
Treasury Board

Gouvernement du Québec

T.B. 197248, 13 November 2001

An Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan (1990, c. 5)

Centre hospitalier Côte des Neiges — Régime de retraite des employés en fonction — Partition and assignment of benefits accrued

CONCERNING Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges

WHEREAS, under the first paragraph of section 52 of the Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan (1990, c. 5), notwithstanding any provision of any Act, regulation or order inconsistent therewith, the Government may, by order, render applicable, in whole or in part and adapted as required, to the Régime de retraite pour les employés en fonction au Centre hospitalier Côte des Neiges (C.T. 397-78 dated 16 February 1978 and subsequent amendments) the special measures provided for in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10) and in the regulation thereunder, for the purposes of partition and assignment of benefits between spouses;

WHEREAS, under the second paragraph of that section, the Government may also, by the same order, prescribe special provisions for the establishment and assessment of benefits accrued under the Régime de retraite pour les employés en fonction au Centre hospitalier Côte des Neiges and for the reduction of the sums payable under such plan by reason of payment of the sums awarded to the spouse;

WHEREAS it is expedient to render applicable by order to the Régime de retraite pour les employés en fonction au Centre hospitalier Côte des Neiges *mutatis mutandis*, the special measures prescribed in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan;

WHEREAS it is also expedient to prescribe by order special provisions for the establishment and assessment of benefits accrued under the Régime de retraite pour les employés en fonction au Centre hospitalier Côte des Neiges and for the reduction of the sums payable under such plan by reason of payment of the sums awarded to the spouse;

WHEREAS, under section 40 of the Act respecting public administration (2000, c. 8), the Conseil du trésor shall exercise, after consulting the minister of Finance, the powers conferred on the Government by an Act that established a pension plan applicable to personnel of the public and parapublic sectors, except for certain powers;

WHEREAS the Minister of Finance has been consulted;

Whereas, under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges was published in Part 2 of the *Gazette officielle du Québec* on 5 September 2001, with a notice that it could be made by the Government upon the expiry of 45 days from its publication;

WHEREAS the 45-day period has expired and it is expedient to make the Regulation;

THEREFORE, THE CONSEIL DU TRÉSOR DECIDES:

THAT the special measures prescribed in Chapter VII.1 of Title I of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10) be applicable *mutatis mutandis* to the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges;

THAT the Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges, attached to this Decision, and containing the special provisions for the establishment and assessment of benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges and for the reduction of the sums payable under that plan, by reason of the payment of the sums awarded to the spouse, be made.

ALAIN PARENTEAU,
Clerk of the Conseil du trésor

Regulation respecting the partition and assignment of benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges

An Act to amend various legislation for the purposes of partition and assignment between spouses of benefits accrued under a pension plan
(1990, c. 5, s. 52)

DIVISION I

STATEMENT OF THE MEMBER'S OR FORMER MEMBER'S BENEFITS

1. Any application to obtain a statement referred to in section 122.1 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., c. R-10) shall contain the following information and be accompanied with the following documents:

(1) the name, address, social insurance number and date of birth of the member or former member and of his spouse;

(2) a marriage certificate and, where applicable, the date on which the spouses resumed living together;

(3) a written confirmation of a certified mediator to the effect that he has obtained a mandate of family mediation or a copy of the application for separation from bed and board, divorce, annulment of marriage or payment of a compensatory allowance or, where applicable, a copy of the judgment ruling on such an application; and

(4) the information that must be provided by the employer in his annual report, in accordance with section 188 of the Act respecting the Government and Public Employees Retirement Plan for the year during which the assessment is determined up to the date set for that assessment, as well as for the previous year; that information shall be certified by an authorized representative of the employer.

Any application made under this section is also valid for the other pension plans administered by the Commission administrative des régimes de retraite et d'assurances or for which the Commission is responsible for paying benefits.

2. Within 90 days following the date of receipt of a duly completed application, the Commission shall provide the member or former member and his spouse with a statement containing the following information:

(1) the date on which the member or former member became a member of the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges, set up under Order in Council 397-78 dated 16 February 1978, *mutatis mutandis*, and, where applicable, the date on which he ceased to be a member thereof;

(2) the benefits accrued to the member or former member, without taking into account any reduction resulting from a prior partition or assignment of benefits, from the time when he became a member of the plan to the date of assessment provided for in the second paragraph of section 122.2 of the Act respecting the Government and Public Employees Retirement Plan, as well as the value of those benefits;

(3) the benefits accrued for the period of the marriage as well as their value;

(4) where applicable, the value, applicable at the date of this assessment, of the reduction of the accrued benefits as a result of any prior partition or assignment of benefits; and

(5) the terms and conditions for payment of the sums awarded to the spouse in accordance with Division III.

The statement of benefits and values is established at the date of assessment on the basis of information known to the Commission not later than the date of that statement.

