs 1 and 2 of the first paragraph of section 146.1 and sections 146.3 to 146.3.2 do not apply in the case of a pension plan to which the second paragraph of section 146.4 does not apply or in the case of a pension plan that was subject to an amendment made in accordance with section 146.5 confirming the employer’s right to appropriate the plan’s surplus assets to the payment of the value of the additional obligations arising from an amendment to the plan.”

35. Section 40 of the Act is amended by replacing paragraph 2 by the following paragraph:

“(2) by inserting the following subparagraph after subparagraph 8 of the first paragraph:

“(8.0.1) for the purposes of section 128, determine the elements that contribute to the establishment of the reserve and the method of calculating the provision for adverse deviation;”;

ACT RESPECTING THE QUÉBEC PENSION PLAN

36. Section 91 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing “during a marriage, a civil union or period of *de facto* union prior to” in the second paragraph by “prior to”.

37. Section 95.1 of the Act is amended

(1) by striking out “work and” in the first paragraph;

(2) by adding the following sentence at the end of the first paragraph: “When the third paragraph of section 95 may apply, the person must also produce his work history.”

38. Section 102.3 of the Act is amended by inserting the following after “civil union to” in the first paragraph: “the end of the year preceding, in the case of a marriage, the date proceedings for divorce, annulment of marriage or separation from bed and board are instituted or, in the case of a civil union, the date proceedings for the dissolution or annulment of the civil union are instituted or the date a joint declaration dissolving the civil union is executed before a notary. However, if proceedings are instituted before 1 January 2009 or the joint declaration is notarized before that date, the period of partition ends at”.

39. Section 102.4.1 of the Act is replaced by the following section:

“102.4.1. If benefits are payable to or in respect of at least one of the former spouses, and the Board establishes that neither former spouse would benefit from the partition, it does not effect the partition or, on application by a former spouse within the time set by regulation, it annuls a partition already effected.

The Board informs each of the former spouses in writing if it knows their addresses.”

40. The Act is amended by replacing “Régie” wherever it appears in sections 102.5, 102.7 and 102.7.1 by “Board”.

41. The Act is amended by inserting the following section after section 102.8.1:

“102.8.2. The question of the period subject to partition or whether or not to partition earnings may not be raised more than three years after the judgment giving rise to partition becomes effective, unless the court considers that circumstances justify it.”

42. Section 102.10.5 of the Act is amended by adding “, except the months included in the year of the effective date of the judgment granting the divorce or the annulment of marriage or in the year of the effective date of dissolution,

by judgment or by joint declaration executed before a notary, or annulment of the civil union” at the end of subparagraph *b* of the second paragraph.

43. Section 105.2 of the Act is amended by adding the following paragraph at the end:

“If a contributor is no longer entitled to such an indemnity, the Board may, despite the exclusion from entitlement to a disability pension and subject to section 96, consider that the contributor is disabled from a date prior to the termination of the indemnity.”

44. The Act is amended by inserting the following section after section 105.2:

“105.3. If an indemnity referred to in section 105.1 or 105.2 is reduced or cancelled and, under section 363 of the Act respecting industrial accidents and occupational diseases (chapter A-3.001) or section 83.51 or 83.52 of the Automobile Insurance Act, the benefits already paid to the contributor are not recoverable, sections 105.1 and 105.2 apply as though the indemnity had not been reduced or cancelled.”

45. Section 116.5 of the Act is amended by replacing “which” in the first line of the first paragraph by “for a year subsequent to 1997 but prior to 2008 that”.

46. The Act is amended by inserting the following section after section 120.2:

“120.3. When, for a year subsequent to 2007, unadjusted pensionable earnings relate to months subsequent to the end of a contributor’s contributory period, within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, the contributor is entitled to an additional pension from 1 January of the following year. This additional pension is deemed to be a retirement pension. However, section 157.1 does not apply to the payment of the additional pension.

The initial monthly amount of the additional pension is equal to 1/12 of 0.5% of the amount of the contributor’s total unadjusted pensionable earnings for the year concerned, minus the basic exemption. However, for the year during which the contributor’s contributory period ends under subparagraph *a* or *b* of the first paragraph of section 101, the unadjusted pensionable earnings to be used are those deemed to be related to the months of the year that are subsequent to the end of the contributor’s contributory period and the basic exemption is multiplied by the proportion that the number of those months bears to 12.”

47. Section 136 of the Act is amended by adding “either” after “account” in the third line of the definition of the letter *d* of the formula and “, or of an additional pension established under section 120.3” at the end of the definition of the letter *d* of the formula.

48. Section 137 of the Act is amended by replacing “or adjustments provided for in sections 120.1 and 120.2” by “, any adjustments provided for in sections 120.1 and 120.2, or any additional pension established under section 120.3” at the end of the first sentence of subparagraph 1 of the first paragraph.

