



NATIONAL ASSEMBLY

FIRST SESSION

FORTY-FIRST LEGISLATURE

Bill 73

(2015, chapter 27)

An Act respecting mainly the implementation of recommendations of the pension committee of certain public sector pension plans

Introduced 3 November 2015

Passed in principle 10 November 2015

Passed 19 November 2015

Assented to 20 November 2015

**Québec Official Publisher
2015**

EXPLANATORY NOTES

This Act amends various Acts that establish pension plans in the public sector, mainly to implement certain recommendations made by the pension committees.

The Act also amends the Act respecting the Government and Public Employees Retirement Plan in order to require the Commission administrative des régimes de retraite et d'assurances to cancel debt arising from certain overpayments.

The employees of bodies that, after 30 June 2011, are subject by law to the Government and Public Employees Retirement Plan or the Pension Plan of Management Personnel, and the employees of bodies that are not subject to those pension plans but were integrated after that date into another body whose employees already participated in those plans, are entitled to be credited with certain years of service.

Pensioners under the Pension Plan of Management Personnel regarding whom the number of years and parts of a year of service used as a basis for computing their pension has been reduced are entitled to be credited with certain years of service.

The Act provides for transfers between funds, made necessary when employees entitled to additional benefits change pension plans.

The spouses of pensioners under the Government and Public Employees Retirement Plan, the Pension Plan of Management Personnel and the Pension Plan of Peace Officers in Correctional Services are granted a pension equal to 60% of the pensioner's reduced pension in the event of the pensioner's death in certain circumstances.

The circumstances in which a pension application may be cancelled are determined.

Lastly, the Act makes technical and consequential amendments and includes miscellaneous and transitional provisions.

LEGISLATION AMENDED BY THIS ACT:

- Act respecting the Pension Plan of Certain Teachers (chapter R-9.1);
- Act respecting the Pension Plan of Peace Officers in Correctional Services (chapter R-9.2);
- Act respecting the Government and Public Employees Retirement Plan (chapter R-10);
- Act respecting the Civil Service Superannuation Plan (chapter R-12);
- Act respecting the Pension Plan of Management Personnel (chapter R-12.1).

Bill 73

AN ACT RESPECTING MAINLY THE IMPLEMENTATION OF RECOMMENDATIONS OF THE PENSION COMMITTEE OF CERTAIN PUBLIC SECTOR PENSION PLANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

1. Section 54 of the Act respecting the Pension Plan of Certain Teachers (chapter R-9.1) is amended by replacing “with sections 31 and 31.1 of the said Act or, as the case may be, with sections 44 and 45” by “with section 31 of the said Act or, as the case may be, with section 44”.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

2. Section 56.1 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (chapter R-9.2) is amended

(1) by replacing “may, in applying for a pension, elect to receive a pension with a 2% reduction” in the first paragraph by “who applies for a pension or the pensioner may elect to receive a pension with a 2% reduction”;

(2) by inserting “or the pensioner is entitled” after “will be entitled” in the first paragraph;

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

“The election is irrevocable once the first pension payment computed according to the pension amount confirmed by the Commission has been received, even if no spouse is entitled to a pension.”

3. The Act is amended by inserting the following section after section 56.1:

“56.1.1. Despite section 56, the spouse of a pensioner is entitled to receive a pension equal to the one established in accordance with the second or third paragraph of this section, if the pensioner dies after the Commission receives his pension application but before the 31st day following the date of the notice from the Commission inviting him to express his will regarding the election provided for in section 56.1 and before the Commission receives the expression of his will regarding the election provided for in section 56.1.

The pension to which the spouse is entitled under the first paragraph, from the month following the death of the pensioner, is equal to 60% of the pension to which the pensioner was entitled, but which is reduced by 2% and by the amount obtained under section 51, even if the pensioner dies before 65 years of age.

However, if the spouse is not entitled to a pension under the Act respecting the Québec Pension Plan (chapter R-9) when the pensioner dies, the pension to which the spouse is entitled, from the month following the death of the pensioner, is equal to 60% of the pension to which the pensioner was entitled, but which is reduced by 2%. However, that reduction does not apply to the amount added, if applicable, to the annual amount of the pension under section 44.3.”

4. Section 133 of the Act is amended by inserting “on the recommendation of the pension committee established under section 139.3 and” after “The Commission may,” in the first paragraph.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

5. Section 17.2 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) is amended by replacing “115.10.1 and 115.10.4” in the first paragraph by “115.10.1, 115.10.4 and 115.10.6”.

