



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 32

An Act to amend various legislative provisions concerning de facto spouses

Introduction

**Introduced by
Madam Linda Goupil
Minister of Justice**

**Québec Official Publisher
1999**

EXPLANATORY NOTE

This bill amends the Acts and regulations that contain a definition of the concept of de facto spouse to allow de facto unions to be recognized without regard to the sex of the persons concerned.

LEGISLATION AMENDED BY THIS BILL :

- Workmen’s Compensation Act (R.S.Q., chapter A-3);
- Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);
- Act respecting financial assistance for education expenses (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 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).

REGULATIONS AMENDED BY THIS BILL :

- Regulation respecting the application of the Act to promote farm improvement (R.R.Q., 1981, c. A-18, r.1);
- Regulation respecting the application of the Hospital Insurance Act (R.R.Q., 1981, c. A-28, r.1);
- Regulation respecting the application of the Health Insurance Act (R.R.Q., 1981, c. A-29, r.1);

- Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. I-0.2, r.5);
- Regulation respecting the Taxation Act (R.R.Q., 1981, c. I-3, r.1);
- Regulation respecting indemnities payable under title II of the Automobile Insurance Act (O.C. 1263-83 dated 15 June 1983);
- By-law respecting the allocation of dwellings in low rental housing (O.C. 1243-90 dated 29 August 1990);
- 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);
- Regulation respecting exemption and financial assistance for a child in day care (O.C. 69-93 dated 27 January 1993);
- Regulation respecting legal aid (O.C. 1073-96 dated 28 August 1996);
- Regulation respecting family benefits (O.C. 1018-97 dated 13 August 1997).

Bill 32

AN ACT TO AMEND VARIOUS LEGISLATIVE PROVISIONS CONCERNING DE FACTO SPOUSES

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

WORKMEN’S COMPENSATION ACT

1. Section 2 of the Workmen’s Compensation Act (R.S.Q., chapter A-3) is amended in the definition of “consorts”

- (1) by replacing “means a man and a woman” by “means”;
- (2) by replacing “who are married and who live together” in paragraph A by “two persons who are married to each other and live together”;
- (3) by replacing “who live together as husband and wife” in paragraph B by “two persons, of opposite sex or the same sex, who live together in a de facto union”;
- (4) by replacing “représentés” in subparagraph ii of paragraph B of the French text by “représentées”.

ACT RESPECTING INDUSTRIAL ACCIDENTS AND OCCUPATIONAL DISEASES

2. 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 replacing “marié” in paragraph 1 of the French text by “mariée”;
- (3) by replacing “as if they were married” in paragraph 2 by “in a de facto union, whether the person is of the opposite or the same sex,”;
- (4) by replacing “représenté” in subparagraph *b* of paragraph 2 of the French text by “représentée”.

ACT RESPECTING FINANCIAL ASSISTANCE FOR EDUCATION EXPENSES

3. Section 2 of the Act respecting financial assistance for education expenses (R.S.Q., chapter A-13.3) is amended by replacing “who is married to the student and not separated from him legally or de facto, or who lives with the student in a de facto union and with his child or the child of the student” in the definition of “spouse” by “who is married to and is not separated, legally or de facto, from the student, or the person of the opposite or the same sex who lives with the student in a de facto union with a child of the person or of the student”.

4. Section 4 of the said Act, amended by section 2 of chapter 90 of the statutes of 1997, is again 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”.

The English text of the said section is amended

(1) by replacing “his parents or his sponsor, as the case may be, except if” in the first paragraph by “the student’s parents or sponsor, as the case may be, except if the student”;

(2) by striking out the word “he” at the beginning of subparagraphs 1 to 3 and 5 to 12 of the first paragraph, and by striking out the word “she” at the beginning of subparagraph 4 of the first paragraph;

(3) by replacing “his own” in subparagraph 9 of the first paragraph by “the student’s own”, by replacing “his father, mother or, as the case may be, his sponsor,” in that subparagraph by “the student’s father, mother, or sponsor, as the case may be,”, and by replacing “he was” in that subparagraph by “the student was”;

(4) by replacing “he was” in subparagraph 10 of the first paragraph by “the student was”;

(5) by striking out the word “he” at the beginning of subparagraph 10.1 of the first paragraph, enacted by section 2 of chapter 90 of the statutes of 1997, and by replacing “he was” in that subparagraph by “the student was”;

(6) by replacing “his parents or his sponsor” in subparagraph 11 of the first paragraph by “the student’s parents or sponsor”;

(7) by replacing “he has” in subparagraph 12 of the first paragraph by “the student has”;

(8) by replacing “his or her” in the second paragraph by “the student’s”.

LEGAL AID ACT

5. Section 1.1 of the Legal Aid Act (R.S.Q., chapter A-14) is amended by replacing “persons of full age who live together as husband and wife” in paragraph 3 by “two persons of full age, of opposite sex or the same sex, who live together in a de facto union”.