49. Section 139 of the Act is amended

(1) by inserting “or as prescribed by regulation of the Board” after “in writing” in the first paragraph;

(2) by inserting “or a contributor who is entitled to an additional pension under section 120.3” after “defined by regulation” in the fourth paragraph.

50. Section 144 of the Act is amended by striking out the fourth paragraph.

51. Section 150 of the Act is amended by adding the following paragraph at the end:

“Deductions from a benefit interrupts prescription. Deductions made by a third party, for the benefit of the Board, from a reimbursement, indemnity or other amount the third party owes to the debtor of the Board also interrupts prescription.”

52. Section 151 of the Act is amended

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

“**151.** If the amount is not recovered, the Board may issue a certificate

(1) stating the name and address of the debtor;

(2) attesting to the amount of the debt; and

(3) either attesting to the debtor’s failure to apply for a review of the decision rendered under section 149 or to bring a proceeding before the Administrative Tribunal of Québec against a review decision, or mentioning the Tribunal’s final decision confirming all or part of the Board’s decision.”;

(2) by inserting “or of the Administrative Tribunal of Québec” after “of the Board” in the second paragraph.

53. Section 158.4 of the Act is replaced by the following section:

“**158.4.** When one of the spouses applies for the partition of pension benefits, the Board notifies the other spouse only if it establishes that the amount paid to that other spouse could be reduced.”

54. Section 170 of the Act is amended by inserting “or 176.1” after “108.3” in the second paragraph.

55. Section 172 of the Act is amended by adding “, except as provided in sections 172.1 and 176.1” at the end of the fourth paragraph.

56. The Act is amended by inserting the following section after section 172:

“172.1. To set the date on which an orphan’s pension or a disabled contributor’s child’s pension becomes payable, the Board may, if circumstances justify it, use the date of the application for any benefit related to the death of the contributor or the date of the application for a disability pension. Unless warranted by exceptional circumstances in the opinion of the Board, retroactivity is limited to 36 months, including the month the application for the orphan’s pension or disabled contributor’s child’s pension is submitted.”

57. The Act is amended by inserting the following section after section 176:

“176.1. If the contributor has disappeared or is absent, the retroactive payment of the surviving spouse’s pension and the orphan’s pension may exceed 12 months, provided the application for a pension is made before the end of the twelfth month following the declaratory judgment of death, the attestation of death or the identification of the deceased contributor. Unless warranted by exceptional circumstances in the opinion of the Board, retroactivity is limited to 36 months, including the month the application is submitted.

In order for retroactivity to exceed 12 months, the application for a declaratory judgment of death must, in the opinion of the Board, have been made with due diligence under the circumstances.”

58. Section 186 of the Act is amended by replacing “one year” in the second paragraph by “90 days”.

59. Section 219 of the Act is amended by inserting the following paragraph after paragraph *j.2*:

“(j.3) prescribing ways other than in writing to apply for the benefits it determines;”.

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

60. Section 42.1 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001) is amended by inserting the following subparagraph after subparagraph *b* of the second paragraph:

“(b.1) the identification, for the purposes of section 105.3 of that Act, of the contributors whose income replacement indemnity was reduced or cancelled

and the months or parts of a month for which that indemnity was payable if, under section 363, the benefits already paid to the contributors as an income replacement indemnity are not recoverable;”.

TRANSITIONAL AND FINAL PROVISIONS

61. The pension committee must add a brief description of the rights and obligations that arise from sections 67.2 to 67.5, 113.1 and 113.2 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) enacted by this Act to the documents it sends out under section 112 of the Supplemental Pension Plans Act after the end of the first fiscal year of the pension plan that ends after this Act comes into force.

62. The date of disability set in cases referred to in the second paragraph of section 105.2 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), enacted by section 43, may not be earlier than 1 January 2008.

63. Section 105.3 of the Act respecting the Québec Pension Plan, enacted by section 44, applies even with respect to months prior to 1 July 2008.

64. In addition to the transitional provisions in this Act, the Government may, by regulation made before 1 July 2010, make any other transitional provision concerning the application of this Act.

Such a regulation, to the extent that it concerns the application of sections 1 to 35 and 61, is not subject to the publication requirement set out in section 8 of the Regulations Act (R.S.Q., chapter R-18.1).

Despite section 17 of that Act, such a regulation comes into force on the date of its publication in the *Gazette officielle du Québec*, or on any later date set in the regulation. However, once it is published and if it so provides, it may apply from any date not prior to 20 June 2008.

65. This Act comes into force on 20 June 2008; however,

(1) sections 36, 44, 49, 51 to 60 and 63 come into force on 1 July 2008;

(2) sections 38, 39, 41 to 43 and 62 come into force on 1 January 2009;

(3) sections 2 and 24, section 26, insofar as it enacts section 305.2 of the Supplemental Pension Plans Act, and sections 27 and 29 to 35 come into force on 1 January 2010.