DIVISION II

ESTABLISHMENT AND ASSESSMENT OF ACCRUED BENEFITS

§1. Establishment of benefits

3. The benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges shall be established in accordance with the plan, taking into account the following provisions:

(1) where the employee has less than 5 years of pensionable service but has to his credit more than 30 years of service on which a pension benefit or retirement benefit of a type described in paragraph *b* of subsection 3 of section 5 of the Public Service Superannuation Act (R.S.C., (1985), c. P-36) is based and has not reached age 60, the accrued benefits shall be those whose value is the higher of a refund of contributions or a deferred pension payable at age 60;

(2) where the employee has less than 5 years of pensionable service but has to his credit more than 30 years of service on which a pension benefit or retirement

benefit of a type described in paragraph *b* of subsection 3 of section 5 of the Public Service Superannuation Act is based and has reached age 60, the accrued benefits shall be those whose value is the highest of

- (a) a refund of contributions;
- (b) a cash termination allowance; or
- (c) an immediate pension;

(3) where the employee has at least 5 years of pensionable service but does not have to his credit at least 10 years of service and has not reached age 45, the accrued benefits shall be those whose value is the higher of a refund of contributions or a deferred pension payable at age 60;

(4) where the employee has at least 5 years of pensionable service and has to his credit at least 10 years of service and has reached age 45 but not age 60, the accrued benefits are deemed to correspond to a deferred pension payable at that age; and

(5) where the employee has ceased to hold employment because of a disability and has the option between either an immediate pension or a cash termination allowance or a refund of contributions, and where his option is not exercised within 60 days following the date of receipt of the application for assessment, the accrued benefits shall be those having the higher value.

The benefits accrued for the period of the marriage shall be established in accordance with the first paragraph on the basis of the years or parts of a year of service credited during that period, on the assumption that the member or former member acquired for that period benefits of the same type as those accrued to him from the beginning of his membership to the date of assessment.

For the purposes of establishing and assessing the accrued benefits, those benefits shall correspond to the benefits acquired under the plan at the date of assessment on the basis of the years or parts of a year of service credited at that date without taking into account, except for the pensioner, those years added at the time of the calculation of the pension. For those purposes, the member is deemed to have ceased to be covered by the plan at the date of assessment.

4. The years or parts of a year of service redeemed shall be credited proportionately to the amounts paid in capital for their payment, out of the total capital amount. Those years or parts of a year are deemed to be credited for the period of the marriage, to the extent that they were paid during that period.

§2. Assessment of benefits

5. Where the accrued benefits consist in a refund of contributions, the value of those benefits corresponds to the contributions paid with interest calculated in accordance with the plan and accrued to the date of assessment, as though the refund was made at that date. The same applies in respect of the value of the benefits accrued for the period of the marriage.

6. The actuarial value of the benefits shall be established according to the following actuarial method and assumptions:

- (1) actuarial method:

the “distribution of benefits” method; and

- (2) actuarial assumptions:

(a) mortality rate: GAM-83 men and GAM-83 women (The 1983 Group Annuity Mortality Table, Transactions of the Society of Actuaries, Vol. XXXV, pp. 880 and 881), weighted equally;

(b) interest rate: 9% for the first 15 years following the date of assessment and 6.5% for subsequent years; and

(c) rate of increase in the Pension Index within the meaning of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9): 5.5% for the first 15 years following the date of assessment and 3% for subsequent years.

7. Where the accrued benefits consist in a benefit that is being paid at the date of assessment or that would be if the former member had made an application to that effect, the value of those benefits shall be obtained by calculating the actuarial value of such a benefit.

The value of the benefits accrued for the period of the marriage shall be established in accordance with the first paragraph.

DIVISION III

PAYMENT OF THE SUMS AWARDED TO THE SPOUSE AS A RESULT OF THE PARTITION OR ASSIGNMENT OF BENEFITS

8. In this Division, the expression “life income fund” has the meaning given to it by sections 18 and 19 of the Regulation respecting supplemental pension plans, approved by Order in Council 1158-90 dated 8 August 1990, and the expressions “locked-in retirement account” and “annuity contract” have the meanings given to them by sections 29 and 30, respectively, of that Regulation.

9. An application for payment of the sums awarded to the spouse shall be preceded by an application for assessment made in accordance with Division I and shall contain the name and address of the member or former member and of his spouse, their social insurance numbers and their dates of birth.

That application is also valid for all pension plans for which the Commission has provided a statement.

10. An application for payment of the sums awarded to the spouse shall include the following documents :

(1) the judgment ruling on separation from bed and board, divorce, annulment of marriage or payment of a compensatory allowance ;

(2) where applicable, any other judgment relative to the partition or assignment of the member's or former member's benefits ;

(3) where applicable, the agreement entered into between the spouses regarding the terms for payment out of the benefits accrued under the Régime de retraite des employés en fonction au Centre hospitalier Côte des Neiges ; and

(4) the divorce certificate and, where applicable, the certificate of non-appeal.

11. Upon receipt of a duly completed application for payment, the Commission shall send the member or former member a statement showing the sums awarded to the spouse as well as the amount of the reduction calculated pursuant to Division IV. The Commission shall also send the spouse a statement showing the sums awarded to him. Those statements shall be accompanied with a statement of the administrative expenses established in accordance with the Regulation respecting the recovery of certain administrative expenses and of certain other expenses within the framework of the partition and assignment between spouses of benefits accrued under a pension plan, made by Order in Council 352-91 dated 20 March 1991, including any subsequent amendments.