The English text of the said section is amended

(1) by replacing “persons” in paragraph 1 by “two persons”;

(2) by replacing “persons who live together as husband and wife” in paragraph 2 by “two persons who live together in a de facto union”.

AUTOMOBILE INSURANCE ACT

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

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

(2) by replacing “with the victim and has been publicly represented as his spouse” by “with the victim, whether the person is of the opposite or the same sex, and has been publicly represented as the victim’s spouse”;

(3) by replacing “ils ont” in the French text by “elles ont”;

(4) by replacing “l’un d’eux” in the French text by “l’une d’elles”.

ACT RESPECTING INSURANCE

7. Section 1 of the Act respecting insurance (R.S.Q., chapter A-32), amended by section 497 of chapter 37 of the statutes of 1998, is again amended by replacing “and cohabits with the person to whom he is married, or a person who is living with another person in a conjugal relationship outside marriage” in paragraph 1 by “to and lives with another person, or a person who lives with another person of the opposite or the same sex in a de facto union”.

SAVINGS AND CREDIT UNIONS ACT

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

The English text of the said section is amended by replacing “and cohabits with the person to whom he is married” in paragraph 1 by “to and lives with another person”.

CODE OF CIVIL PROCEDURE

9. Article 553 of the Code of Civil Procedure (R.S.Q., chapter C-25) is amended by replacing “or, if he is not married, the person” in the second paragraph by “or, if the debtor is not married, the person of the opposite or the same sex”.

The English text of the said article is amended by replacing “cohabiting” in the second paragraph by “living in a de facto union”.

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

10. 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 replacing “the person who was unmarried at the time of the death and who had been living in a de facto union with the Member or pensioner and who had been publicly represented as his spouse” in the first paragraph by “an unmarried person of the opposite or the same sex who, at the time of the death, was living in a de facto union with the Member or pensioner and had been publicly represented as the Member’s or pensioner’s spouse”.

COOPERATIVES ACT

11. 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

12. 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

13. Section 46 of the Act respecting school elections (R.S.Q., chapter E-2.3) is amended by replacing “who cohabits with but is not married to that person and whom he publicly presents as his spouse” in subparagraph 2 of the second paragraph by “of the opposite or the same sex who lives with that person in a de facto union and who is publicly represented as that person’s spouse”.

TAXATION ACT

14. 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

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

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

(2) by replacing “mariés” in subparagraph *a* of the French text by “mariées”;

(3) by replacing “have been living together as husband and wife” in subparagraph *c* by “are of opposite sex or the same sex and have been living together in a de facto union”.

The English text of the said section is amended by replacing “as husband and wife” in subparagraph *b* by “in a de facto union”.

ACT RESPECTING THE QUÉBEC PENSION PLAN

16. 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.

17. Section 91.1 of the said Act, amended by section 19 of chapter 73 of the statutes of 1997, is again amended by inserting “of the opposite or the same sex” after “another person” in the first paragraph.

18. Section 102.10.3 of the said Act, enacted by section 35 of chapter 73 of the statutes of 1997, is amended by inserting “of opposite sex or the same sex” after “former *de facto* spouses” in paragraph *a*.

19. Section 158.3 of the said Act, amended by section 65 of chapter 73 of the statutes of 1997, is again amended by replacing “neither of them” in subparagraph 2 of the first paragraph by “neither the beneficiary nor the beneficiary’s spouse of the opposite or the same sex”.

ACT RESPECTING THE PENSION PLAN OF CERTAIN TEACHERS

20. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union”, “his death” by “the employee’s or pensioner’s death,” and “his or her spouse by the employee or pensioner” by “the employee’s or pensioner’s spouse”.

ACT RESPECTING THE PENSION PLAN OF PEACE OFFICERS IN CORRECTIONAL SERVICES

21. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union” and “his or her spouse by the employee or pensioner” by “the employee’s or pensioner’s spouse”.

ACT RESPECTING THE PENSION PLAN OF ELECTED MUNICIPAL OFFICERS

22. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union” and “his or her spouse” by “the participant’s or pensioner’s spouse”.

ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

23. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union”, “his death” by “the employee’s or pensioner’s death,” and “his or her spouse by the employee or pensioner” by “the employee’s or pensioner’s spouse”.

ACT RESPECTING THE TEACHERS PENSION PLAN

24. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union”, “his death” by “the teacher’s or pensioner’s death,” and “his or her spouse by the teacher or pensioner” by “the teacher’s or pensioner’s spouse”.

ACT RESPECTING THE CIVIL SERVICE SUPERANNUATION PLAN

25. 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”.

The English text of the said section is amended by replacing “conjugal relationship” by “de facto union”, “his death” by “the officer’s or pensioner’s death,” and “his or her spouse by the officer or pensioner” by “the officer’s or pensioner’s spouse”.

