



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 2

(2001, chapter 8)

**An Act to amend the Courts
of Justice Act**

Introduced 28 March 2001
Passage in principle 10 May 2001
Passage 29 May 2001
Assented to 30 May 2001

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EXPLANATORY NOTES

This bill amends the Courts of Justice Act to introduce a new pension plan for the judges of the Court of Québec and the municipal courts of Laval and Québec, and for the judges of the Municipal Court of Montréal insofar as an agreement is reached between Ville de Montréal and the Commission administrative des régimes de retraite et d'assurances to enable them to participate in the plan. In the absence of an agreement, an equivalent pension plan administered by the municipality is to be established.

The bill proposes certain modifications to the employment benefits applicable to the judges of the Court of Québec.

The provisions contained in the bill give effect to the recommendations of the Committee on the remuneration of the judges of the Court of Québec and municipal judges concerning the pension plan and other benefits related to the pension plan and group insurance plans.

The bill provides for the appointment of an additional judge to the Superior Court for the judicial districts of Hull, Labelle and Pontiac. The bill also establishes, for part of the judicial district of Abitibi, a concurrent jurisdiction over the judicial districts of Abitibi, Saint-Maurice and Roberval.

LEGISLATION AMENDED BY THIS BILL :

- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Act to amend the Courts of Justice Act and the Act respecting municipal courts (1999, chapter 62).

Bill 2

AN ACT TO AMEND THE COURTS OF JUSTICE ACT

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. Section 21 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by replacing “143” in the first paragraph by “144”.

2. Section 32 of the said Act is amended by replacing “four” in subparagraph 7 of the first paragraph by “five”.

3. Section 93.1 of the said Act is amended

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

“93.1. A judge suffering from permanent physical or mental disability which, in the opinion of the Government, prevents the judge from effectively performing the duties attached to judicial office shall be relieved from judicial duties. Unless the judge resumes judicial duties under the second paragraph, the judge is deemed to have ceased to hold office on the day preceding the day on which the judge satisfies any of the requirements set out in section 224.3, 228 or 246.3, as the case may be, for eligibility for a pension.”;

(2) by replacing “reappoint him as a judge of the court where he formerly held office without having recourse to the selection procedure prescribed by regulation under section 88” in the first, second and third lines of the second paragraph by “permit the judge to resume judicial duties at the same court”;

(3) by replacing “nommé” in the fourth line of the second paragraph of the French text by “affecté”.

4. Section 121 of the said Act is amended

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

“121. The Government may, by order, establish the amount of expenses that may be incurred by judges in the carrying out of their duties and for which they may be reimbursed on presentation of vouchers.”;

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

“Reimbursable expenses do not include a judge’s personal expenses but they include expenses incidental to the judge’s functions and approved by the chief judge or a judge designated by the chief judge.”

5. Section 122 of the said Act is amended

(1) by inserting “V.1 or Part” after “Part” in the second line of the second paragraph;

(2) by adding the following sentence at the end of the second paragraph: “The Government may also specify in the plan the situations that entail the obligation for the judge to contribute to the plan and the conditions relating to the determination and payment of the contributions.”;

(3) by inserting “Unless expressly provided to the contrary,” at the beginning of the third paragraph.

6. Section 122.0.1 of the said Act is amended by adding the following paragraph at the end:

“The Government may make an order determining the information, the terms and the conditions that such an agreement must contain.”

7. Section 122.3 of the said Act is amended by inserting “V.1 or Part” after “Part” in the third line of the second paragraph.

8. Section 127 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The contributions of the judges and the contributions of the municipalities to the supplementary benefits plan established under the second paragraph of section 122 shall be paid into the consolidated revenue fund.”

9. The said Act is amended by inserting the following Part after section 224:

“PART V.1

**“PENSION PLAN OF THE JUDGES OF THE COURT OF QUÉBEC
AND OF CERTAIN MUNICIPAL COURTS**

“CHAPTER I

“SCOPE

“224.1. The pension plan established by this Part applies to judges of the Court of Québec and judges of the municipal courts of Laval and Québec appointed after 31 December 2000. It also applies to judges of those courts appointed before 1 January 2001 and still in office on that date, to the extent that they elect to participate in that plan before 1 January 2002.