6. Section 31 of the Act is amended by striking out the second paragraph.

7. Section 31.1 of the Act is repealed.

8. Section 40 of the Act is amended by replacing “indicated in his pension application if it is after the date of receipt of the application” by “of his choice if it is after the date of receipt of the pension application” in subparagraph 3 of the third paragraph.

9. The Act is amended by inserting the following section after section 40:

“40.1. Anyone who applies for a pension may cancel the application provided that the first pension payment computed according to the pension amount confirmed by the Commission has not been received and that any amounts already paid are repaid.”

10. Section 43.1 of the Act is amended

(1) by replacing “may, when he applies for a pension, elect to reduce his pension” in the first paragraph by “who applies for a pension or the pensioner may elect to reduce his pension”;

(2) by replacing “employee is entitled” in the first paragraph by “employee will be entitled or the pensioner is entitled”;

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

“A person who ceased to participate in the plan while eligible for a pension and who applies for a pension may also elect to reduce the pension as provided for in the first paragraph.

Any such election is irrevocable once the first pension payment computed according to the pension amount confirmed by the Commission has been received, even if no spouse is entitled to a pension.”

11. The Act is amended by inserting the following section after section 43.1:

“**43.1.1.** Despite section 43, the spouse of a pensioner is entitled to receive a pension equal to the one established in accordance with the second paragraph of this section, if the pensioner dies after the Commission receives his pension application but before the 31st day following the date of the notice from the Commission inviting him to express his will regarding the election provided for in section 43.1 and before the Commission receives the expression of his will regarding the election provided for in section 43.1.

The pension to which the spouse is entitled under the first paragraph, from the month following the death of the pensioner, is equal to 60% of the pension to which the pensioner was entitled, but which is reduced by 2% and by the amount obtained under section 39, even if the pensioner died before attaining 65 years of age.”

12. Section 115.10.4 of the Act is amended by replacing “by an order made under section 220 after 30 June 2011” in the first paragraph by “under a legislative provision that came into force after 30 June 2011 or an order made under section 220 after that date”.

13. The Act is amended by inserting the following sections after section 115.10.5:

“**115.10.6.** An employee who held employment in a body that ceased to exist after 30 June 2011 is entitled to be credited, for pension purposes, with the years and parts of a year of service accumulated with that body, up to a maximum of 15 years, except the years and parts of a year during which the employee participated in a pension plan, if the following requirements are satisfied:

(1) the service was performed in a body whose employees were not contemplated in Schedule I or II;

(2) due to the fact that the body ceased to exist, its employees were integrated into a department or body whose employees are already contemplated in Schedule I or II.

For the purposes of the first paragraph, any period in which the employee was entitled to salary insurance benefits or in which an employee availed herself of a maternity leave under the provisions concerning parental leaves which formed part of her conditions of employment is counted as a period of service.

To be credited with all or part of that service, the employee is required to pay to the Commission the amount determined under the tariff established by regulation, on the basis of the pensionable salary at the time of receipt of the employee's application for redemption, according to the number of days and parts of a day to be redeemed out of the number of pensionable days, calculated on the basis of the annual remuneration. The tariff may vary according to the employee's age, the year of service covered by the redemption and the date of receipt of the application. The regulation may prescribe the terms and conditions governing the application of the tariff. If the employee applies to have only part of that service credited, the most recent service is credited first.

For the purposes of the third paragraph, the pensionable salary of an employee who, at the time of the receipt of his application for redemption, participates in the plan but does not hold pensionable employment is established by regulation. This rule also applies to the establishment of the pensionable salary of an employee who retires on the day following the day on which the employee ceases to participate in the plan and applies simultaneously for a pension and for credit for a period referred to in this section.

“115.10.7. The amount established under section 115.10.6 is payable in cash or by instalments spread over the period and payable at the intervals determined by the Commission. If paid by instalments, the amount bears interest, compounded annually, at the rate provided for in Schedule VII in force on the date of receipt of the application, computed from the date on which the redemption proposal made by the Commission expires.

“115.10.8. An employee who is entitled to benefits under section 115.10.4 or 115.10.6 cannot be credited with more than 15 years of service, with the most recent years being credited first.”

14. Section 127 of the Act is amended by replacing “the contributory amounts received from the employers listed in Schedule III.1 and the” in subparagraph 3 of the first paragraph by “the employer”.

15. Section 133.6 of the Act is replaced by the following sections:

“133.6. The sums representing the actuarial value of the additional benefits pertaining to the benefits referred to in section 133.2 or 133.3 that were acquired by an employee while he was governed by this pension plan are transferred from the employees' contribution fund under this pension plan to the employees' contribution fund under the Pension Plan of Management Personnel, provided the employee has become governed by Title IV.0.1 or the Pension Plan of Management Personnel.

