

chapter T-16, r. 7

Supplementary benefits plan for judges covered by the pension plan established under Part VI of the Courts of Justice Act

Courts of Justice Act
(chapter T-16, ss. 122 and 122.1).

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DIVISION I

SCOPE

1. A plan providing for supplementary benefits payable from the date on which benefits become payable under the pension plan established under Part VI of the Courts of Justice Act (chapter T-16) is established in respect of the judges covered by that pension plan.

O.C. 326-93, s. 1.

DIVISION II

CALCULATION AND PAYMENT OF SUPPLEMENTARY BENEFITS FOR JUDGES

2. The annual supplementary benefits payable to a judge are equal to the amount obtained

(1) by multiplying the average salary for the judge's 3 best paid years of service or, if the judge has fewer than 3, for all the judge's years of service, by 2.8% per year of service used to compute the pension payable to the judge under the pension plan; and

(2) by subtracting the pension amount from the amount obtained under subparagraph 1.

If the judge's pension is reduced pursuant to the second paragraph of section 232.1 or section 238 of the Act, the amount obtained under subparagraph 1 of the first paragraph is reduced in the same way as the pension.

O.C. 326-93, s. 2; O.C. 866-2010, s. 1.

3. In the case of a judge who is eligible for retirement under paragraph 3 of section 228 of the Act and, on 30 May 1978, had, for at least 10 years, held the office of chief judge or assistant chief judge or had such status or who, on that date, held such office and had for at least 10 years, the judge's annual supplementary benefits shall not be lower, when he becomes eligible for retirement, than the amount by which 63% of his average salary for his 5 best paid years of service exceeds the amount of his pension.

In the case of a judge who has opted for the plan established under Part VI of the Act or, where applicable, has opted for an equivalent plan in force in a municipality pursuant to the legislative provisions that grant such option and who is eligible for retirement because he has reached age 70, the judge's annual supplementary benefits shall not be lower, when he becomes eligible for retirement, than the amount by which 56% of his average salary for his 5 best paid years of service exceeds the amount of his pension. If, on 1 January 1979, the judge had, for at least 10 years, held the office of chief judge or assistant chief judge or had such status or if, on that date, he held such office and had for at least 10 years, his annual supplementary benefits shall not be lower, when he becomes eligible for retirement, than the amount by which 63% of that average salary exceeds his pension.

If the pension is reduced pursuant to section 238 of the Act, the supplementary benefits are reduced in the same way as the pension.

O.C. 326-93, s. 3; O.C. 866-2010, s. 2.

4. *(Revoked).*

O.C. 326-93, s. 4; O.C. 866-2010, s. 3.

5. The supplementary benefits to which a judge is entitled shall not, on the date on which they become payable, be greater than the amount by which his highest annual salary while he held office exceeds the amount of the pension payable to him on the same date under the pension plan.

The highest annual salary is determined in accordance with the fourth paragraph of section 122 of the Act.

O.C. 326-93, s. 5.

6. The judge's supplementary benefits shall be paid for life from the date on which his pension becomes payable under the pension plan.

O.C. 326-93, s. 6.

7. Where a retired judge dies, his benefits shall be paid to his spouse or, if he leaves no spouse, to his heirs, until the first day of the month following his death.

O.C. 326-93, s. 7.

DIVISION III

OFFICE HELD BY A RETIRED JUDGE

8. *(Revoked).*

O.C. 326-93, s. 8; O.C. 866-2010, s. 4.

9. A retired judge authorized by the Government under section 93 of the Act to perform judicial duties shall continue to receive his benefits. Notwithstanding the foregoing, he shall not acquire entitlement to any supplementary amount of benefits.

A retired judge who receives a salary for holding any other office under the Gouvernement du Québec or, in the case of a municipal court judge, any other office within the municipality, shall continue to receive his benefits, and his salary shall be reduced in accordance with the second sentence of the second paragraph of section 244.3 of the Act.

O.C. 326-93, s. 9; O.C. 866-2010, s. 5.

DIVISION IV

CALCULATION AND PAYMENT OF SUPPLEMENTARY BENEFITS FOR THE SPOUSE AND FOR THE CHILDREN

10. Where a pension is payable to a judge's spouse and children under the pension plan provided for in Part VI of the Act, they are entitled to supplementary benefits calculated on the basis of the benefits that the judge received or would have received and in the same proportion as that applied in establishing the amount of the pension payable to them under Chapter III of that Part.