The same shall apply to judges of the Municipal Court of Montréal if Ville de Montréal has become a party to the pension plan under section 31 of chapter 8 of the statutes of 2001.

“CHAPTER II

“CONTRIBUTIONS

“224.2. A judge must pay, as contributions to this plan, an amount corresponding to 7% of the judge’s annual salary. The annual salary of a judge is the salary fixed by order under section 115. However, the additional remuneration paid to a chief judge, senior associate chief judge, associate chief judge, coordinating judge or associate coordinating judge and all other remuneration paid to a judge referred to in sections 131 to 134 shall be excluded from the salary.

Where a judge is granted leave without pay under section 122.0.1, the judge’s annual salary for the purposes of this section is the salary to which the judge would have been entitled pursuant to the order made under section 115 had the judge exercised the functions attached to the judge’s office during the year concerned. The annual salary of a judge who is a party to an agreement granting leave with deferred pay under section 122.0.1 is the salary received by the judge in each of the years covered by the agreement.

Any lump sum paid as a salary increase or adjustment for a preceding year is added to the salary for the year in which it is paid. However, if the lump sum is paid in a year for which no service is credited, it forms part of the salary for the last year for which service is credited prior to the year of payment.

The judge shall pay the contributions provided for by this section until the date on which the judge ceases to hold office, subject to the applicable fiscal rules.

“CHAPTER III

“PENSION AND REFUND

“224.3. A judge who ceases to hold office is eligible for a pension if the judge

- (1) has reached 65 years of age ;
- (2) has accumulated at least 21.7 years of service ;
- (3) has, in years of age and years of service, a combined total of 80 or more.

“224.4. A judge under 65 years of age who, upon ceasing to hold office, has less than two years of service is entitled to a refund of the

contributions paid with accrued interest, unless the judge elects to transfer such years or parts of a year of service to another pension plan pursuant to a transfer agreement made under section 246.24.

If the judge dies before obtaining the refund, the judge's contributions shall be refunded to the judge's spouse or, if the judge leaves no spouse, to the judge's heirs.

“224.5. For the purposes of this pension plan, the contributions paid, including those from which a judge was exempt, bear interest at the rate fixed by regulation, from the midpoint of the year in which they were paid until the first day of the month in which the payment of benefits begins or in which the contributions are refunded.

“224.6. A judge who, upon ceasing to hold office, has two years of service or more but does not satisfy any of the requirements set out in section 224.3, is entitled to a deferred pension payable at 65 years of age, computed in accordance with sections 224.8 and 224.9, unless the judge elects to transfer such years or parts of a year of service to another pension plan pursuant to a transfer agreement made under section 246.24.

A deferred pension confers on the judge's spouse, children or heirs, from the time it becomes payable, the same rights as those provided in the case of a judge who is in receipt of a pension.

The deferred pension of a judge is cancelled if the judge is reappointed to an office to which pensionable service is attached under this pension plan, and the years or parts of a year of service accumulated are added to those already credited.

“CHAPTER IV

“COMPUTATION AND PAYMENT OF THE PENSION

“224.7. For the purposes of this pension plan, a year or part of a year of service is any year or part of a year

(1) during which a judge of the Court of Québec or of the municipal court of a municipality that is a party to this pension plan held judicial office or during which a judge was granted leave without pay or leave with deferred pay under section 122.0.1, to the extent that the judge has paid the contributions required under section 224.2, and subject to the applicable fiscal rules;

(2) during which the judge held any function to which pensionable service is attached under this plan;

(3) of past service credited pursuant to a transfer agreement made under section 246.24;

(4) in respect of which the judge receives benefits, as a salary replacement under an employee benefits plan established under the first paragraph of section 122 or, where applicable, under an equivalent plan in effect in a municipality that is a party to this pension plan, including any year or part of a year during which the judge was relieved from judicial duties under section 93.1.

