



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-NINTH LEGISLATURE

Bill 39
(2011, chapter 36)

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

**Introduced 10 November 2011
Passed in principle 24 November 2011
Passed 9 December 2011
Assented to 9 December 2011**

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EXPLANATORY NOTES

This Act amends the Act respecting the Québec Pension Plan, mainly as regards pensions and benefits payable under the Québec Pension Plan.

A person will be able to qualify for a retirement pension at age 60 without having ceased working. An additional amount for disability after retirement is also established. Furthermore, amendments are proposed to the payment of retirement pensions. Thus, the maximum period of 60 months for the retroactive payment of the retirement pension a person over 65 years of age is entitled to but has not applied for is reduced to 12 months. Earnings subsequent to the end of the contributory period may be excluded from the calculation of the additional pension in the case of beneficiaries of a retirement pension who are working and who pay contributions to the Canada Pension Plan.

A person must have paid contributions for at least four of the last six years preceding a disability to be entitled to a disability pension from the age of 60.

Orphan's pensions are increased and the definition of child of the contributor is amended with respect to the payment of an orphan's pension or a disabled contributor's child's pension.

The years of contribution to the pension plan after payment of the retirement pension has begun may be taken into account in determining entitlement to death benefits, and entitlement to death benefits is increased.

Lastly, administrative, consequential and transitional provisions are introduced.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1).

Bill 39

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

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE QUÉBEC PENSION PLAN

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

“In addition to administering the Québec Pension Plan, the Board is responsible, among other things, for encouraging financial planning for retirement. To that end, it promotes the establishment and improvement of pension plans.”

2. Section 23.6 of the Act is amended by adding the following paragraph at the end:

“The Board may also, on the conditions it fixes, allow a document to be binding on it or attributed to it without it being signed.”

3. Section 86 of the Act is replaced by the following section:

“86. A child of the contributor is

(a) the contributor’s minor child; or

(b) a minor child who has been residing with the contributor for at least one year and to whom the contributor stands *in loco parentis*, on the condition that no person other than the contributor, a person residing with the contributor or the father or mother not residing with the child maintains that child in the conditions prescribed by regulation.

The contributor and the person referred to in the first paragraph do not cease to reside together if their separation is only temporary or is a result of illness or the pursuit of studies or any other cause considered valid by the Board.”

4. Section 96 of the Act is amended

(1) by inserting “or of the additional amount for disability after retirement” after “for the purposes of the disability pension” in the second paragraph;

(2) by inserting “or of an additional amount for disability after retirement” after “The beneficiary of a disability pension” in the third paragraph.

5. Section 105 of the Act is amended

(1) by adding “and *an additional amount for disability after retirement* to the beneficiary of a retirement pension who becomes a qualified disabled contributor” at the end of paragraph *a*;

(2) by adding “if no retirement pension is payable to him under this Act or under a similar plan” at the end of paragraph *e*.

6. The Act is amended by inserting the following section after section 105:

“105.0.1. A contributor is qualified for an additional amount for disability after retirement only if

(1) he is the beneficiary of the retirement pension;

(2) the time granted to cancel his application for a retirement pension has expired;

(3) he is considered disabled under the second paragraph of section 95; and

(4) he paid contributions for at least four of the last six years wholly or partly included in his contributory period.

For the purposes of this section, the contributory period of the contributor ends at the end of the month during which the contributor became disabled. However, no month included between the month prior to the beginning of the retirement pension and the month following the month in which the contributor became disabled may be excluded under the second paragraph of section 101.”

7. Section 106 of the Act is amended

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

“However, a contributor 60 years of age or over referred to in the third paragraph of section 95 qualifies for a disability pension only if he paid contributions for at least four of the last six years wholly or partly included in his contributory period.”;

(2) by replacing “the first paragraph” in the second paragraph by “this section”.

8. Section 106.3 of the Act is amended by replacing the first paragraph by the following paragraph:

“**106.3.** A contributor is qualified for a retirement pension from the age of 60.”

9. Section 107 of the Act is amended by adding the following paragraphs at the end:

“However, in the case of a death subsequent to 31 December 2012, the contributor may be considered qualified if

(1) he was entitled, during his contributory period, to a tax credit for a severe and prolonged impairment in mental or physical functions under section 752.0.14 of the Taxation Act (chapter I-3), or to a tax credit or deduction of a similar nature;

(2) he made contributions for at least one fourth of the total number of years wholly or partly included in his contributory period, but for at least three years; and

(3) no retirement pension or disability pension was payable to him under this Act or under a similar plan.

For the purposes of death benefits, a contributor who dies after 31 December 2012 and who has not paid contributions for the number of years required may nevertheless be considered qualified if

(1) he paid at least \$500 in contributions; and

(2) no retirement pension or disability pension was payable to him under this Act or under a similar plan.”

10. The Act is amended by inserting the following section after section 107:

“**107.0.1.** Where a contributor who dies after 31 December 2012 has not paid contributions for the number of years required to qualify for survivors’ benefits under the first and second paragraphs of section 107, the contributions paid for a year subsequent to 1997 and to the end of the contributory period, within the meaning of subparagraph *a* or *b* of the first paragraph of section 101, may, for qualification purposes, be substituted, after the second paragraph of section 101 is applied, for the years included in the contributory period for which no contributions were paid. In such a case, the contributor may be considered to have paid contributions for the number of years required if he meets the conditions set out in the first and second paragraphs of section 107.”

11. Section 107.1 of the Act is amended by replacing “section 106 or 106.1 or for the survivors’ benefits under” in the first paragraph by “the first paragraph of section 106 or section 106.1 or for the survivors’ benefits under the first or second paragraph of”.