The rules and procedure for computing the actuarial values and the applicable cases, conditions and procedure for the transfers of funds are determined by regulation.

“133.6.1. Once the sums have been transferred under section 133.6, the additional benefits concerned are deemed to pertain to benefits acquired while the employee was governed by Title IV.0.1 or the Pension Plan of Management Personnel, as the case may be.”

16. Section 133.7 of the Act is amended by inserting the following paragraph after the first paragraph:

“Despite the first paragraph, the interest applicable for the purposes of section 133.6 is compounded annually at the rates determined in Schedule VI to this Act.”

17. Section 134 of the Act is amended, in the first paragraph,

(1) by replacing “115.10.1 and 115.10.4” in subparagraph 4.2 by “115.10.1, 115.10.4 and 115.10.6”;

(2) by replacing subparagraph 15.1 by the following subparagraph:

“(15.1) determine, for the purposes of section 133.6, the rules and procedure for computing the actuarial values and the applicable cases, conditions and procedure for the transfers of funds;”;

(3) by replacing “any amount of pension or pension credit, or any excess reimbursement of contributions or actuarial value, owed to the Commission where the amount was paid before the expiry of the time limit specified in subparagraphs 1 and 2 of the second paragraph of that section” in subparagraph 16 by “any sum, other than the sums referred to in subparagraphs 1 to 3 of the second paragraph of section 147, owed to the Commission”.

18. Section 147 of the Act is amended

(1) by replacing “The Commission may” in the first paragraph by “Subject to the second and third paragraphs, the Commission may”;

(2) by replacing the second and third paragraphs by the following paragraphs:

“The Commission shall remit

(1) any amount of pension or pension credit owed to the Commission;

(2) any excess reimbursement of contributions or actuarial value owed to the Commission;

(3) any overpayment owed to the Commission by a spouse after the date of payment of the sums allotted to the spouse following the partition and assignment of benefits between spouses.

The Commission shall remit any sum, other than the sums referred to in subparagraphs 1 to 3 of the second paragraph, owed to the Commission in the cases and subject to the conditions determined by government regulation.”

19. Section 147.0.5 of the Act is replaced by the following section:

“**147.0.5.** The second paragraph of section 147, the regulatory provisions made under the third paragraph of that section and the second paragraph of section 147.0.1 do not apply if the overpayments made or benefits granted to a person result from one of the following three cases that could reasonably have been noticed by the person:

(1) an administrative error;

(2) an error in the data provided by the employer;

(3) a change made to the data that concerns the period after the date of the pension application and that was used in computing the overpayments or the granting of benefits.

Section 147.0.4 does not apply if the overpayments made or benefits granted to a person result from an administrative error that could reasonably have been noticed by the person.”

20. Section 151 of the Act is amended by replacing subparagraph 3 of the first paragraph by the following subparagraph:

“(3) 31 December of the year in which the person’s retirement plan provides that the person ceases to be a member due to his age or, if he continues to hold pensionable employment on that date, the date on which he retires.”

21. Section 215.17 of the Act is amended by inserting “, section 139.3 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (chapter R-9.2)” after “of this Act” in the first paragraph.

22. Section 220 of the Act is amended by replacing “II.1.1, II.2, III and III.1” in the first paragraph by “II.1.1 and II.2”.

23. Schedules III and III.1 to the Act are repealed.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

24. Section 72 of the Act respecting the Civil Service Superannuation Plan (chapter R-12) is amended by striking out the second paragraph.

25. Section 72.1 of the Act is repealed.

26. Section 72.3 of the Act is amended by replacing “the first and second paragraphs of section 72 and sections 72.1 and” by “the first paragraph of section 72 and section”.

27. Section 111.1 of the Act is amended by replacing “I, II and IV” by “I and II”.

28. Section 114 of the Act is replaced by the following section:

“114. The Commission shall pay the amounts collected under this Act into the Consolidated Revenue Fund.

The sums of money required for the application of this Act shall be taken out of that Fund.”

29. Schedules IV and IV.1 to the Act are repealed.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT PERSONNEL

30. Section 28.1 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1) is amended by replacing “152.1 or 152.4” in the first paragraph by “152.1, 152.4 and 152.6”.