The Government shall fix, by order, the conditions that must be fulfilled so that a year or part of a year during which a judge was granted leave without pay or leave with deferred pay may be counted for the purposes of the pension plan.

If a judge has received, in respect of certain years, a refund of contributions paid including the contributions from which the judge was exempt, and has not repaid those contributions as permitted by sections 224.26, 244.9 and 244.10, such years shall be taken into account for pension eligibility purposes only.

A year or part of a year of service shall not be counted under this plan if it is counted under another pension plan.

A judge shall not accumulate service and shall not acquire entitlement to any additional amount of pension under this plan after 30 December of the year in which the judge reaches 69 years of age.

“224.8. The annual amount of a judge’s pension is equal to the amount obtained by multiplying the judge’s average salary by 1.5% per year of credited service. That amount, however, shall not exceed the amount obtained by multiplying the defined benefit limit applicable under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement) for the year in which the judge retires, by the number of years of credited service.

Notwithstanding the first paragraph, the annual amount of a judge’s pension, including the amounts to which the judge is entitled as supplementary benefits under the plan established pursuant to the second paragraph of section 122, shall not exceed 65% of the judge’s average salary.

“224.9. The average salary of a judge is the average salary for the three best remunerated years of service or, if the judge has less than three years of service, the average salary for all of the judge’s years of service.

To determine a judge’s average salary, the annual salaries taken into consideration are those of all the years of service of the judge as fixed by an order under section 115. However, the additional remuneration attached to the office of chief judge, senior associate chief judge or associate chief judge shall be included in those salaries only if the judge has held such an office for at least seven years. The additional remuneration paid to a coordinating judge or associate coordinating judge and any other remuneration paid to a judge to whom sections 131 to 134 apply shall be excluded from such salaries.

Any lump sum paid as a salary adjustment for a preceding year shall form part of the salary for the year in which it is paid. However, if the lump sum is paid in a year for which no service is credited, it forms part of the salary for the last year for which service is credited prior to the year of payment.

For the purposes of this section, the salary pertaining to a year of service covered by an agreement granting leave with deferred pay under section 122.0.1 is the salary that the judge would have received if the judge had not been a party to such an agreement.

“224.10. A judge’s pension that begins to be paid before the judge reaches 65 years of age and before the judge’s age and years of service total 80 shall be reduced, for its duration, by the amount obtained by multiplying the amount of the pension established pursuant to the first paragraph of section 224.8 by 0.25% per month, computed for each month comprised between the date on which payment of the pension begins and the date on which the judge will reach 65 years of age or the date on which the judge’s age and years of service will total 80, whichever occurs first.

“224.11. A pension paid to a judge under this pension plan is a life pension and payment must begin on or before 31 December of the year in which the judge reaches 69 years of age.

The latter rule does not, however, apply to a judge who continues to hold office after that date; in such a case, payment of the pension begins when the judge applies therefor to the Commission administrative des régimes de retraite et d’assurances and any salary paid to the judge shall be reduced in accordance with section 118 from the time payment of the pension begins.

The annual amount of a judge’s pension that begins to be paid after 31 December of the year in which the judge reaches 69 years of age is the same as the amount to which the judge would have been entitled if payment of the pension had begun on that date. Furthermore, in such a case, the judge is not entitled to any retroactive pension payment.

“CHAPTER V

“DEATH BENEFITS

“224.12. The pension of a judge who dies after retirement shall continue to be paid to the judge’s spouse or, if the judge leaves no spouse, to the judge’s heirs, until the first day of the month following the death of the judge.

“224.13. From the day the payment of the pension of a judge ceases by reason of death or from the day a judge dies while in office and before being entitled to a pension, a life pension equal to 50% of the pension the judge was receiving or would have received if the judge had been entitled to the payment of a pension at the time of death shall be granted to the judge’s spouse.

If a judge dies while in office, before being entitled to a pension, and leaves no spouse or child who satisfies any of the requirements set out in section 224.18, the judge's heirs are entitled to a refund of the contributions paid, with accrued interest.