For the purpose of calculating the spouse's supplementary benefits, the supplementary benefits that would have been received by a judge who elected the plan established under Part VI of the Act or, where applicable, the equivalent plan in force within a municipality pursuant to the legislative provisions granting the right to such an election, who was in office on 30 May 1978 and who dies while in office but before having at least 20 years of service to his credit or before reaching age 70 may not be less than the amount by which 56% of his average salary for his 5 best paid years of service exceeds the amount of the pension that he would have received. Notwithstanding the foregoing, where the judge, during the periods provided for in the first paragraph of section 3 and for at least 10 years, held the office of chief judge or associate chief judge or had such status, the supplementary benefits that he would have received, for the purpose of calculating his spouse's supplementary benefits, may not be less than the amount by which 63% of that average salary exceeds the amount of the pension that he would have received.

Any supplementary benefits thus granted shall run until the day on which the beneficiary ceases to be entitled to a pension under the pension plan.

O.C. 326-93, s. 10; O.C. 322-94, s. 1.

DIVISION V

MISCELLANEOUS PROVISIONS

11. To calculate the supplementary benefits payable under this plan, the average salary is determined in accordance with section 231 of the Act. For the purposes of that calculation, the annual salaries taken into account are in no case limited by the defined benefit limit applicable for each year under the Income Tax Act (R.S.C. 1985, c. 1 (5th Suppl.)).

O.C. 326-93, s. 11; S.Q. 2004, c. 41, s. 3; O.C. 866-2010, s. 6.

12. All supplementary benefits are indexed each year in the manner provided for in section 244.11 of the Act, without taking into account subparagraph 1 of the first paragraph of that section.

Notwithstanding the foregoing, where the benefits are calculated pursuant to section 3 or to the second paragraph of section 10, they shall, at the same time, be indexed annually at the rate of increase in the Pension Index, as determined under that Act. The benefits shall also, at that time, be increased by the amount by which the amount that the indexing of the pension would have represented at that rate exceeds the amount by which the benefits were indexed.

O.C. 326-93, s. 12; O.C. 322-94, s. 2; O.C. 866-2010, s. 7.

12.1. Where Retraite Québec and Ville de Montréal, Ville de Laval or Ville de Québec enter into a transfer agreement under section 246.24 of the Act, that agreement must also apply to the judge's supplementary benefits plan.

O.C. 866-2010, s. 8.

13. Benefits that become payable to a judge who has acquired entitlement to a deferred annuity under the pension plan shall be indexed, in accordance with the first paragraph of section 12, only from 1 January of the year following the date on which he reaches age 65.

O.C. 326-93, s. 13.

14. The sums refundable to a judge's heirs pursuant to section 244.6 of the Act shall be reduced by the supplementary benefits paid to the judge, to his spouse and to his children.

O.C. 326-93, s. 14.

15. Supplementary benefits shall be paid at the times and under the conditions fixed by regulation made under section 148 of the Act respecting the Government and Public Employees Retirement Plan (chapter R-10).

O.C. 326-93, s. 15.

16. The rules respecting the partition and assignment of benefits between spouses, provided for in Part VI. 2 of the Act, and the rules made by the Government under that Part and applicable to the benefits accrued to the judge under his pension plan apply, with the necessary modifications, to the benefits accrued to the judge under this plan.

O.C. 326-93, s. 16.

16.1. *(Revoked).*

O.C. 793-93, s. 1; O.C. 1477-95, s. 1; O.C. 1473-2001, s. 1; O.C. 866-2010, s. 9.

16.2. The municipalities shall, in respect of municipal court judges covered by the pension plan established under Part VI of the Act, pay their contributions to Retraite Québec on the 15th day of each month.

Any amount of a payment that a municipality fails to make to Retraite Québec on the 15th day of the month bears interest, compounded annually, at the rate provided for in Schedule VI to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) from that date. Despite the foregoing, if, for a period or part of a period indicated in that Schedule, the rate provided for therein is less than the rate provided for in Schedule VII to that Act, the rate in Schedule VII applies for that period or part of a period.

O.C. 793-93, s. 1; O.C. 866-2010, s. 10.

16.3. The municipalities shall, within 30 days following the date of the statement of account sent by Retraite Québec, pay the amount of their contributions and the interest payable thereon.

Any amount not paid within 30 days bears interest, compounded annually, from the date of the statement of account, at the rate provided for in Schedule VII to the Act respecting the Government and Public Employees Retirement Plan (chapter R-10) and applicable on that date.

O.C. 793-93, s. 1; O.C. 866-2010, s. 11.

17. *(Omitted).*

O.C. 326-93, s. 17.

UPDATES

O.C. 326-93, 1993 G.O. 2, 1949

O.C. 793-93, 1993 G.O. 2, 3247

O.C. 322-94, 1994 G.O. 2, 1211

O.C. 1477-95, 1995 G.O. 2, 3208

O.C. 1473-2001, 2001 G.O. 3, 6861

S.Q. 2004, c. 41

O.C. 866-2010, 2010 G.O. 2, 2901

S.Q. 2015, c. 20, s. 61

