



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Bill 102

(1997, chapter 19)

An Act to amend the Act respecting the Québec Pension Plan and the Supplemental Pension Plans Act in order to facilitate phased retirement and early retirement

Introduced 8 April 1997
Passage in principle 1 May 1997
Passage 4 June 1997
Assented to 5 June 1997

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EXPLANATORY NOTES

This bill introduces various amendments to the Act respecting the Québec Pension Plan and to the Supplemental Pension Plans Act which provide for measures designed to facilitate phased retirement and early retirement.

Amendments to the Act respecting the Québec Pension Plan will allow an employee between the ages of 55 and 69 whose working time is reduced by reason of phased retirement to make an agreement with his employer to the effect that all or part of the consequent reduction in the employee's remuneration is to be considered as having been paid to him for the purposes of contribution to the Québec Pension Plan.

Amendments to the Supplemental Pension Plans Act aim at enabling a worker who is participating in a working time reduction program to receive a yearly benefit paid by his pension plan to make up part of the resulting pay loss. As well, a worker who ceases to hold employment before reaching the normal retirement age under his pension plan would be entitled to a temporary pension payable by the pension plan until the worker reaches the age of 65. Finally, the bill will allow a worker who has transferred the benefits accumulated under a pension plan to a life income fund to receive a temporary pension from that fund.

LEGISLATION AMENDED BY THIS BILL :

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

Bill 102

AN ACT TO AMEND THE ACT RESPECTING THE QUÉBEC PENSION PLAN AND THE SUPPLEMENTAL PENSION PLANS ACT IN ORDER TO FACILITATE PHASED RETIREMENT AND EARLY RETIREMENT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING THE QUÉBEC PENSION PLAN

1. The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting, after section 37.1, the following sections :

“37.2. For the purposes of this Title and the regulations under section 81, where an employer and an employee enter into an agreement pursuant to section 195.1 and the agreement bears the Board’s approval,

(a) the amount indicated in the agreement is deemed to be income received by the employee from pensionable employment ;

(b) the employer is deemed to pay to the employee, at intervals indicated in the agreement, the income referred to in paragraph *a*.

“37.3. Section 37.2 shall cease to apply when, in the circumstances provided for by regulation of the Board, the agreement ceases to have effect.”

2. Section 45 of the said Act, amended by section 222 of chapter 1 of the statutes of 1995, is again amended

(1) by adding, at the end of the first paragraph, the following subparagraph :

“(c) the income the worker is deemed to receive for the year from pensionable employment under paragraph *a* of section 37.2.” ;

(2) by inserting the words “or deemed to have been received” after the word “received” in the second line of the second paragraph.

3. The said Act is amended by inserting, after section 195, the following division :

“DIVISION I.1**“PHASED RETIREMENT**

“195.1. An employee who is 55 years of age or over but under 70 years of age and whose working time is reduced by reason of phased retirement may, under conditions prescribed by regulation of the Board, make an agreement with his employer to the effect that all or part of the amount of the reduction in his remuneration is to be considered as being paid to the employee.

The agreement must be recorded on the form prescribed by the Board and is valid only if it bears the Board’s approval.”

4. Section 219 of the said Act, amended by section 5 of chapter 15 of the statutes of 1996, is again amended by adding, after paragraph *v*, the following paragraph :

“(w) determining the terms and conditions of the agreements referred to in section 195.1 and the circumstances in which the agreements cease to have effect.”

SUPPLEMENTAL PENSION PLANS ACT

5. Section 58 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by replacing the words “that fraction of the” in the third and fourth lines of the first paragraph by the words “the temporary pension provided for in section 91.1, the pension derived therefrom, and the fraction of a”.

6. Section 59 of the said Act is amended

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

“(1) the pension is replaced

(a) by a temporary pension provided for in section 91.1 or a pension derived therefrom, in which cases only the periodic amounts relating to that part of the pension that is not replaced must be equal ;

(b) by a pension referred to in section 92 ;” ;

(2) by replacing the figure “1” in the third line of paragraph 2 by the figure “2”.

7. The said Act is amended by inserting, after section 69, the following :

“§ 1.1 — *Early benefit*

“69.1. Any active member whose working time is reduced pursuant to an agreement with his employer and who is ten years or less under normal retirement age or who has attained or exceeded that age is entitled, on request,

for each year covered by the agreement, to the payment, in a lump sum, of a benefit equal to the lowest of the following amounts :

(1) 70% of the reduction in his remuneration resulting from the reduction in his working time during the year ;

(2) 40% of the Maximum Pensionable Earnings for the year concerned established pursuant to the Act respecting the Québec Pension Plan or, where applicable, a part of that amount proportional to the number of months in the year covered by the agreement ;

(3) the value of his benefits under the plan, established on the assumption that he ceases to be an active member on the date on which he applies for the payment of the benefit.

Notwithstanding the second paragraph of section 5, the plan may not contain provisions that are more advantageous than those contained in the first paragraph. Moreover, an active member may not receive, in the same year, the benefit provided for in this section and a pension payable under section 77 or a pension replacing that pension.

The reduction in the member's pension resulting from the payment of the benefit provided for in this section may not exceed the amount of the benefit. Moreover, the remuneration paid during the period in which the member is entitled to the benefit shall not be taken into consideration for the computation of the benefits relating to credited service that does not relate to that period, unless it is to the advantage of the member.

The employer shall, within 60 days of the date on which he becomes party to an agreement referred to in the first paragraph, transmit to the pension committee the name of every member to whom that paragraph applies."

8. Section 86 of the said Act is amended by replacing the words "pension benefit" in the first line of the first paragraph by the words "benefit, other than that provided for in section 69.1,".