If a judge who, upon ceasing to hold office, was entitled only to a deferred pension dies before reaching 65 years of age, the judge's contributions shall be refunded, with interest, to the judge's spouse or, if the judge leaves no spouse, to the judge's heirs. The same applies to a judge who dies having accumulated less than two years of service.

“224.14. For the purposes of this pension plan, the spouse of a judge is the person who, at the time of the judge's death,

(1) is married to the judge ;

(2) has been living in a de facto union with the judge, who was unmarried, whether the person is of the same or opposite sex, for not less than three years, or for not less than one year if

(a) a child has been born or is to be born of their union ;

(b) they have jointly adopted a child during their de facto union ; or if

(c) one of them has adopted the child of the other during that de facto union.

“224.15. If a judge dies before reaching 65 years of age and before the judge's age and years of service total 80 or more, the pension the judge would have received is, for the purpose of computing the spouse's pension, reduced in accordance with section 224.10.

“224.16. Judges may, before ceasing to hold office, elect to reduce their pension to allow their spouse to benefit from a pension that is more advantageous than the pension provided for in section 224.13. This reduction may, at the judge's option, be equal to 3.5%, in which case the spouse will be entitled to a pension equal to 60% of the reduced pension, or 5.7%, in which case the spouse will be entitled to a pension equal to $66\frac{2}{3}\%$ of the reduced pension.

The election is irrevocable from the time the judge ceases to hold office, even in the absence of a spouse entitled to a pension.

However, the election is deemed never to have been made if the judge dies while in office, before being entitled to a pension, and leaves no spouse entitled to a pension.

“224.17. Each child of a judge who dies while in office or after retirement is entitled to receive, as pension,

(1) if a pension is paid to the judge's spouse, 10% of the pension used as the basis for computing the spouse's pension;

(2) if there is no spouse entitled to a pension, 20% of the pension which would have been used as the basis for computing the spouse's pension;

(3) if the judge's spouse dies while receiving a pension, 20% of the pension used as the basis for computing the spouse's pension and indexed from the judge's death.

However, if there are more than four children, the total amount of the pensions payable to them shall in no case exceed the amount representing 10% or 20%, as the case may be, of the basis amount, multiplied by four, which shall be divided equally among the children.

“224.18. To be entitled to a pension under section 224.17, a child must be a dependant of the judge at the time of the latter's death and must satisfy one of the following requirements:

(1) be under 18 years of age;

(2) be 18 years of age but under 25 and a full-time student in an educational institution designated in Schedule I to the Act respecting the Teachers Pension Plan (chapter R-11) or designated by regulation under section 47 of the said Act;

(3) be an invalid as a result of illness or an accident, require medical treatment and be totally unable to perform work of any kind.

However, the child of a judge who, at the time of the latter's death, is not a dependant of the judge or does not satisfy any of the requirements set out in subparagraphs 1, 2 and 3 of the first paragraph or who ceases to satisfy any such requirement and who, before reaching 25 years of age, satisfies or again satisfies either of the requirements set out in subparagraphs 2 and 3 of the first paragraph and would have been a dependant of the judge had the latter not died is entitled to receive a pension under section 224.17.

“224.19. The pension of a minor child is granted until the child reaches majority.

The pension of a child of full age who is a full-time student in an educational institution is granted until the child reaches 25 years of age for the period during which the child attends an educational institution on a full-time basis; the pension of a child of full age who is an invalid is granted for the period of invalidity.

“224.20. The pension granted to a child is paid from the day on which payment of the spouse's pension begins or, if there is no spouse entitled to a pension, from the day on which a spouse's pension would have become

payable. If the spouse dies, the new pension granted to the child is paid from the first day of the month following the month of the death of the spouse.

The pension granted to a child under the second paragraph of section 224.18 is paid from the first day of the month following the date on which the child satisfies or again satisfies either of the requirements set out in subparagraphs 2 and 3 of the first paragraph of the said section.