12. The Act is amended by inserting the following section after section 120:

“**120.0.1.** An additional amount for disability after retirement is added to the amount obtained under section 120 when the beneficiary of a retirement pension becomes disabled.

That amount is equivalent to the amount established in accordance with section 124.”

13. Section 120.3 of the Act is amended by inserting “, subject to section 120.4” after “the first paragraph of section 101” in the first paragraph.

14. The Act is amended by inserting the following section after section 120.3:

“**120.4.** From the year 2013, for the calculation of the basic monthly amount of the additional pension under the second paragraph of section 120.3, the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98 for each of the years subsequent to the end of the contributory period under subparagraph *a* or *b* of the first paragraph of section 101 is excluded from the total unadjusted pensionable earnings of the contributor for the year concerned.

However, for the year in which the contributory period of the contributor ends in accordance with subparagraph *a* or *b* of the first paragraph of section 101, the amount excluded from the total unadjusted pensionable earnings of the contributor for the year concerned is the amount obtained under subparagraph 2 of subparagraph *b* of the first paragraph of section 98 multiplied by the proportion that the number of months subsequent to the end of the contributory period bears to 12 less the number of months referred to in subparagraph *a* of the second paragraph of section 101.”

15. Section 128 of the Act is amended by adding the following paragraph at the end:

“However, the death benefit of a contributor who died after 31 December 2012, who is nevertheless considered qualified under the fourth paragraph of section 107, corresponds to the amount of the contributions paid, up to \$2,500.”

16. Section 136 of the Act is amended

(1) by adding “, taking into account the fact that the ratio by which the adjustment factor is multiplied in those two sections is equal to one” at the end of the definition of “c”;

(2) by replacing “payable” in the definition of “d” by “which is payable”;

(3) by adding “, and to which is added, if applicable, the additional amount for disability after retirement” at the end of the definition of “d”;

(4) by adding the following paragraph at the end:

“Nevertheless, if the basic monthly amount thus calculated is less than zero, the amount is deemed to be nil.”

17. Section 137 of the Act is amended by inserting the following paragraph after the first paragraph:

“If the death of the contributor occurs after 31 December 2012, the monthly amount of the deceased contributor’s additional pension established as provided in section 120.3 for the month of the contributor’s death is added to that amount.”

18. Section 138 of the Act is amended by adding the following paragraph at the end:

“However, for the year 2012, the basic monthly amount of an orphan’s pension is equal to \$218.50 adjusted by multiplying that amount by the ratio between the Pension Index for the year 2012 and the Pension Index for the year 2011. For 2013 and subsequent years, that amount is adjusted in accordance with section 119.”

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

“157.1. When an application is made on or after 1 January 2014, the retirement pension is payable from the latest of the following months:

(a) the month of the contributor’s sixtieth birthday;

(b) the month following the month of the application of a contributor under 65 years of age;

(c) the month of the contributor’s sixty-fifth birthday or the eleventh month preceding the month of the application of a contributor over 65 years of age, whichever is earlier;

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

(e) January 2014.

Notwithstanding the first paragraph, 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.”

20. The Act is amended by inserting the following section after section 157.1:

“**157.2.** The additional amount for disability after retirement is payable for each month, commencing with the fourth month following the month in which the beneficiary of the retirement pension became disabled.”

21. Section 158 of the Act is amended by adding the following paragraph at the end:

“The additional amount for disability after retirement ceases at the end of the month in which the beneficiary ceases to be disabled or dies or at the end of the month preceding that in which he reaches 65 years of age.”

22. Sections 158.1 and 158.2 of the Act are repealed.

23. Section 173 of the Act is amended by inserting the following paragraph after the second paragraph:

“However, a beneficiary who, had it not been for the first and second paragraphs, would have been entitled to an orphan’s pension from 1 January 2012 under this Act may, upon application and if the beneficiary meets the requirements set out in section 86, receive the higher of the pensions.”

24. Section 219 of the Act is amended by striking out paragraph *k.1*.

SUPPLEMENTAL PENSION PLANS ACT

25. Section 245 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by striking out the second paragraph.

TRANSITIONAL AND FINAL PROVISIONS

26. Section 86 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) as it reads on 31 December 2011 applies to an orphan’s pension that is in payment for a death that occurs before 1 January 2012 and to a disabled contributor’s child’s pension that is in payment and payable without interruption for a disability that occurs before 1 January 2012. It also applies to applications regarding a death or a disability that occurs before 1 January 2012 if the application is made before 1 January 2013.

27. In the case referred to in section 105.0.1 of the Act respecting the Québec Pension Plan, enacted by section 6, the date of disability may not be prior to 1 January 2013.

28. Sections 106.3, 157.1, 158.1 and 158.2 of the Act respecting the Québec Pension Plan as they read on 31 December 2013 apply to retirement pensions that become payable before 1 January 2014.

29. The retirement pension of a contributor, for which an application is made before 1 January 2014 and which is payable after January 2014 under subparagraph *c* of the second paragraph of section 157.1 of the Act respecting the Québec Pension Plan as it reads on 31 December 2013, is payable from the month of the contributor's sixtieth birthday or January 2014, whichever comes last.

30. Sections 157.1 and 158.2 of the Act respecting the Québec Pension Plan as they read on 31 December 2013 continue to apply to applications for a retirement pension made in 2014 by contributors who are 65 years of age or over on 1 January 2014, if the retirement pension becomes payable before 1 January 2014.

31. This Act comes into force on 1 January 2012, except

(1) sections 4 to 7, 9 to 15, paragraphs 2, 3 and 4 of section 16 and sections 17, 20 and 21, which come into force on 1 January 2013; and

(2) section 8, paragraph 1 of section 16 and sections 19, 22 and 24, which come into force on 1 January 2014.

