



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-FIFTH LEGISLATURE

Draft Bill

**An Act to amend various legislative
provisions concerning de facto spouses**

**Tabled by
Mr Serge Ménard
Minister of Justice**

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EXPLANATORY NOTE

This draft bill amends the Acts and regulations that contain a definition of the concept of de facto spouse so that de facto unions may be recognized without regard to the sex of the spouses.

LEGISLATION AMENDED BY THIS DRAFT BILL :

- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting financial assistance for students (R.S.Q., chapter A-13.3);
- Legal Aid Act (R.S.Q., chapter A-14);
- Automobile Insurance Act (R.S.Q., chapter A-25);
- Act respecting insurance (R.S.Q., chapter A-32);
- Savings and Credit Unions Act (R.S.Q., chapter C-4.1);
- Code of Civil Procedure (R.S.Q., chapter C-25);
- Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1);
- Cooperatives Act (R.S.Q., chapter C-67.2);
- Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1);
- Act respecting school elections (R.S.Q., chapter E-2.3);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1);

- Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2);
- Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11);
- Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12);
- Supplemental Pension Plans Act (R.S.Q., chapter R-15.1);
- Act respecting income security (R.S.Q., chapter S-3.1.1);
- Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2);
- Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Courts of Justice Act (R.S.Q., chapter T-16);
- Act respecting assistance and compensation for victims of crime (1993, chapter 54);
- Act respecting income support, employment assistance and social solidarity (1998, chapter 36).

Draft Bill

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING DE FACTO SPOUSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

1. Section 2 of the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), amended by section 1 of chapter 27 of the statutes of 1997, is again amended in the definition of “spouse”

(1) by replacing “the man or the woman” by “the person”;

(2) by inserting “, whether the person is of the opposite or the same sex,” after “worker” in paragraph 2.

ACT RESPECTING FINANCIAL ASSISTANCE FOR STUDENTS

2. Section 2 of the Act respecting financial assistance for students (R.S.Q., chapter A-13.3) is amended by inserting “, whether the person is of the opposite or the same sex,” after “who lives with the student in a de facto union” in the definition of “spouse”.

3. Section 4 of the said Act is amended by inserting “of the opposite or the same sex” after “another person” in subparagraph 3 of the first paragraph, and by replacing “dependent child” in the said subparagraph by “child of that person”.

LEGAL AID ACT

4. Section 1.1 of the Legal Aid Act (R.S.Q., chapter A-14) is amended by inserting “, of opposite sex or of the same sex,” after “persons of full age” in paragraph 3.

AUTOMOBILE INSURANCE ACT

5. Section 2 of the Automobile Insurance Act (R.S.Q., chapter A-25) is amended in the definition of “spouse”

(1) by replacing “the man or woman” by “the person”;

(2) by inserting “, whether the person is of the opposite or the same sex,” after “who has been living in a de facto union with the victim”.

INSURANCE ACT

6. Section 1 of the Insurance Act (R.S.Q., chapter A-32), amended by section 497 of chapter 37 of the statutes of 1998, is again amended by inserting “, of the opposite or the same sex,” in paragraph v before “in a conjugal relationship outside marriage”.

SAVINGS AND CREDIT UNIONS ACT

7. Section 209 of the Savings and Credit Unions Act (R.S.Q., chapter C-4.1) is amended by inserting “, of the opposite or the same sex,” in paragraph 2 before “in a conjugal relationship outside marriage”.

CODE OF CIVIL PROCEDURE

8. Article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by inserting “, of the opposite or the same sex,” in the second paragraph before “with whom the debtor has been cohabiting”.

ACT RESPECTING THE CONDITIONS OF EMPLOYMENT AND THE PENSION PLAN OF THE MEMBERS OF THE NATIONAL ASSEMBLY

9. Section 39 of the Act respecting the conditions of employment and the pension plan of the Members of the National Assembly (R.S.Q., chapter C-52.1) is amended by inserting “, of the opposite or the same sex,” in the first paragraph before “who was unmarried”.

COOPERATIVES ACT

10. Section 69 of the Cooperatives Act (R.S.Q., chapter C-67.2) is amended by inserting “, of opposite sex or of the same sex,” after “persons” in the second paragraph.

ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES

11. Section 20 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1), amended by section 112 of chapter 93 of the statutes of 1997, is again amended by inserting the words “or of the same” after the words “of opposite” wherever they occur in the second paragraph.

ACT RESPECTING SCHOOL ELECTIONS

12. Section 46 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by inserting “, whether the person is of the opposite or the same sex,” after “is not married to that person” in subparagraph 2 of the second paragraph.

TAXATION ACT

13. Section 2.2.1 of the Taxation Act (R.S.Q., chapter I-3) is amended by inserting “or the same” after “of the opposite” in subparagraph *a* of the first paragraph.

ACT RESPECTING LABOUR STANDARDS

14. Section 1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended in subparagraph 3 of the first paragraph

(1) by replacing ““consort” means either of a man and a woman” by ““consorts” means persons”;

(2) by inserting “are of opposite sex or of the same sex and” before “have been living together” in subparagraph *c*, and by replacing “as husband and wife” in the said subparagraph by “in a conjugal relationship”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

15. Section 91 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting “, whether the person is of the opposite or the same sex,” after “living with the contributor” in subparagraph *b* of the first paragraph.