The pension granted to a child under 18 years of age is paid to the person having the care of the child.

“224.21. The pension granted to the spouse and children runs until the first day of the month following the date on which the recipient ceases to be entitled to it.

“224.22. If the total of the amounts paid as pension to a judge or to a judge’s spouse and children, including the amounts paid as supplementary benefits under the plan established pursuant to the second paragraph of section 122, is less than the total of the contributions paid, with accrued interest, the difference shall be refunded to the judge’s heirs when payment of a pension to the last person entitled to it ceases.

For the purposes of this section, contributions shall bear interest until the date of the first payment of benefits.

“CHAPTER VI

“MISCELLANEOUS PROVISIONS

“224.23. Every pension is indexed annually, at the time prescribed pursuant to section 119 of the Act respecting the Québec Pension Plan (chapter R-9),

(1) for that part attributable to service prior to 1 July 1990, by the rate of increase of the Pension Index determined by the said Act;

(2) for that part attributable to service subsequent to 30 June 1990, by the excess of the rate over 1%.

Where the number of years of service exceeds 21.7, subparagraphs 1 and 2 of the first paragraph shall apply in the order that is the most advantageous to the judge.

Deferred pensions are indexed in accordance with the first paragraph. In this case, the indexing applies only from 1 January following the date on which the judge reaches 65 years of age.

“224.24. For the purposes of a refund of contributions paid, the contributions from which the judge was exempt for a period during which the

judge received, as a salary replacement, benefits under an employment benefits plan established under the first paragraph of section 122 or, as the case may be, under an equivalent plan in effect in a municipality that is a party to this pension plan, shall be considered as having effectively been paid.

“224.25. A retired judge authorized by the Government to exercise judicial functions shall continue to receive a pension, and the judge’s salary shall be reduced in accordance with section 118. The judge shall not acquire entitlement to any additional amount of pension.

A retired judge who receives a salary for holding any office under the Government of Québec or, in the case of a judge of a municipal court, any other office with a municipality shall continue to receive a pension, and the judge’s salary shall be reduced in accordance with section 118.

“224.26. Sections 244.9 and 244.10 apply to this pension plan. Those provisions also apply in the case of a judge who has received a refund of the contributions paid by the judge or from which the judge was exempt after 31 December 2000, with the necessary modifications.

“224.27. Arbitration under section 245 applies to disputes resulting from the application of a provision of this Part.

“224.28. Any amount paid or refunded under this pension plan is inalienable and unseizable.

However, such amounts shall be unseizable up to 50%, in the case of the partition between spouses of the family patrimony, the payment of support or the payment of a compensatory allowance.

“224.29. The Government may, by regulation, establish the rate of interest applicable to the contributions paid into this pension plan, the rules for the determination of that rate and the method of computing interest on those contributions.”

10. The heading of Part VI of the said Act is replaced by the following heading:

“PENSION PLAN OF CERTAIN JUDGES APPOINTED BEFORE
1 JANUARY 2001”.

11. Section 225 of the said Act is amended

(1) by replacing “on or after 30 May 1978, and to judges of the Court of Québec appointed before that date” in the second and third lines of the first paragraph by “between 29 May 1978 and 1 January 2001, to the extent that they have not elected to participate in the pension plan provided for in Part V.1, and to judges of the Court of Québec appointed before 30 May 1978”;

(2) by adding “and who have not elected to participate in the pension plan provided for in Part V.1” at the end of the first paragraph;

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

“The plan also applies to the judges of the municipal courts of Laval and Québec, and the judges of the Municipal Court of Montréal if Ville de Montréal has become a party to this plan under section 31 of chapter 8 of the statutes of 2001, to the extent that they have not elected to participate in the pension plan provided for in Part V.1.”

12. Section 227 of the said Act is amended by replacing the first paragraph by the following paragraph:

“227. A judge who reaches 70 years of age is eligible for retirement with a pension. A judge who suffers from permanent physical or mental disability within the meaning of section 93.1 and who, before 1 January 1992, became eligible for income replacement benefits under an employment benefits plan established under section 122, shall be eligible for retirement with a pension on or before 31 December of the year in which the judge reaches 71 years of age, even if the judge continues to receive such benefits.”