9. Section 87 of the said Act is amended

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

"87. The spouse of a member is entitled to a pension from the death of the member if, before his death, the member was receiving any of the following pensions :

(1) a pension, under this division or under subparagraph 2 of the first paragraph of section 93;

(2) a pension the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the

Québec Pension Plan or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act;

(3) a temporary pension under section 91.1.

The spouse may, before the date on which payment of the member's pension begins, waive such entitlement or revoke such a waiver, provided the pension committee is notified thereof in writing before that date.”;

(2) by adding, at the end of the second paragraph, the words “including, during the period of replacement, the amount of any temporary pension”.

10. The said Act is amended by inserting, after section 91, the following section:

“91.1. Every member or spouse who has become entitled to a pension under a pension plan and whose age is ten years or less under normal retirement age or who has attained or exceeded that age is entitled, under conditions prescribed by regulation, to replace the pension, in whole or in part, before payment begins, by a temporary pension the amount of which is fixed by him before payment begins and which meets the following requirements:

(1) the annual amount of the pension must not exceed 40% of the Maximum Pensionable Earnings established pursuant to the Act respecting the Québec Pension Plan for the year in which payment of the pension begins, that limit being reduced, where applicable, by the annual amount of any other temporary benefit to which he is entitled under the plan;

(2) payment of the temporary pension must end on or before the last day of the month following the month in which the member or the spouse attains 65 years of age.

Notwithstanding the second paragraph of section 5, the plan may not contain provisions that are more advantageous than those contained in the first paragraph.

The value of the temporary pension shall be equal to or greater than the value of the pension or of the part of the pension it replaces, discounted on the date of the replacement.”

11. Section 92 of the said Act is replaced by the following section:

“92. Every member or spouse who has become entitled to a pension under a pension plan is entitled, under conditions prescribed by regulation, to replace the pension by a life or temporary pension, purchased under a contract, the amount of which may vary each year. The pension may also, in the cases determined by regulation, be replaced by a lump-sum payment.”

12. Section 93 of the said Act is amended by striking out subparagraph 1 of the first paragraph.

13. Section 102 of the said Act is amended by inserting the words “a benefit referred to in section 69.1,” after the words “case of” in the first line of the first paragraph.

14. The said Act is amended by inserting, after section 112, the following section:

“112.1. The pension committee shall, within 60 days of the payment of the benefit referred to in section 69.1, provide the member with a statement containing the information determined by regulation and concerning, in particular, the effect of the payment on the annual amount of normal pension resulting from the service credited to him.”

15. Section 142 of the said Act is amended by inserting the words “the payment of a benefit under section 69.1 or” after the word “prevent” in the first line of the second paragraph.

16. Section 244 of the said Act is amended

(1) by inserting, after subparagraph 3 of the first paragraph, the following subparagraphs:

“(3.1) determine the rules applicable to the establishment of the benefits of the member to whom a benefit has been paid under section 69.1;

“(3.2) determine, for the purposes of section 91.1, under what conditions a pension may be replaced by a temporary pension;”;

(2) by replacing subparagraph 4 of the first paragraph by the following subparagraph:

“(4) determine, for the purposes of section 92, under what conditions a pension may be replaced, the terms and conditions of the replacement pension contract and the methods, assumptions, rules or factors applicable in computing the maximum annual amount of pension;”;

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

“A regulation under subparagraph 4 of the first paragraph relating to factors applicable in computing the maximum annual amount of a replacement pension is not subject to the requirements of sections 8 and 17 of the Regulations Act (chapter R-18.1) as regards publication and the date of coming into force where the Régie is of the opinion that the urgency of the situation justifies that it be so exempted.”

17. Section 246 of the said Act is amended by inserting, after paragraph 6, the following paragraph:

“(6.1) require, subject to the conditions and within the time it fixes, that the pension committee or any party to a contract referred to in section 92 or to a pension plan or annuity contract to which sums may be transferred under section 98 provide it with any document or information the Régie considers necessary for ascertaining that the requirements imposed by this Act in respect of the plan or contract are complied with;”.

18. Section 257 of the said Act is amended by adding, after paragraph 4, the following paragraph:

“(5) makes a false declaration for the purpose of obtaining

(a) a temporary pension under section 91.1;

(b) a temporary or life pension or a lump-sum payment under section 92;

(c) a temporary or life pension or a lump-sum payment payable under a pension plan or annuity contract prescribed by regulation pursuant to the third paragraph of section 98.”

19. Section 264 of the said Act is amended by replacing the words “life pension having replaced another” in the fourth line of the second paragraph by the words “pension or payment having replaced a”.

20. The said Act is amended by inserting, after section 289, the following section:

“**289.1.** Section 59, as it read prior to 5 June 1997, shall continue to apply to a pension to which the member or spouse is entitled on that same date the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the Québec Pension Plan (chapter R-9) or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act.”

21. Section 300 of the said Act is amended

(1) by inserting the words “a pension the amount of which is adjusted to take into account an amount equal to the benefits determined under the Old Age Security Act (Revised Statutes of Canada, 1985, chapter O-9), the Act respecting the Québec Pension Plan or a similar plan within the meaning of paragraph *u* of section 1 of the latter Act or” after the figure “1990,” in the second line;

(2) by striking out the figure “1,” in the third line.

22. Regulations made before 5 June 1998 under subparagraphs 3.1, 3.2 and 4 of the first paragraph of section 244 of the Supplemental Pension Plans Act, enacted by section 16 of this Act, may provide that they apply from any date not prior to 5 June 1997 as regards regulations made under subparagraphs 3.1 and 3.2 and, as regards the other regulations, from any date not prior to 1 January 1998.

23. This Act comes into force on 5 June 1997, except sections 1 to 4 and 11 which come into force on 1 January 1998.