31. Section 44 of the Act is amended by striking out the second paragraph.

32. Section 45 of the Act is repealed.

33. Section 59 of the Act is amended by replacing “indicated in the employee’s pension application if it is after the date of receipt of the application” in subparagraph 3 of the third paragraph by “of the employee’s choice if it is after the date of receipt of the pension application”.

34. The Act is amended by inserting the following section after section 59:

“59.1. Anyone who applies for a pension may cancel the application provided that the first pension payment computed according to the pension amount confirmed by the Commission has not been received and that any amounts already paid are repaid.”

35. Section 63 of the Act is amended

(1) by replacing “may, when the employee applies for a pension, elect to reduce his or her pension” in the first paragraph by “who applies for a pension or the pensioner may elect to reduce his or her pension”;

(2) by replacing “is entitled” in the first paragraph by “will be entitled or the pensioner is entitled”;

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

“A person who ceased to participate in the plan while eligible for a pension and who applies for a pension may also elect to reduce the pension as provided for in the first paragraph.

Any such election is irrevocable once the first pension payment computed according to the pension amount confirmed by the Commission has been received, even if no spouse is entitled to a pension.”

36. The Act is amended by inserting the following section after section 63:

“**63.1.** Despite section 62, the spouse of a pensioner is entitled to receive a pension equal to the one established in accordance with the second paragraph of this section, if the pensioner dies after the Commission receives his or her pension application but before the 31st day following the date of the notice from the Commission inviting the pensioner to express his or her will regarding the election provided for in section 63 and before the Commission receives the expression of his or her will regarding the election provided for in section 63.

The pension to which the spouse is entitled under the first paragraph, from the month following the death of the pensioner, is equal to 60% of the pension to which the pensioner was entitled, but which is reduced by 2% and by the amount obtained under section 57, even if the pensioner dies before attaining 65 years of age.”

37. Section 152.4 of the Act is amended by replacing “by an order made under section 207 after 30 June 2011” in the first paragraph by “under a legislative provision that came into force after 30 June 2011 or an order made under section 207 after that date”.

38. The Act is amended by inserting the following after section 152.5:

“**152.6.** An employee who held employment in a body that ceased to exist after 30 June 2011 is entitled to be credited, for pension purposes, with the years and parts of a year of service accumulated with that body, up to a maximum of 15 years, except the years and parts of a year during which the employee participated in a pension plan, if the following requirements are satisfied:

(1) the service was performed in a body whose employees were not contemplated in Schedule II;

(2) due to the fact that the body ceased to exist, its employees were integrated into a department or body whose employees are already contemplated in Schedule II.

For the purposes of the first paragraph, any period in which the employee was entitled to salary insurance benefits or in which an employee availed herself of a maternity leave under the provisions concerning parental leaves which formed part of her conditions of employment is counted as a period of service.

To be credited with all or part of that service, the employee is required to pay to the Commission the amount determined under the tariff established by regulation, on the basis of the pensionable salary at the time of receipt of the employee's application for redemption, according to the number of days and parts of a day to be redeemed out of the number of pensionable days, calculated on the basis of the annual remuneration. The tariff may vary according to the employee's age, the year of service covered by the redemption and the date of receipt of the application. The regulation may prescribe the terms and conditions governing the application of the tariff. If the employee applies to have only part of that service credited, the most recent service is credited first.

For the purposes of the third paragraph, the pensionable salary of an employee who, at the time of the receipt of his or her application for redemption, is a member of the plan but does not hold pensionable employment is established by regulation. This rule also applies to the establishment of the pensionable salary of an employee who retires on the day following the day on which the employee ceases to be a member of the plan and applies simultaneously for a pension and for credit for a period referred to in this section.

“152.7. The amount established under section 152.6 is payable in cash or by instalments spread over the period and payable at the intervals determined by the Commission. If paid by instalments, the amount bears interest, compounded annually, at the rate provided for in Schedule VIII in force on the date on which the application is received, computed from the date on which the redemption proposal made by the Commission expires.

“152.8. An employee who is entitled to benefits under section 152.4 or 152.6 cannot be credited with more than 15 years of service, with the most recent years being credited first.

“DIVISION IV

“REDEMPTION OF SERVICE BY A PENSIONER

“152.9. A pensioner for whom the number of years and parts of a year of service used for computing the pension was reduced and who, on the date the pensioner ceased to participate in this plan, was or would have been entitled to be credited with years and parts of a year of service under the provisions of the plan may, if the pensioner applies to redeem that service within 180 days of the date of the decision sent by the Commission notifying the pensioner of the reduction, take advantage of those provisions to be credited with years and parts of a year of service, up to the number by which the pensioner's service was reduced.