13. Section 244.2 of the said Act is repealed.

14. The heading of Part VI.1 of the said Act is replaced by the following heading:

“PENSION PLAN OF CERTAIN JUDGES APPOINTED BEFORE
30 MAY 1978”.

15. Section 246.2 of the said Act is amended by replacing “the plan provided for in Part VI does not apply” in the second line of the first paragraph by “the plans provided for in Parts V.1 and VI do not apply”.

16. The said Act is amended by replacing “Parts VI and VI.1” and “Part VI or in Part VI.1” wherever they occur in sections 246.15, 246.16, 246.17, 246.20, 246.21, 246.22, 246.23, 246.24, 246.25 and 246.28 by “Parts V.1, VI and VI.1”.

17. Section 246.22.1 of the said Act is amended by inserting “V.1,” after “Parts” in the first line.

18. Section 246.26 of the said Act is amended

(1) by inserting “V.1,” after “Parts” in the second line of the first paragraph;

(2) by inserting “contributions paid to the pension plan provided for in Part V.1,” after “except” in the second line of the second paragraph;

- (3) by striking out “except” in the third line of the second paragraph;
- (4) by inserting “V.1 or” after “Part” in the second line of the third paragraph;
- (5) by inserting “contributions paid by those judges to the pension plan provided for in Part V.1 and” after “except” in the second line of the third paragraph.

19. Section 246.26.1 of the said Act is amended by replacing “VI, which is based on the plan’s experience and obtained” in the third and fourth lines of the first paragraph by “V.1 and the rate of contribution to the pension plan provided for in Part VI; the rates are based on each plan’s experience and obtained”.

20. Section 246.27 of the said Act is amended by inserting “V.1 or” after “Part” in the second line.

21. Schedule I to the said Act is amended in respect of the judicial districts of Saint-Maurice and Abitibi

- (1) by replacing “and Abitibi” in the column listing the judicial districts by “, Abitibi and Roberval”;

- (2) by adding, in the column describing the territory over which concurrent jurisdiction is exercised, “or that of Roberval” at the end of that description.

TRANSITIONAL AND FINAL PROVISIONS

22. A judge who elects to participate in the pension plan provided for in Part V.1 of the Courts of Justice Act must so advise the Commission administrative des régimes de retraite et d’assurances in writing before 1 January 2002. Once the notice is received by the Commission, the election is irrevocable. Judges appointed after 31 December 1999 are deemed to have elected to participate in that pension plan.

The spouse of a judge who was in office on 31 December 2000 and who died between that date and the date of the coming into force of this Act, or who dies after 31 December 2000 without having made the election but before the final date set for doing so, may make the election in the place and stead of the judge, according to the conditions that would have applied to the judge.

23. A judge to whom the first paragraph of section 22 applies must pay to the Commission administrative des régimes de retraite et d’assurances the contributions required under section 224.2 of the Courts of Justice Act for the year 2001. In addition, the judge must pay, as contributions for past service subsequent to 1989, an amount equal to the contributions the judge would have paid for the year 2000, pursuant to section 224.2, if the pension plan had

been in force on 1 January 2000. However, that amount may not exceed the amount qualifying as contributions for past service under the applicable fiscal rules.

Payment of the amounts referred to in the first paragraph shall be made in full within 60 days from the date of mailing by the Commission of a notice to that effect or in equal instalments, with interest from the sixty-first day from the date of mailing of the notice, over a period not exceeding three years determined by agreement between the judge and the Commission. The amount pertaining to the contributions for the year 2001 that may be paid in instalments is limited to the amount indicated in the notice.

However, those amounts must be paid in full before the day on which payment of the judge's pension begins or, if the payment of the pension began between 1 January 2001 and the date of coming into force of this Act, within 60 days from the date of mailing by the Commission of a notice to that effect.