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

16. Section 33 of the Act respecting the Pension Plan of Certain Teachers (R.S.Q., chapter R-9.1) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

17. Section 58 of the Act respecting the Pension Plan of Peace Officers in Correctional Services (R.S.Q., chapter R-9.2) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

18. Section 44 of the Act respecting the Pension Plan of Elected Municipal Officers (R.S.Q., chapter R-9.3) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

19. Section 44 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

ACT RESPECTING THE TEACHERS PENSION PLAN

20. Section 46 of the Act respecting the Teachers Pension Plan (R.S.Q., chapter R-11) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

21. Section 77 of the Act respecting the Civil Service Superannuation Plan (R.S.Q., chapter R-12) is amended by inserting “of the opposite or the same sex” before “who was unmarried”.

SUPPLEMENTAL PENSIONS PLANS ACT

22. Section 85 of the Supplemental Pension Plans Act (R.S.Q., chapter R-15.1) is amended by inserting “, whether the person is of the opposite or the same sex,” after “unmarried member” in subparagraph 2 of the first paragraph.

23. Section 178 of the said Act is amended by inserting “of opposite sex or of the same sex” before “who have been living” in the first paragraph.

ACT RESPECTING INCOME SECURITY

24. Section 2 of the Act respecting income security (R.S.Q., chapter S-3.1.1) is amended by inserting “of opposite sex or of the same sex” after “persons of full age” in subparagraph 3 of the first paragraph, and by replacing “as husband and wife” in the said subparagraph by “in a conjugal relationship”.

25. Section 14 of the said Act is amended by inserting “of the opposite or the same sex” after “another person” in subparagraph 4 of the first paragraph, and by replacing “as husband and wife” in the said subparagraph by “in a conjugal relationship”.

ACT RESPECTING INCOME SECURITY FOR CREE HUNTERS AND TRAPPERS WHO ARE BENEFICIARIES UNDER THE AGREEMENT CONCERNING JAMES BAY AND NORTHERN QUÉBEC

26. Section 1 of the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec (R.S.Q., chapter S-3.2), amended by section 128 of chapter 63 of the statutes of 1997, is again amended by replacing paragraph *j* by the following:

“(j) “consort” means a person who lives with another person in a conjugal relationship, whether the person is of the opposite or the same sex, having regard to native customs;”.

ACT RESPECTING TRUST COMPANIES AND SAVINGS COMPANIES

27. Section 6 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) is amended by inserting “, whether the person is of the opposite or the same sex,” after “another person” in paragraph 2 of the definition of “spouse”.

ACT RESPECTING THE QUÉBEC SALES TAX

28. Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by section 418 of chapter 85 of the statutes of 1997, is again amended by inserting “or the same” after “the opposite” in the definition of “former spouse”.

COURTS OF JUSTICE ACT

29. Section 236 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by replacing “in a de facto union with the judge, who was unmarried,” in paragraph 2 by “with the judge, who was unmarried, whether the person is of the opposite or the same sex, in a de facto union”.

ACT RESPECTING ASSISTANCE AND COMPENSATION FOR VICTIMS OF CRIME

30. Section 76 of the Act respecting assistance and compensation for victims of crime (1993, chapter 54) is amended, in the definition of “spouse”,

(1) by replacing “man or woman” by “person”;

(2) by inserting “, whether the person is of the opposite or the same sex,” after “with the victim”.

31. Section 197 of the said Act is amended, in the definition of “spouse” in paragraph 2,

(1) by replacing “man or woman” by “person”;

(2) by inserting “, whether the person is of the opposite or the same sex,” after “with the victim”.

ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE AND SOCIAL SOLIDARITY

32. Section 19 of the Act respecting income support, employment assistance and social solidarity (1998, chapter 36) is amended by inserting “, of opposite

sex or of the same sex,” after “persons of full age” in subparagraph 3 of the first paragraph, and by replacing “as husband and wife” in the said subparagraph by “in a conjugal relationship”.

AMENDMENTS TO REGULATORY INSTRUMENTS

33. The definitions of the concept of de facto spouse contained in the following provisions must be read omitting the requirements relating to sex and be construed with reference to de facto spouses of the same sex as well as to de facto spouses of the opposite sex :

- section 1 of the Regulation respecting the application of the Act to promote farm improvement (R.R.Q., 1981, c. A-18, r.1);

- section 1 of the Regulation respecting the application of the Hospital Insurance Act (R.R.Q., 1981, c. A-28, r.1);

- sections 1 and 15 of the Regulation respecting eligibility and registration of persons in respect of the Régie de l’assurance-maladie du Québec (O.C. 1470-92 dated 30 September 1992);

- section 1 of the Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1);

- section 9 of the Regulation respecting exemption and financial assistance for a child in day care (O.C. 69-93 dated 27 January 1993);

- section 1 of the Regulation respecting the application of the Farm Credit Act (R.R.Q., 1981, c. C-75, r.1);

- section 1 of the Regulation respecting the application of the Act to promote long term farm credit by private institutions (R.R.Q., 1981, c. C-75.1, r.2);

- section 13 of the Regulation respecting the application of the Act to promote credit to farm producers (R.R.Q., 1981, c. C-77, r.1);

- section 19 of the Regulation respecting linguistic integration services and financial assistance (O.C. 465-91 dated 4 October 1991);

- section 92.11R.1.1 of the Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r.1);

- section 4 of the Regulation respecting the allocation of dwellings in low rental housing (O.C. 1243-90 dated 29 August 1990).

FINAL PROVISIONS

34. This Act comes into force on (*insert here the date of assent to this Act*), except sections 30, 31 and 32 which come into force on the date of coming into force of the provisions they amend.