The spouse shall, within 60 days following the date on which the statement addressed to him was mailed, provide the Commission with the name and address of the financial institution and with an identification of the annuity contract, locked-in retirement account or life income fund or, where applicable, the registered retirement savings plan or registered retirement income fund into which the sums awarded to him must be transferred.

Unless the spouse was paid otherwise, the Commission shall, within 120 days following the expiry of the period provided for in the second paragraph, transfer the sums awarded to the spouse into an annuity contract, locked-in retirement account or life income fund or, where applicable, into a registered retirement savings plan or registered retirement income fund with a financial institution chosen by the spouse, as long as the steps necessary for the transfer of those sums have first been taken.

Should the spouse fail to indicate his choice and to take the necessary steps within the prescribed period, the Commission shall transfer those sums into a locked-in retirement account or, where applicable, into a registered retirement savings plan in the spouse's name with the financial institution with which the Commission has reached an agreement to that effect.

Where the spouse proceeds by way of compulsory execution, the judgment authorizing a seizure by garnishment shall take the place of an application for payment and this section applies.

12. The Commission shall transfer the sums awarded to the spouse into an annuity contract, locked-in retirement account or life income fund where those sums come from an entitlement to an immediate pension or deferred pension.

Notwithstanding the foregoing, the Commission shall transfer those sums into a registered retirement savings plan or registered retirement income fund where those sums come from an entitlement to a refund of contributions or, upon application by the spouse, shall transfer those sums into an annuity contract, locked-in retirement account or life income fund.

Notwithstanding the first and second paragraphs, those sums shall be paid to the spouse's successors in case of the spouse's death.

13. Interest compounded annually at the rate of 4% and accrued from the date of assessment to the date of payment shall be added to the sums awarded to the spouse.

DIVISION IV REDUCTION OF ACCRUED BENEFITS

14. If the amount paid to the spouse comes from an entitlement to a refund of contributions, to a cash termination allowance or to a deferred retirement pension, the member's or former member's benefits shall be established in accordance with the plan and shall be recalculated as follows :

(1) where the member or former member is entitled to a refund of contributions, the amount of the refund shall be reduced by the sums awarded to the spouse at the date of assessment with interest compounded annually at the rate of 4% and accrued from the date of assessment to the date on which the refund is made; or

(2) where the member or former member is entitled to a deferred retirement pension or to a retirement pension, his pension shall be reduced from the date on which it becomes payable or from the date of payment, as the case may be, by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

15. If the amount paid to the spouse comes from an entitlement to a retirement pension, that pension shall be reduced, from the date of payment or the date on which it becomes payable for an employee who is at least 60 years of age at the date of assessment, by the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment.

16. For the purposes of section 14, the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment shall be established at that date according to the actuarial method and assumptions provided for in section 6. That amount is presumed applicable on the date of the member's or former member's 60th birthday.

The amount of pension obtained pursuant to the first paragraph shall, at the time prescribed under section 119 of the Act respecting the Québec Pension Plan, be indexed in accordance with the rate of increase in the Pension Index within the meaning of that Act, from 1 January following the date of assessment to 1 January of the year during which that amount begins to apply.

If the pensioner is under 60 years of age either on the date on which the annual pension becomes payable or on the date of payment if the pension is being paid on that date, the amount of pension obtained pursuant to the first and second paragraphs shall be reduced by 0.50% per month, calculated for each month between the date on which that amount of pension begins to apply and the date of the pensioner's 60th birthday, without exceeding 65%.

If the pensioner retired before the date of payment and if that date occurs after the date of his 60th birthday, the amount of pension obtained pursuant to the first and second paragraphs shall be increased by 0.50% per month, calculated for each month between the date of his 60th birthday and the date on which that amount of pension begins to apply if the pensioner retired before the date of his 60th birthday, or for each month between

the date on which he retired and the date on which that amount of pension begins to apply, if the pensioner retired on the date of his 60th birthday or thereafter.

17. For the purposes of section 15, the amount of pension that would be obtained on the basis of the sums awarded to the spouse at the date of assessment shall be established at that date in accordance with the actuarial method and assumptions provided for in section 6. That amount is presumed applicable on the date of assessment.

The amount of pension obtained pursuant to the first paragraph shall be indexed in the same manner as the pension or in the same manner as though it were being paid at the date of assessment, from 1 January following that date to 1 January of the year during which that amount begins to apply.

The amount of pension obtained pursuant to the first and second paragraphs shall be increased by 0.50% per month, calculated for each month between the date of assessment and the date on which that amount of pension begins to apply, if the pension was being paid on the date of assessment or would have been if the former employee had made an application to that effect, or for each month between the date of retirement and the date on which that amount of pension begins to apply, if the pensioner retired between the date of assessment and the date of payment.

18. Any refund of contributions to be made following a death or any payment of actuarial value shall be reduced by the sums awarded to the spouse with interest compounded annually at the rate of 4% and accrued from the date of assessment to the date on which the refund is made, except for the period during which a retirement pension is paid.

19. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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