If the judge dies before having paid in full the amounts required, the judge's spouse must, to be entitled to the pension granted under the plan provided for in Part V.1, pay the balance of those amounts, within 60 days from the date of mailing by the Commission of a notice to that effect.

Failing payment of the amounts required within the time limit provided for in the third or the fourth paragraph, the judge is deemed, notwithstanding section 22, never to have elected to participate in the plan provided for in Part V.1 and the amounts paid by the judge shall be refunded to the judge or the judge's spouse, as the case may be, with interest.

24. The Commission administrative des régimes de retraite et d'assurances shall adjust the amount of any pension already being paid at the time the election is made, including any amount paid as supplementary benefits under the plan established pursuant to the second paragraph of section 122 of the Courts of Justice Act. The Commission shall pay, in a lump sum, the difference, if any, between the amount of the adjusted pension and the amount of pension effectively received, for each of the months elapsed since payment of the pension began, with interest computed from the date of each monthly payment of the pension.

25. A judge who has ceased to hold office between 31 December 1999 and 1 January 2001 is entitled to replace the pension to which the judge is entitled under the pension plan provided for in Part VI of the Courts of Justice Act by the pension to which the judge would have been entitled under the pension plan provided for in Part V.1 of that Act if the plan had come into force on 1 January 2000 and the judge had elected to participate in it. Such a replacement also concerns the amounts to which the judge is entitled as supplementary benefits under the plan established pursuant to the second paragraph of section 122 of that Act.

The judge referred to in the first paragraph must advise the Commission administrative des régimes de retraite et d'assurances of such a replacement in writing before 1 January 2002 and pay, as contributions for past service subsequent to 1989, an amount equal to the contributions the judge would have paid pursuant to section 224.2 of the Courts of Justice Act, if the pension plan had come into force on 1 January 2000, for the days elapsed between that date and the day on which the judge ceased to hold office. However, that amount may not exceed the amount qualifying as contributions for past service under the applicable fiscal rules and must be paid in full within 60 days from the date of mailing by the Commission of a notice to that effect, failing which the judge is deemed never to have requested the replacement of his or her pension and the amounts paid shall be refunded to the judge, with interest.

If the judge dies before having paid that amount in full, the judge's spouse must, to be entitled to the pension resulting from the replacement, pay in full the balance of the amounts required, within 60 days from the date of mailing by the Commission of a notice to that effect, failing which the judge is deemed never to have requested the replacement of the judge's pension and the amounts paid by the judge shall be refunded to the judge's spouse, with interest.

The spouse of a judge who was in office on 31 December 1999 but who died between that date and 1 January 2001 may request the replacement of the pension, in the place and stead of the judge, according to the conditions that would have applied to the judge.

On receipt of the notice and the amount required by this section, the Commission shall adjust the amount of the pension, including any amount paid as supplementary benefits under the plan established pursuant to the second paragraph of section 122 of the Courts of Justice Act. The Commission shall pay, in a lump sum, the difference, if any, between the amount of the adjusted pension and the amount of pension effectively received, for each of the months elapsed since payment of the pension began, with interest computed from the date of each monthly payment of the pension.

26. If a judge dies without leaving a spouse entitled to a pension and before paying in full the amounts required under sections 23 and 25, or if, as the case may be, the judge's spouse dies before paying those amounts, the judge is deemed never to have elected to participate in the plan provided for in Part V.1 of the Courts of Justice Act or never to have requested the replacement of his or her pension and the amounts paid shall be refunded to the judge's heirs, with interest.

27. For the purposes of sections 23 to 26, the amounts paid or refunded shall bear interest, compounded annually, at a rate of 6%.

28. Any amount paid by a judge or the judge's spouse as contributions for past service pursuant to sections 23 and 25 shall, for the purposes of the

pension plan provided for in Part V.1 of the Courts of Justice Act, be deemed to be contributions paid pursuant to section 224.2 of that Act.