The amount the pensioner must pay to cover the cost of redemption is established on the date of retirement and the provisions apply, with the following modifications:

(1) the “date of receipt of the application” and any reference to that date are references to the date of retirement;

(2) when the cost of redemption is established on the basis of the annual pensionable salary on the date of receipt of the application for redemption, the annual pensionable salary is equal to

(a) the salary that was or would have been paid under the conditions of employment that were or would have been applicable if the pensioner held or had continued to hold, until the date of retirement, the employment the pensioner held on the last day of credited service before retiring; or

(b) if the employment held with the employer no longer exists on the date of retirement, the salary the pensioner received on the last day of credited service, increased by the percentage of increase for the salary scale provided in the conditions of employment applicable to class 4 public service management personnel between the last day of credited service and the date of retirement; and

(3) when the amount required to cover the cost of redemption bears interest, no interest is computed after the date of retirement.

The amount required to cover the cost of redemption is payable in a lump sum.”

39. Section 177 of the Act is amended by striking out “referred to in Schedule VI and the contributory amounts paid by the employers” in subparagraph 3 of the first paragraph.

40. Section 188 of the Act is replaced by the following sections:

“188. The sums representing the actuarial value of the additional benefits pertaining to the benefits referred to in section 184 or 185 that were acquired by an employee while he or she was governed by this pension plan or Title IV.0.1 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) are transferred from the employees’ contribution fund under this pension plan to the employees’ contribution fund under the Government and Public Employees Retirement Plan, provided the employee has become governed by the Government and Public Employees Retirement Plan.

The rules and procedure for computing the actuarial values and the applicable cases, conditions and procedure for the transfers of funds are determined by regulation.

“188.1. Once the sums have been transferred under section 188, the additional benefits concerned are deemed to pertain to benefits acquired while the employee was governed by the Government and Public Employees Retirement Plan.”

41. Section 189 of the Act is amended by inserting the following paragraph after the first paragraph:

“Despite the first paragraph, the interest applicable for the purposes of section 188 is compounded annually at the rates determined in Schedule VII to this Act.”

42. Section 196 of the Act is amended, in the first paragraph,

(1) by replacing “152.1 and 152.4” in subparagraph 5.1 by “152.1, 152.4 and 152.6”;

(2) by replacing subparagraph 19 by the following subparagraph:

“(19) determine, for the purposes of section 188, the rules and procedure for computing the actuarial values and the applicable cases, conditions and procedure for the transfers of funds;”.

43. Section 207 of the Act is amended by replacing “I and III to VI” in the first paragraph by “I, III and IV”.

44. Schedules V and VI to the Act are repealed.

MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

45. Despite the time limits resulting from section 152.9 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1), enacted by section 38 of this Act, the application for redemption of a pensioner for whom the number of years and parts of a year of service used for computing the pension was reduced in 2015 must be received by the Commission administrative des régimes de retraite et d’assurances before 1 July 2016.

46. Subparagraph 16 of the first paragraph of section 134 and sections 147 and 147.0.5 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10), as they read on 2 November 2015, continue to apply with regard to debts established by the Commission before 3 November 2015.

47. Despite the first paragraph of section 181 of the Act respecting the Pension Plan of Management Personnel, the sums required to pay the additional benefits provided for in sections 104 and 105 of that Act to a beneficiary governed by the Special provisions in respect of classes of employees designated under section 23 of the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 2) or the Designation of classes of employees

and the determination of special provisions pursuant to section 10.1 of the Act respecting the Government and Public Employees Retirement Plan, enacted by Order in Council 245-92 dated 26 February 1992 (1992, G.O. 2, 1051) and that were taken out of the Consolidated Revenue Fund before 20 November 2015 were taken out validly.

The same applies, despite the first paragraph of section 131.1 of the Act respecting the Government and Public Employees Retirement Plan, to the sums required to pay the additional benefits provided for in sections 73.1 and 73.2 of that Act to a beneficiary governed by the Designation of classes of employees and the determination of special provisions pursuant to section 10.1 of the Act respecting the Government and Public Employees Retirement Plan that were taken out of the Consolidated Revenue Fund.

48. The first amendments to the Regulation under the Act respecting the Government and Public Employees Retirement Plan (chapter R-10, r. 2) and the Regulation under the Act respecting the Pension Plan of Management Personnel (chapter R-12.1, r. 1) enacted after this Act has been assented to may be effective from a date not prior to 20 November 2015.

49. This Act comes into force on 20 November 2015. However, paragraph 3 of section 17 and sections 18 and 19 have effect from 3 November 2015.