SUPPLEMENTAL PENSION PLANS ACT

26. 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.

27. Section 90 of the said Act is amended by replacing “he has remarried or is living in a conjugal relationship with another person” by “the spouse has remarried or is living in a de facto union with another person of the opposite or the same sex”.

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

29. The English text of sections 85, 89, 90, 110 and 178 of the said Act is amended by replacing the words “conjugal relationship”, wherever they occur, by “de facto union”.

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

30. 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 68 of chapter 57 and 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 in a marital relationship with another person of the opposite or the same sex;”.

ACT RESPECTING TRUST COMPANIES AND SAVINGS COMPANIES

31. Section 6 of the Act respecting trust companies and savings companies (R.S.Q., chapter S-29.01) is amended by replacing “cohabits with but is not married to another person,” in paragraph 2 of the definition of “spouse” by “lives in a de facto union with a person of the opposite or the same sex and”.

ACT RESPECTING THE QUÉBEC SALES TAX

32. Section 1 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1), amended by sections 418 and 725 of chapter 85 and section 34 of chapter 87 of the statutes of 1997, is again amended by inserting “or the same” after “the opposite” in the definition of “former spouse”.

The English text of the said section is amended by replacing “conjugal relationship” in that definition by “de facto union”.

COURTS OF JUSTICE ACT

33. 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

34. 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 replacing “marié” in the French text by “mariée”;
- (3) by replacing “or who has been living in a de facto union with the victim and has been publicly represented as his spouse” by “, or the person of the opposite or the same sex who has been living in a de facto union with the victim and has been publicly represented as the victim’s spouse”;
- (4) by replacing “ils ont” in the French text by “elles ont”;
- (5) by replacing “l’un d’eux” in the French text by “l’une d’elles”.

35. 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 replacing “marié” in the French text by “mariée”;
- (3) by replacing “or who has been living in a de facto union with the victim and has been publicly represented as his spouse” by “, or the person of the opposite or the same sex who has been living in a de facto union with the victim and has been publicly represented as the victim’s spouse”;
- (4) by replacing “ils ont” in the French text by “elles ont”;
- (5) by replacing “l’un d’eux” in the French text by “l’une d’elles”.

ACT RESPECTING INCOME SUPPORT, EMPLOYMENT ASSISTANCE AND SOCIAL SOLIDARITY

36. Section 19 of the Act respecting income support, employment assistance and social solidarity (1998, chapter 36) is amended by replacing “who live together as husband and wife” in subparagraph 3 of the first paragraph by “of the opposite or the same sex who live together in a de facto union”.

37. Section 28 of the said Act is amended by replacing “with another person as husband or wife” in subparagraph 4 of the first paragraph by “with another person of the opposite or the same sex in a de facto union”.

AMENDMENTS TO REGULATORY INSTRUMENTS

38. In the following provisions, although the text may indicate otherwise, the definitions of common-law spouse or consort and conjugal relationship apply to both opposite-sex and same-sex couples :

- 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);

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

- section 23 of the Regulation respecting the selection of foreign nationals (R.R.Q., 1981, c. I-0.2, r.5);

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

- section 31 of the Regulation respecting indemnities payable under title II of the Automobile Insurance Act (O.C. 1263-83 dated 15 June 1983);

- section 16 of the By-law respecting the allocation of dwellings in low rental housing (O.C. 1243-90 dated 29 August 1990);

- section 1 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 9 of the Regulation respecting exemption and financial assistance for a child in day care (O.C. 69-93 dated 27 January 1993);

- section 5 of the Regulation respecting legal aid (O.C. 1073-96 dated 28 August 1996);

– section 1 of the Regulation respecting family benefits (O.C. 1018-97 dated 13 August 1997).

TRANSITIONAL AND FINAL PROVISIONS

39. The amendment made by section 30 of this Act to the Act respecting income security for Cree hunters and trappers who are beneficiaries under the Agreement concerning James Bay and Northern Québec is applicable only to years, within the meaning of that Act, occurring after the year in which the amendment comes into force.

The amendment made by section 36 of this Act to the Act respecting income support, employment assistance and social solidarity is applicable, with regard to the Parental Wage Assistance Program established by that Act, only to years occurring after the year in which the amendment comes into force.

40. Every person required, by reason of this Act, to comply with new obligations must comply therewith before (*insert here the date of the 90th day following the date of coming into force of this Act*) or, in cases where the person must relinquish assets or withdraw from a contract, before (*insert here the date of the 180th day following the date of coming into force of this Act*).

41. This Act comes into force on (*insert here the date of assent to this Act*), except section 19 which comes into force on the date of coming into force of section 65 of chapter 73 of the statutes of 1997, and sections 34, 35, 36 and 37 which come into force on the date of coming into force of the provisions they amend.