29. The amounts collected under sections 23 to 27 shall be paid into the consolidated revenue fund and the amounts refunded by the Commission administrative des régimes de retraite et d'assurances shall be taken out of the fund.

30. The election made by a judge pursuant to section 238 of the Courts of Justice Act becomes inoperative if the judge elects to participate in the pension plan provided for in Part V.1 of the Courts of Justice Act. A new election must be made in accordance with section 224.16 of that Act.

The first paragraph does not apply to a judge who requests the replacement of his or her pension under section 25.

31. Ville de Montréal and, with the authorization of the Government, the Commission administrative des régimes de retraite et d'assurances may, until 31 December 2001, enter into an agreement to enable the city to become a party to the pension plan provided for in Part V.1 of the Courts of Justice Act with respect to the judges of the municipal court who are in office on 1 January 2001 and elect to participate in the plan, and with respect to judges appointed after 31 December 2000.

An agreement entered into under the first paragraph has effect from 1 January 2001.

Such an agreement may also enable the municipality to become a party to the pension plan provided for in Part VI of the said Act with regard to the judges of the municipal court who will not elect to participate in the pension plan provided for in Part V.1 and with regard to persons who, on 1 January 2001, are receiving a pension under an equivalent pension plan that is in force in their municipality.

If no agreement is entered into pursuant to this section, Ville de Montréal must establish a pension plan equivalent to the pension plan provided for in Part V.1 of the Courts of Justice Act and a supplementary benefits plan equivalent to the supplementary benefits plan established by the Government under the second paragraph of section 122 of that Act. The plan shall apply from 1 January 2001 and judges have until 31 December 2001 to elect to participate in it.

32. The sums of money to be transferred by Ville de Montréal pursuant to an agreement entered into under section 31 shall be established on the basis of the value of benefits determined according to assumptions and methods determined by order of the Government.

The sums shall be paid into the consolidated revenue fund.

33. The Government shall fix, by order, the rate of contribution of the cities of Laval and Québec to the pension plan provided for in Part VI of the Courts of Justice Act, for the years 1997 and following, and their rate of contribution to the pension plan provided for in Part V.1 of that Act. The Government shall also fix the rate of contribution of Ville de Montréal if an agreement is entered into pursuant to section 31.

The rates referred to in the first paragraph include the contributions required under the supplementary benefits plan established pursuant to the second paragraph of section 122 of the said Act.

34. Sections 22 to 28 and 30 also apply to the judges of the Municipal Court of Montréal, with the necessary modifications. If no agreement is reached pursuant to section 31, the notices required shall be given to the clerk of the city within the prescribed time and the amounts collected or refunded pursuant to those provisions shall be collected or refunded by the city.

35. Until the Government makes a regulation under section 224.29 of the Courts of Justice Act, the rate of interest applicable to the contributions paid into the pension plan provided for in Part V.1 of that Act is 6% compounded annually, and that rate shall be in force from 1 January 2001.

36. Schedule II to the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12), amended by section 328 of chapter 12 of the statutes of 2000 and by section 66 of chapter 53 of the statutes of 2000, is again amended by replacing “PART VI OR VI.1” in paragraph 2.1 by “PART V.1, VI OR VI.1”.

37. Schedule III to the said Act, amended by section 66 of chapter 53 of the statutes of 2000, is again amended by replacing “Part VI or VI.1” in paragraph 1 by “Part V.1, VI or VI.1”.

38. Section 8 of the Act to amend the Courts of Justice Act and the Act respecting municipal courts (1999, chapter 62) is amended by inserting “, 224.9” after “122” in the fourth line.

39. The resolution passed by the National Assembly on 22 March 2000 relating to the report of the Committee on the remuneration of the judges of the Court of Québec and municipal judges of Laval, Montréal and Québec, as tabled in the National Assembly on 28 October 1999 (Sessional Paper No. 639-19991028), is revoked.

The Government shall take, in accordance with the second paragraph of section 246.44 of the Courts of Justice Act, the necessary steps to implement in their entirety the recommendations of the Committee.

40. This Act comes into force on 30 May 2001.